Y 4
.L 11/2
F 22/2/
971-72/
PT. 5 B

92Y4
L11/2
F22/2
Pt. 5B

FARMWORKERS IN RURAL AMERICA, 1971–1972

GOVERNMENT
Storage

HEARINGS

BEFORE THE

COMMITTEE ON MIGRATORY LABOR

OF THE

COMMITTEE ON LABOR AND PUBLIC WELFARE UNITED STATES SENATE

NINETY-SECOND CONGRESS

FIRST AND SECOND SESSIONS

APPENDIX

PART 5B

Printed for the use of the
Committee on Labor and Public Welfare

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Jan Flora

FARMWORKERS IN RURAL AMERICA, 1971–1972

HEARINGS

BEFORE THE

SUBCOMMITTEE ON MIGRATORY LABOR

OF THE

COMMITTEE ON
LABOR AND PUBLIC WELFARE
UNITED STATES SENATE

NINETY-SECOND CONGRESS

FIRST AND SECOND SESSIONS

APPENDIX

PART 5B

Printed for the use of the
Committee on Labor and Public Welfare

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1972

69-133 O

COMMITTEE ON LABOR AND PUBLIC WELFARE

HARRISON A. WILLIAMS, Jr., New Jersey, *Chairman*

JENNINGS RANDOLPH, West Virginia
CLAIBORNE PELL, Rhode Island
EDWARD M. KENNEDY, Massachusetts
GAYLORD NELSON, Wisconsin
WALTER F. MONDALE, Minnesota
THOMAS F. EAGLETON, Missouri
ALAN CRANSTON, California
HAROLD E. HUGHES, Iowa
ADLAI E. STEVENSON III, Illinois

JACOB K. JAVITS, New York
PETER H. DOMINICK, Colorado
RICHARD S. SCHWEIKER, Pennsylvania
BOB PACKWOOD, Oregon
ROBERT TAFT, Jr., Ohio
J. GLENN BEALL, Jr., Maryland
ROBERT T. STAFFORD, Vermont

Stewart E. McClure, *Staff Director*
Robert E. Nagle, *General Counsel*
Roy H. Millenson, *Minority Staff Director*
Eugene Mittelman, *Minority Counsel*

SUBCOMMITTEE ON MIGRATORY LAW

ADLAI E. STEVENSON III, Illinois, *Chairman*

HARRISON A. WILLIAMS, Jr., New Jersey
WALTER F. MONDALE, Minnesota
EDWARD M. KENNEDY, Massachusetts
HAROLD E. HUGHES, Iowa

ROBERT TAFT, Jr., Ohio
J. GLENN BEALL, Jr., Maryland
JACOB K. JAVITS, New York

Boren Chertkov, *Counsel*
Eugene Mittelman, *Minority Counsel*

Format of Hearings on Farmworkers in Rural America

The Subcommittee on Migratory Labor conducted public hearings in Washington, D.C., and in San Francisco and Fresno, Calif., during the 92d Congress on "Farmworkers in Rural America." These hearings are contained in the following parts:

Subject matter	*Hearings dates*
Part 1: Farmworkers in Rural Poverty	July 22, September 21 and 22, 1971.
Part 2: Who Owns the Land?	November 5, 1971.
Part 3: Land Ownership, Use and Distribution:	
A. San Francisco	January 11, 1972.
B. Fresno	January 12, 1972.
C. San Francisco	January 13, 1972.
Part 4: Role of Land-Grant Colleges:	
A	June 19, 1972.
B	June 20, 1972.
Part 5: Appendix: A and B.	
A.	
B.	

CONTENTS

ARTICLES AND PUBLICATIONS

	Page
"A Bountiful Tax Harvest," by Charles Davenport, acting professor of law, University of California at Davis, Calif., as printed in the Texas Law Review, December 1969	3596
"Damming The West," by Richard L. Berkman and Kip Viscusi, Center for Study of Responsive Law, Washington, D.C., November 1971	3683
"Efficiency and Agriculture," by Michael Perelman, economics department, Chico State College, Chico, Calif	3869
Excerpts from LaFollette Committee Report, 76th Congress, 2d session, Senate Report 1150, part 3	3941
"Farm Losses Under the Tax Reform Act of 1969: Keepin' 'em Happy Down on the Farm," by Charles Davenport, as reprinted from Boston College Industrial and Commercial Law Review, February 1971	3650
"Internal Migration in the United States: A Bibliography, 1955 to 1971," from the Congressional Research Service, Library of Congress, January 1972	4024
"Is It 'More Blessed To Give Than To Receive?' ", a study of federally-subsidized grower attitudes toward Federal assistance to the poor	4038
"More on Higher Productivity and Employment," by O. R. Strackbein, president, The Nation-Wide Committee on Import-Export Policy, June 20, 1972	3993
"Origins and Growth of Migratory Seasonal Labor in Agriculture," by Paul S. Taylor	3892
"Power and Land In California," the Ralph Nader task force report on land use in the State of California, selected excerpts from volume 1, 1971	3759
"Social Problems of Agriculture in Wartime," by Paul S. Taylor, University of California, 1943	3935
"The Cash Method as Applied in Agriculture—A Reexamination," by Harvie Branscomb, Jr., as printed in the Tax Lawyer, volume 25, No. 1	3580
"The Migrants and California's Future," by Paul S. Taylor, 1935	3926
"The People Left Behind," a report of the President's National Advisory Commission on Rural Poverty, September 1967	3555
"The Research Subsidy," by Polly Roberts, with certain material selected from "Dirt on California, Agribusiness, the University"	3841
"What Shall We Do With Them?", by Paul S. Tayor, University of California, April 1938	3917

ADDITIONAL INFORMATION

Communications to:

Stevenson, Hon. Adlai E., III, a U.S. Senator from the State of Illinois, from O. R. Strackbein, president, The Nation-Wide Committee on Import-Export Policy, Washington, D.C., June 16, 1972, with enclosure 3948

APPENDIX

[Excerpts from "The People Left Behind." A Report of the President's National Advisory Commission on Rural Poverty, September 1967, Washington, D.C.]

THE PEOPLE LEFT BEHIND

A Report by the President's National Advisory Commission on Rural Poverty

Washington, D.C.

Issued September 1967

(35 55)

To The President:

We have the honor to submit to you, through your Committee on Rural Poverty, the Report of the National Advisory Commission on Rural Poverty. This is in response to your instructions to the Commission as given in Executive Order 11306 of September 27, 1966.

You will note from the signatures below that this Report was unanimously approved by the members of the Commission.

EDWARD T. BREATHITT, CHAIRMAN

JAMES T. BONNEN

CONNIE B. GAY

WINTHROP C. LIBBY

DAVID W. BROOKS

JAMES O. GIBSON

CARLYLE MARNEY

SARA R. CALDWELL

VIVIAN W. HENDERSON

THOMAS W. MOORE

LAWRENCE A. DAVIS

FRANCIS S. HUTCHINS

ROBERT A. ROESSEL, JR.

NEIL O. DAVIS

KARA V. JACKSON

JAMES EARL RUDDER

JOHN FISCHER

LEWIS J. JOHNSON

J. JULIAN SAMORA

THOMAS R. FORD

W. WILSON KING

MILES C. STANLEY

HERMAN E. GALLEGOS

OSCAR M. LAUREL

JOHN WOODENLEGS

Members of the Commission

Dr. James T. Bonnen
Professor of Agricultural Economics
Michigan State University

Honorable Edward T. Breathitt (Chairman)
Governor of Kentucky

David W. Brooks
Executive Vice President and General Manager
Cotton Producers Association

Mrs. Sara R. Caldwell
Director, Division of Child Welfare
Mississippi State Department of Public Welfare

Dr. Lawrence A. Davis
President, Arkansas Agricultural Technical and Normal College

Neil O. Davis
Editor, Lee County Bulletin
Auburn, Alabama

John Fischer
Editor-in-Chief
Harper's Magazine

Dr. Thomas R. Ford
Professor of Sociology
University of Kentucky

Herman E. Gallegos
Consultant to the Ford Foundation

Connie B. Gay
President and Chairman of the Board
Connie B. Gay Broadcasting Company

James O. Gibson
Staff Associate
Potomac Institute

Dr. Vivian W. Henderson
President, Clark College

Francis S. Hutchins
President, Berea College

Dr. Kara V. Jackson
Professor of Education
Grambling College

Lewis J. Johnson
President, Arkansas Farmer's Union

W. Wilson King
Owner, Kinglore Farms

Oscar M. Laurel
National Transportation Safety Board

Dr. Winthrop C. Libby
Dean, College of Agriculture
University of Maine

Dr. Carlyle Marney
Pastor, Myers Park Baptist Church

Thomas W. Moore
President, ABC Television

Robert A. Roessel, Jr.
Director, Rough Rock Navaho Demonstration School

James Earl Rudder
President, Texas A&M University

Dr. J. Julian Samora
Program Specialist on Population Studies
The Ford Foundation

Miles C. Stanley
President, West Virginia Federation of Labor, AFL–CIO

John Woodenlegs
President, Northern Cheyenne Tribal Council

Members of the Committee

Orville L. Freeman, Chairman
Secretary of Agriculture

Bernard C. Boutin
Administrator of Small Business Administration

John T. Connor
Secretary of Commerce

John W. Gardner
Secretary of Health, Education, and Welfare

Sargent Shriver
Director of Office of Economic Opportunity

Stewart L. Udall
Secretary of the Interior

Robert C. Weaver
Administrator of Housing and Urban Development

W. Willard Wirtz
Secretary of Labor

LIAISON WITH PRESIDENT'S COMMITTEE

Kenneth M. Birkhead
Department of Agriculture

Richard M. Philbin
Small Business Administration

Jonathan Lindley
Department of Commerce

Lisle C. Carter, Jr.
Department of Health, Education, and Welfare

Elmer J. Moore
Office of Economic Opportunity

James Rettie
Department of the Interior

Ramsay Wood
Department of Housing and Urban Development

Millard Cass
Department of Labor

Members of the Staff

Executive Director C. E. Bishop
Associate Director George L. Wilber
Assistant to Executive Director Lawrence S. Stinchcomb

Professional Staff

William B. Back, Economist
J. Allan Beegle, Sociologist
W. Keith Bryant, Economist
Cleveland A. Chandler, Economist
Lynn M. Daft, Economist
Jack Fleming, Writer
Clifton R. Jones, Sociologist
E. Walton Jones, Economist
J. Patrick Madden, Economist
Marcelle Masters, Editor
Melda Richardson, Editor
George M. Stephens, Jr., Development Consultant
Gooloo S. Wunderlich, Demographer

Secretarial and Clerical

J. Gayle Carpenter
Marian C. Carter
Florentine M. Ford
Mary Thomas Fox
Jacklyn D. Harris
Marjorie L. Henricks
LaDene Hester
Linda G. Hogberg
Patricia McEvoy
Anne Reed
Edna E. Raymond
Velma B. Tachovsky

Task of the Commission

In the President's Executive Order No. 11306, the National Advisory Commission on Rural Poverty was charged with the following responsibilities:

To make a comprehensive study and appraisal of the current economic situations and trends in American rural life, as they relate to the existence of income and community problems of rural areas, including problems of low income, the status of rural labor, including farm labor, unemployment and underemployment and retraining in usable skills; rural economic development and expanding opportunities; sources of additional rural employment; availability of land and other resources; adequacy of food, nutrition, housing, health, and cultural opportunities for rural families; the condition of children and youth in rural areas and their status in an expanding national economy; the impact of population and demographic changes, including rural migration; adequacy of rural community facilities and services; exploration of new and better means of eliminating the causes which perpetuate rural unemployment and underemployment, low income and poor facilities; and other related matters.

To evaluate the means by which existing programs, policies, and activities relating to the economic status and community welfare of rural people may be coordinated or better directed or redirected to achieve the elimination of underemployment and low income of rural people and to obtain higher levels of community facilities and services.

To develop recommendations for action by local, State or Federal governments or private enterprise as to the most efficient and promising means of providing opportunities for the rural population to share in American's abundance.

Preface

In the Economic Opportunity Act of 1964 the Congress declared it to be the policy of the United States to obliterate poverty.

Since that date, antipoverty programs of unusual scope and variety have been developed and put into effect by Federal, State, and local governments and by numerous private organizations representing business, labor, church, and other interested groups. Many of these programs have had a significant effect. A heavy burden of poverty remains, however.

Most of the antipoverty effort has been aimed at urban poverty. Few of the new programs have had a major impact on rural America. Yet, as President Johnson indicated by his Executive order creating the National Advisory Commission on Rural Poverty, the problem of poverty in rural areas is so acute as to require immediate and special attention. The heavy migration from rural America to the blighted areas of our major cities clearly shows how bad economic and social conditions are in rural areas.

This Commission has assembled the facts of rural poverty and on the basis of these facts has made specific recommendations calling for major changes in our antipoverty programs. The Commission's objective is both to give immediate aid to the rural poor and to attack the causes of their poverty.

Chapters 1 and 2 of this report focus sharply on current conditions in rural America and on the urgent need for action. The relationship between the poverty in our central cities and in rural areas is clearly established, and the Commission emphasizes the futility of attempts to solve the urban problem without comparable efforts to solve the rural problem.

Chapters 3 through 14 examine specific rural problems—unemployment, health, education, housing, deteriorating communities, existing government programs—and suggest both new programs and changes in current ones. The Commission's recommendations call for specific action by all units of government—local, State, and Federal—as well as by private groups and individual citizens.

Before framing its recommendations the Commission obtained information from numerous sources, public and private. The firsthand testimony of the rural poor was sought and obtained at public hearings. The Commission's staff assembled and analyzed data made available by numerous institutions, including Federal, State, and local agencies. Also members of the staff and leading authorities outside the staff conducted original research for the Commission.

In three public hearings the Commission received oral testimony from 105 witnesses. In addition, many papers were submitted for the record. These hearings were conducted at Tucson, Ariz., on January 26 and 27, 1967, at Memphis, Tenn., on February 2 and 3, and at Washington, D.C., on February 15, 16, and 17. The Commission also heard testimony at Berea, Ky., on conditions in eastern Kentucky, and in Puerto Rico and the Virgin Islands. Verbatim transcripts of the hearings will be published.

In addition, the Commission has made arrangements with some of the best qualified students of rural poverty in the United States to prepare 45 technical

papers on specific aspects of the problem. Some of these background papers will be published later in a separate volume.

In its meetings the Commission deliberated as a body to assess the facts of rural poverty and to arrive at its recommendations. The Commission was given detailed information on each facet of the rural problem. The recommendations in this report, accordingly, reflect the judgment of the members of the Commission.

While some of the recommendations may not be applicable to all parts of the continental United States, and some are not applicable to Puerto Rico and the Virgin Islands, it is believed that most of the recommendations can be applied nationwide.

The Commission desires to express special appreciation for the excellent cooperation given by those individuals who served as liaison with departments and agencies of the Federal Government. The contribution made by the departments in providing the Commission with data and with information on current programs was particularly valuable.

Summary

This report is about a problem which many in the United States do not realize exists. The problem is rural poverty. It affects some 14 million Americans. Rural poverty is so widespread, and so acute, as to be a national disgrace, and its consequences have swept into our cities, violently.

The urban riots during 1967 had their roots, in considerable part, in rural poverty. A high proportion of the people crowded into city slums today came there from rural slums. This fact alone makes clear how large a stake the people of this nation have in an attack on rural poverty.

The total number of rural poor would be even larger than 14 million had not so many of them moved to the city. They made the move because they wanted a job and a decent place to live. Some have found them. Many have not. Many merely exchanged life in a rural slum for life in an urban slum, at exorbitant cost to themselves, to the cities, and to rural America as well.

Even so, few migrants have returned to the rural areas they left. They have apparently concluded that bad as conditions are in an urban slum, they are worse in the rural slum they fled from. There is evidence in the pages of this report to support their conclusion.

This Nation has been largely oblivious to these 14 million impoverished people left behind in rural America. Our programs for rural America are woefully out of date.

Some of our rural programs, especially farm and vocational agriculture programs, are relics from an earlier era. They were developed in a period during which the welfare of farm families was equated with the well-being of rural communities and of all rural people. This no longer is so.

They were developed without anticipating the vast changes in technology, and the consequences of this technology to rural pepole. Instead of combating low incomes of rural people, these programs have helped to create wealthy landowners while largely bypassing the rural poor.

Most rural programs still do not take the speed and consequences of technological change into account. We have not yet adjusted to the fact that in the brief period of 15 years, from 1950 to 1965, new machines and new methods increased farm output in the United States by 45 percent—and reduced farm employment by 45 percent. Nor is there adequate awareness that during the next 15 years the need for farm labor will decline by another 45 percent. Changes like these on the farm are paralleled on a broader front throughout rural America, affecting many activities other than farming and touching many more rural people than those on farms.

In contrast to the urban poor, the rural poor, notably the white, are not well organized, and have few spokesmen for bringing the Nation's attention to their problems. The more vocal and better organized urban poor gain most of the benefits of current antipoverty programs.

Until the past few years, the Nation's major social welfare and labor legislation largely bypassed rural Americans, especially farmers and farmworkers. Farm people were excluded from the Social Security Act until the mid-1950's. Farmers, farmworkers, and workers in agriculturally related occupations are still excluded from other major labor legislation, including the unemployment insurance programs, the Labor-Management Relations Act, the Fair Labor Standards Act, and most State workman's compensation acts.

Because we have been oblivious of the rural poor, we have abetted both rural and urban poverty, for the two are closely linked through migration. The hour is late for taking a close look at rural poverty, gaining an understanding of its consequences, and developing programs for doing something about it. The Commission is unanimous in the conviction that effective programs for solving the problems of rural poverty will contribute to the solution of urban poverty as well.

The facts of rural poverty are given in detail later in this report. They are summarized in the paragraphs that follow.

Rural poverty in the United States has no geographic boundaries. It is acute in the South, but

69-133 O - 73 - pt. 5B - 2

it is present and serious in the East, the West, and the North. Rural poverty is not limited to Negroes. It permeates all races and ethnic groups. Nor is poverty limited to the farm. Our farm population has declined until it is only a small fraction of our total rural population. Most of the rural poor do not live on farms. They live in the open country, in rural villages, and in small towns. Moreover, contrary to a common misconception, whites outnumber nonwhites among the rural poor by a wide margin. It is true, however, that an extremely high proportion of Negroes in the rural South and Indians on reservations are destitute.

Hunger, even among children, does exist among the rural poor, as a group of physicians discovered recently in a visit to the rural South. They found Negro children not getting enough food to sustain life, and so disease ridden as to be beyond cure. Malnutrition is even more widespread. The evidence appears in bad diets and in diseases which often are a product of bad diets.

Disease and premature death are startlingly high among the rural poor. Infant mortality, for instance, is far higher among the rural poor than among the least privileged group in urban areas. Chronic diseases also are common among both young and old. And medical and dental care is conspicuously absent.

Unemployment and underemployment are major problems in rural America. The rate of unemployment nationally is about 4 percent. The rate in rural areas averages about 18 percent. Among farmworkers, a recent study discovered that underemployment runs as high as 37 percent.

The rural poor have gone, and now go, to poor schools. One result is that more than 3 million rural adults are classified as illiterates. In both educational facilities and opportunities, the rural poor have been shortchanged.

Most of the rural poor live in atrocious houses. One in every 13 houses in rural America is officially classified as unfit to live in.

Many of the rural poor live in chronically depressed poverty-stricken rural communities. Most of the rural South is one vast poverty area. Indian reservations contain heavy concentrations of poverty. But there also are impoverished rural communities in the upper Great Lakes region, in New England, in Appalachia, in the Southwest, and in other sections.

The community in rural poverty areas has all but disappeared as an effective institution. In the past the rural community performed the services needed by farmers and other rural people. Technological progress brought sharp declines in the manpower needs of agriculture, forestry, fisheries, and mining. Other industries have not replaced the jobs lost, and they have supplied too few jobs for the young entries in the labor market. Larger towns and cities have taken over many of the economic and social functions of the villages and small towns.

The changes in rural America have rendered obsolete many of the political boundaries to villages and counties. Thus these units operate on too small a scale to be practicable. Their tax base has eroded as their more able-bodied wage earners left for jobs elsewhere. In consequence the public services in the typical poor rural community are grossly inadequate in number, magnitude, and quality. Local government is no longer able to cope with local needs.

As the communities ran downhill, they offered fewer and fewer opportunities for anyone to earn a living. The inadequately equipped young people left in search of better opportunities elsewhere. Those remaining behind have few resources with which to earn incomes adequate for a decent living and for revitalizing their communities.

For all practical purposes, then, most of the 14 million people in our poverty areas are outside our market economy. So far as they are concerned, the dramatic economic growth of the United States might as well never have happened. It has brought them few rewards. They are on the outside looking in, and they need help.

Congress and State legislatures from time to time have enacted many laws and appropriated large sums of money to aid the poverty stricken and to help rural America. Very little of the legislation or the money has helped the rural poor. Major farm legislation directed at commercial farms has been successful in helping farmers adjust supply to demand, but it has not helped farmers whose production is very small. And because the major social welfare and labor legislation has descriminated against rural people, many of the rural poor—farmers and farmworkers particularly—have been denied unemployment insurance, denied the right of collective bargaining, and denied the protection of workman's compensation laws.

This Commission questions the wisdom of massive public efforts to improve the lot of the poor

in our central cities without comparable efforts to meet the needs of the poor in rural America. Unfortunately, as public programs improve the lot of the urban poor, without making similar improvements in conditions for the rural poor, they provide fresh incentive for the rural poor to migrate to the central cities. The only solution is a coordinated attack on both urban and rural poverty.

The Commission has endeavored to chart a course to wipe out rural poverty. Emphasis has been placed on the problems of poor rural people, and problems of impoverished rural communities. Changes in existing programs and the development of new programs are considered. Action on the immediate needs of the rural poor is emphasized, as well as action to change the conditions which make them poor. Human development and the physical resources needed for this development are stressed. Improving the operation of the private economy in order to provide rural people with better opportunities for jobs and a decent living is emphasized.

It is the firm conviction of the Commission that the complexity of the problems of rural poverty preclude the success of a single program or approach. Programs addressed to immediate needs will not erase the underlying conditions creating and perpetuating rural poverty. Programs addressed to these conditions will not immediately help the poor. The Commission's recommendations complement and reinforce one another. In total, the recommendations will go far to solve the problems of rural poverty.

The Commission is convinced that the abolition of rural poverty in the United States, perhaps for the first time in any nation, is completely feasible. The nation has the economic resources and the technical means for doing this. What it has lacked, thus far, has been the will. The Commission rejects the view that poverty, in so rich a nation, is inevitable for any large group of its citizens.

Elsewhere in this report there appear the recommendations of the Commission in detail. These recommendations call for action by all branches of government—local, State, and Federal—as well as by private individuals and groups. The major thrust of the recommendations is discussed briefly in the paragraphs that follow.

(1) The Commission recommends that the United States adopt and put into effect immediately a national policy designed to give the residents of rural America equality of opportunity with all other citizens. This must include equal access to jobs, medical care, housing, education, welfare, and all other public services, without regard to race, religion, or place of residence.

(2) The Commission recommends, as a matter of urgency, that the national policy of full employment, inaugurated in 1946, be made effective. The need is even greater in rural areas than in urban areas. The Commission urges that this need be given priority in legislation and appropriations. To the extent that private enterprise does not provide sufficient employment for all those willing and able to work, the Commission believes it is the obligation of government to provide it.

(3) The Commission believes that the United States has the resources and the technical means to assure every person in the United States adequate food, shelter, clothing, medical care, and education and, accordingly, recommends action toward this end. Millions of rural residents today are denied the opportunity of earning a living. The Commission believes it is the obligation of society and of government, to assure such people enough income to provide a decent living. In order to achieve this, basic changes are recommended in public assistance programs.

In some rural areas of the United States there is not only malnutrition but hunger. Existing public programs for food distribution to those in need have failed to meet the need. The Commission recommends that the food stamp program be expanded nationwide and that eligibility be based upon per capita income. Food stamps should be given to the poorest of the poor without cost.

(4) The Commission recommends a thorough overhauling of our manpower policies and programs, particularly including public employment services, in order to deal effectively with rural unemployment and underemployment. The Commission deplores the fact that the richest, most powerful nation in history compels millions of its citizens to engage in aimless wandering in search of jobs and places to live. The recommendations of the Commission aim at a comprehensive and active manpower program which can be an effective weapon against poverty.

(5) The Commission recommends extensive changes in our rural education system, ranging from preschool programs to adult education. Rural schools must be brought up to par with urban schools. The educational system must reclaim

youth and adults who drop out before obtaining sufficient education to cope with the complexities of today's world. An educational extension service is recommended to help teachers and schools meet the needs of all students.

(6) The Commission is deeply concerned at the evidence of disease and the lack of medical care in rural areas. The Commission, therefore, recommends rapid expansion of health manpower—both professional and subprofessional—in rural areas, and the establishment of Community Health Centers which can focus on the health needs of rural people.

(7) The Commission recommends development and expansion of family planning programs for the rural poor. Low income families are burdened with relatively numerous children to feed, clothe, and house. They are prepared psychologically to accept family planning. As a matter of principle, they are entitled to facilities and services to help them plan the number and spacing of their children.

(8) The Commission recommends immediate action to provide housing in rural areas by public agencies and puts special emphasis on a program providing rent supplements for the rural poor. The Commission further recommends that a single unified housing agency be made responsible for housing programs in rural areas and that credit terms be made more responsive to need. The Commission also urges a substantial increase in appropriations for Indian housing.

(9) The Commission believes that the overlapping patchwork of districts, organizations, plans, and programs for development impedes the economic development of lagging and poverty-stricken areas and regions. It, therefore, recommends the creation of multicounty districts, cutting across urban-rural boundaries, to cooperatively plan and coordinate programs for economic development. To finance development, the Commission recommends Federal grants, loans, and industrial development subsidies, as well as State and local tax reform.

(10) The Commission believes that without citizen responsibility, which includes the active involvement and participation of all, antipoverty and economic development programs will flounder. Therefore, the Commission recommends that increased attention be given to involving the poor in the affairs of the community, on both local and areawide levels. Specific suggestions are made for improving the effectiveness of the antipoverty programs of the Office of Economic Opportunity and the Department of Agriculture.

(11) The Commission recommends that the Federal Government re-examine its commercial farm programs in order to make sure that adjustments in the supply of farm products are not made at the expense of the rural poor. Public programs are recommended to enlarge small farm operations and to retire submarginal land from commercial production, but with safeguards protecting the interest of low income families living on submarginal land. The Commission also recommends that the development of additional farmland with public funds cease until the nation's food and fiber needs require this development.

(12) Without effective government at all levels, the recommendations in this report will not result in the eradication of rural poverty. The Commission recommends changes in program development and administration to facilitate and encourage the effective involvement of local, State, and Federal governments.

Statement of Beliefs

The National Advisory Commission on Rural Poverty has made its recommendations on the basis of specific beliefs to which all members of the Commission subscribe. These beliefs are as follows:

1. The United States today has the economic and technical means to guarantee adequate food, clothing, shelter, health services, and education to every citizen of the Nation.

2. Involuntary tragedy is a tragedy under any circumstances and poverty in the midst of plenty is both a tragedy and a social evil.

3. The rural poor are not a faceless mass. They are individual human beings. All programs designed to eliminate poverty must therefore give paramount consideration to the rights and the dignity of the individual.

4. Every citizen of the United States must have equal access to opportunities for economic and social advancement without discrimination because of race, religion, national origin, or place of residence.

5. Because rural Americans have been denied a fair share of America's opportunities and benefits they have migrated by the millions to the cities in search of jobs and places to live. This migration is continuing. It is therefore impossible to obliterate urban poverty without removing its rural causes. Accordingly, both reason and justice compel the allotment of a more equitable share of our national resources to improving the conditions of rural life.

6. All levels of government—local, State, and Federal—must accept responsibility for public measures to eliminate poverty and must be aware of the effect that any of their activities have on the poor.

7. Inasmuch as the consent of the governed is a basic tenet of American government, the rural poor must be given a voice in the planning and administration of public programs designed to eliminate poverty.

8. We can no longer evade the fact that far too high a proportion of our rural population is unemployed and that the national policy of full employment is not effective. We believe it to be an obligation of private enterprise and of government working together to provide employment at adequate wages for all persons able and willing to work.

9. The cost to the Nation of rural poverty is much too high to permit its continuance. We believe the time for action against rural poverty has arrived.

Contents

	Page
Letter of Transmittal	ii
Members of the Commission	iii
Members of the Committee	iv
Members of the Staff	v
Task of the Commission	vi
Preface	vii
Summary	ix
Statement of Beliefs	xiii
Part I	
CHAPTER 1. The Fourteen Million	3
2. Six Reasons for Action Now	11
Part II	
3. Creating a Favorable Economic Environment	17
4. Manpower Policies and Programs	25
5. Education—Helping People To Help Themselves	41
6. Health and Medical Care	59
7. Family Planning Programs	75
8. Helping Those in Need	85
9. Rural Housing	93
10. Area and Regional Development	103
11. Community Organization	121
12. Conservation and Development of Natural Resources	133
13. Adjustments in Agriculture, Forestry, Fisheries, and Mining	141
14. More Effective Government for Rural Opportunity	149

PART I

Chapter 1

The Fourteen Million

It is a shocking fact that in the United States today, in what is the richest nation in history, close to 14 million rural Americans are poor, and a high proportion of them are destitute. By their poverty they are deprived of freedom to share in our economic abundance.

We can no longer permit public policy to ignore the rural poor. For if we do, we shall see a continuing movement of rural people to our central cities. As the summer of 1967 illustrated, the slums and ghettos of the city breed hatred and violence, which is no solution to the problems of either city or country.

It is to the problems of the rural poor that this report is addressed. Who are the rural poor? Where are they? How poor are they? What can be done to wipe out their poverty?

It may surprise most Americans to know that there is more poverty in rural America, proportionately, than in our cities. In metropolitan areas, one person in eight is poor, and in the suburbs the ratio is one in 15. But in rural areas one of every four persons is poor (table 1).

Some 30 percent of our total population live in rural areas, but 40 percent of the nation's poor live there. Within this total there are nearly 3 million families, plus a million unattached persons.

Contrary to popular impression, all the rural poor do not live on farms, nor are all of them Negroes. Most live in small towns and villages. Only one in four of these rural families lives on a farm. And, of the 14 million rural poor, 11 million are white.

It is true that a higher proportion of Negroes than of whites are poor—three out of five rural nonwhite families are poor. They are heavily concentrated in some areas. In fact, 90 percent of them are clustered in the poorest counties in America. Low income white people are more widely scattered as well as more numerous.

TABLE 1.—*Persons in poverty, by rural and urban residence, March 1965*

Item	Persons at all income levels		Poor persons [1]		
	Number (millions)	Percent distribution	Number (millions)	Percent distribution	Percent poor
United States	189.9	100.0	33.7	100.0	17.7
Total rural	55.3	29.1	13.8	40.9	25.0
Farm	13.3	7.0	3.9	11.6	29.3
Nonfarm	42.0	22.1	9.9	29.4	23.6
Total urban	134.6	70.9	19.9	59.1	14.8
Small cities	27.1	14.3	6.4	19.0	23.6
Metropolitan areas	107.5	56.6	13.5	40.1	12.6
Central cities	58.6	30.8	10.2	30.3	17.4
Suburbs	48.9	25.8	3.3	9.8	6.7

[1] Income data relate to 1964. Poverty statistics presented here are preliminary estimates, based on the Social Security Administration poverty lines for urban and rural nonfarm, but using 85 percent rather than 70 percent as the farm-to-nonfarm ratio. The methods used in deriving this ratio and the above data are discussed in a technical report, to be published. Percentages may not add to 100 because of rounding.

Where are the Rural Poor?

It has become popular to talk of "pockets of poverty." The truth is there are no such things as pockets of poverty. Poverty refuses to stay in pockets. But there are areas of heavy concentration of rural poor. And there is a continuing exodus to towns and cities.

Poor people live everywhere, including cities, but some areas and regions have such heavy concentrations of rural poverty that they stand out. Much of the South, as shown in figure 1, has a heavy concentration of rural poverty. Outside of the South, Indian reservations, noticeably in the Southwest and the upper Great Plains, contain distinct concentrations of the rural poor, along with New England and the upper Great Lakes.

Within the South several areas of rural poverty can be distinguished. Appalachia perhaps has become best known in recent years, but there is also the Coastal Plain to the east, the Ozarks to the

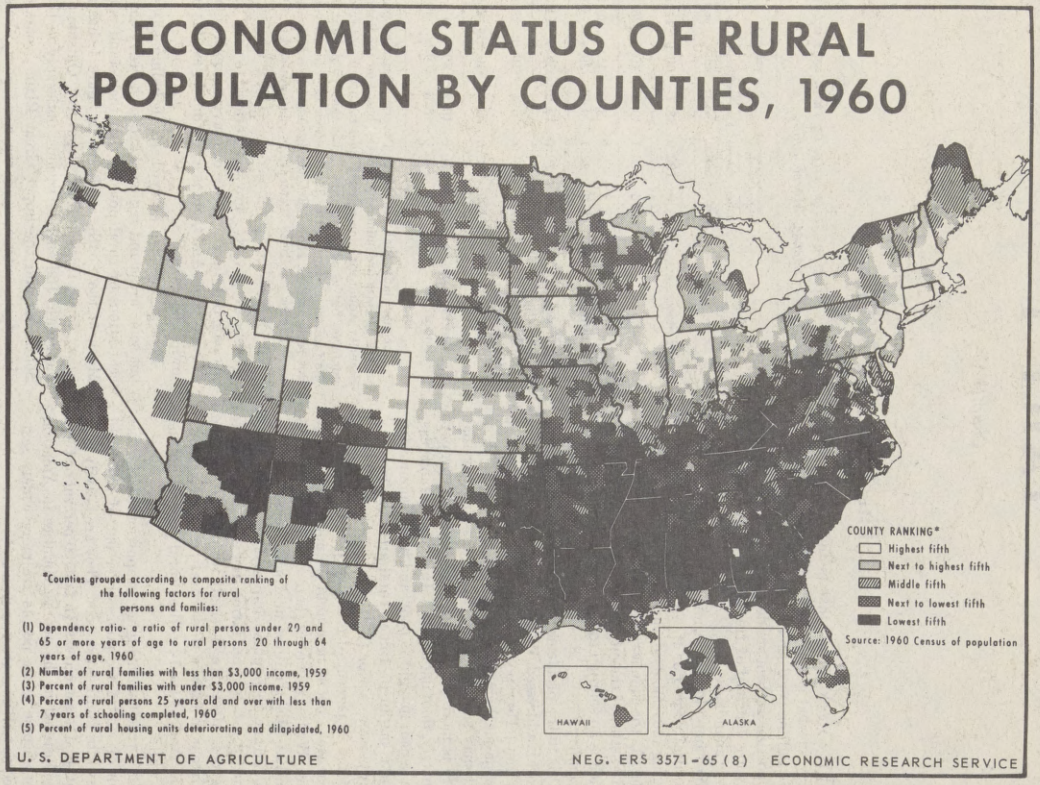


FIGURE 1

3570

west, the Black Belt of the Old South, and the Mexican-American concentrations along our southern border. Even within a State, distinct areas with high concentrations of poverty may be identified, as in the Delta and the hill country of Mississippi.

Symptoms of Poverty

Average family incomes are low in poverty areas, but there are many additional symptoms of poverty, as indicated by the factors used to reflect economic status in figure 1. A low level of formal schooling among adults parallels low income levels. Rural housing is dilapidated and in need of extensive repair or replacement. Relatively high proportions of children, youths, and the aged depend on those of working age. And the working-age population is less likely to be in the labor market, with the result that the burden of workers in supporting nonworkers is heavier than in more prosperous sections of America.

When a family's income is less than $3,000, that family is usually defined as poor.[1] In the poverty areas of rural America, however, an income of $3,000 per family is the exception, not the rule. Of the poor families in these areas, more than 70 percent struggle along on less than $2,000 a year, and one family in every four exists, somehow, on less than $1,000 a year.[2]

Schooling in low income areas is as inadequate as incomes. Rural people generally have poorer schooling than city people, and rural poor people are severely handicapped by lack of education. Few rural poor adults attain the general rural average of 8.8 years of school completed. Male farm laborers between 55 and 64 years of age and earning incomes of less than $1,000 average only 5 years of schooling.

Moreover, low educational levels seem to be self-perpetuating. If the head of a rural poor family has had little schooling, his sons are often handicapped in their efforts to get an education.[3]

It is especially difficult for rural people handicapped educationally to acquire new skills, or get new jobs, or otherwise adjust to a society increasingly urbanized. This is as true on the farm as in urban industry, for modern farming requires skills that the poorly educated lack. The less the schooling, the poorer the job and the lower the income.

Lacking in education, the rural poor either concentrate in low-paying jobs on the farm or elsewhere in rural areas, or swell the ranks of the unemployed and the underemployed.

Negroes, Indians, and Mexican Americans suffer even more than low income whites from unemployment and underemployment. Their schooling, as a rule, is even less than that of whites in the rural poverty areas. Negroes emerging from the sharecropper system often migrate to urban ghettos. Those who remain in rural areas are frequently unemployed, and when they do have jobs, they are found mostly in wage work; few become farm operators. Indians on reservations live in poverty, in the main, with few opportunities for work at well-paying jobs. Off the reservations Indians rarely find it possible to get a better paying job, if they find one at all.

At best, job opportunities in rural areas are scarce, and in many places they are getting scarcer year by year. For rural people living within commuting distance of nonfarm jobs, it is sometimes possible to combine farming with a variety of jobs off the farm, but in isolated areas the need for such opportunities is far greater than the supply. At that, even with every adult member of the family working, many families in rural poverty areas don't make enough for decent living.

In fact, some rural families make so little that their children are not only malnourished but literally starving, as a team of six physicians discovered on a 1967 survey in the rural South. The physicians summed up their findings in these words:

> In sum, we saw children who are hungry and who are sick—children for whom hunger is a daily fact of life and sickness, in many forms, an inevitability. We do not want to quibble over words, but "malnutrition" is not quite what we found; the boys and girls we saw were hungry—weak, in pain, sick; their lives are being shortened; they are, in fact, visibly and predictably losing their health, their energy, their spirits. They are suffering from hunger and disease and directly or indirectly they are dying from them—which is exactly what "starvation" means.
>
> . . . It is unbelievable to us that a nation as rich as ours, with all its technological and scientific resources, has to permit thousands and thousands of children to go hungry, go sick, and die grim and premature death.[4]

[1] The measurement of poverty is discussed later in this chapter.

[2] Unpublished census data from 1966 Composite Survey of Economic Opportunity.

[3] CURRENT POPULATION REPORTS, Series P–20, No. 132.

[4] HUNGRY CHILDREN. A Special Report. SOUTHERN REGIONAL COUNCIL. Atlanta, Ga.

Population Growth and Migration

Rural low income areas have lost population for a number of years, mainly through the exodus of rural farm people. From 1790 to the present, the nation's population has grown from about 4 million to nearly 200 million persons. In the process, it has switched from about 95 percent to 30 percent rural. As late as 1910 a third of the entire population was on farms, but this figure has dropped to only 6 percent. The more than 6,000 cities contained 125 million persons in 1960, or 70 percent of the total population.

The strictly rural areas, and areas with the lowest incomes, have the heaviest out-migration. Consider, for example, the counties classed as all rural—lacking a city (or place) of 2,500 or more population. By 1960, aside from the natural increase (births minus deaths) these counties had lost almost 2 million people, or 15 percent of their 1950 populations through migration. In contrast, the mainly urban counties (with 70 percent or more of their population in urban centers) gained more than 5 million, or about 6 percent through migration.

The poorest counties, with median family incomes of less than $2,000 in 1959, lost more than 600,000 persons—over a fourth of their 1950 population—through migration. In the Deep South, for example, a mass migration of Negroes, mainly to northern industrial centers, has helped reduce southern rural poverty at the expense of cities. At the same time, high income counties, with median family incomes of $7,500 or more in 1959, increased through migration by about 200,000 people.

Americans are well-known for their geographic and social mobility, and the freedom to be mobile is perhaps one of our most cherished values. Many seek to escape rural poverty by moving from the farm or small town to larger cities and into nonfarm work. But the fact remains that if one's origin is in agriculture, his chances of remaining there are relatively great. Given the low income levels of many farmers and farmworkers, the tendency to inherit one's occupation serves as an obstacle to an escape from poverty. Studies demonstrate that persons entering the labor market at the lowest income levels have the greatest difficulty in rising to better jobs and higher incomes. Many simply do not make the transition. Migration to a city is therefore no guarantee of escaping poverty, as the presence of millions of poverty-ridden exruralites now in cities testifies.

More Children Than Income

The size of many low income families makes escape from poverty extremely difficult. The world over, large families have been traditional in rural areas, and the tradition lives on in rural America, especially in poverty areas. The result, of course, is that meager resources have to be stretched beyond the breaking point to feed, house, clothe, and educate the children.

The birth rate has been declining in the nation as a whole since 1957, but average number of births is still high in rural poverty areas. The 1960 statistics revealed that throughout the nation women 40 to 44 years of age had produced an average—statistically speaking—of 2.5 children each. In farm families with incomes of less than $2,000, the average was 3.7 for white mothers and 6.4 for nonwhites.

Persistence in rural America of the tradition favoring large families is understandable. The rural way of life, at one time, dictated the need for large families. Before machines and modern technology came along, the family farm needed children as potential workers. Religious beliefs buttressed the tradition. And society more or less expected and sanctioned large families.

To add to the burden, the households of low income people in rural areas often include several generations. This is partly from necessity, partly cultural inheritance. Rural people cling tenaciously to the custom of caring for the old folks at home. And when the children of friends and neighbors need a place to stay, they are taken in.

Then, when the youths and young adults of these households go to the city in search of jobs, those who are left have more dependents to support. The combination of few workers, low incomes, and more people to support creates a dependency problem that is acute.

The Residual Population

The mass exodus from low income rural areas in recent years has meant that those left behind are often worse off than before. Their chances of escaping from poverty, or avoiding deeper poverty, or even easing their burden have been reduced. Partly this is because the areas have too many old people and children for the working-age population to support. Partly it is because a smaller population,

spread too sparsely, cannot support or build a strong, flexible social and economic superstructure in the area. Local governments, schools, and churches are dying from lack of support. And as local facilities and services continue to decline, the chances for redevelopment diminish.

Figures on the age of heads of households in rural poverty areas underline the hopelessness of the situation. In 1965, among low income families in these areas, one of every four heads of household was 65 years of age, or older. Contrast this with rural areas with adequate incomes. There, only about 7 percent of the heads of households were as old as 65. Nor is the picture brighter for heads of households who were younger but living in poverty areas. Of the age group 22 to 54, half were poor.

Measuring Poverty

The Concept and the Reality

"Poverty" is a controversial word. Not everyone agrees on what it means. This applies to experts as well as to laymen. In the opinion of the Commission, poverty is partly inadequate income, but it goes much deeper than that. Poverty afflicts the mind and the spirit as well.

Income is important in escaping from poverty, though not the whole answer. Education and jobs are also essential, and they can lead to higher income. Income is obviously needed to buy the food, clothing, housing, schooling, and health services required by anyone in this money economy if he is to escape from poverty—if he is to preserve some self-esteem.

But poverty is much more:

- It is lack of access to respected positions in society, and lack of power to do anything about it.
- It is insecurity and unstable homes.
- It is a wretched existence that tends to perpetuate itself from one generation to the next.

Low income is widely used as an index of poverty; the number of low income people is taken as the number of poor, though this may be an oversimplification. The poverty line is the minimum level of income needed to provide the kind of living that our society considers a basic human right.

Opinions as to where the poverty line really is, or should be, have changed as America has become more prosperous and more highly urbanized. Our standard of what is an adequate income for the poor will probably rise. Just as the poverty budgets of the 1920's by today's standards appear grossly inadequate, Americans in the year 1980 may have the same opinion of today's poverty lines.

If Billions Alone Were the Remedy

What would it cost to bring all the poor of the United States above the poverty line, if we merely transferred money to them?[5]

In 1964, for the nation as a whole, it would have cost about $12.5 billion to lift the incomes of the poor above the poverty level. The sum of $12.5 billion is about 2.6 percent of all personal incomes in the United States. It would transfer roughly $1,000 to each of the "poor" households. To close the income gap for white households considered poor, the total needed would be about $9 billion; for nonwhite households, the total needed would be $3.5 billion.

These estimates include both urban and rural poor. To close the income gap for the rural poor alone would require nearly $5 billion.[6]

This does not mean that rural poverty would be eliminated simply by adding $5 billion to the incomes of the rural poor. Poverty cannot be ended that way. Even if the incomes of the rural poor were automatically increased by perpetual transfers of income through relief checks and other welfare payments, many of the poor would remain dependent, lacking in self-esteem, never able to make their own way or to win the respect of their neighbors.

How Income Needs of the Poor Vary

But how much income must a family have to get out of poverty? The answer obviously depends on size of family, the prices they have to pay and, in addition, the changing standards of living which our society regards as essential.

The figure of $3,000 as the poverty line is useful as a rough approximation, though it cannot be applied universally or indiscriminately. For some households an income of $3,000 is more than is needed for a decent level of living. For other households $3,000 is not nearly enough.[7]

---

[5] The data presented here are preliminary estimates based on: MOLLIE ORSHANSKY. RECOUNTING THE POOR—A FIVE YEAR REVIEW. Social Security Bul. April 1966, table 5.

[6] This is a rough approximation, predicated on the fact that about 40 percent of the poor are rural.

[7] HELEN H. LAMALE. POVERTY: THE WORD AND THE REALITY. Monthly Labor Review, July 1965, pp. 822–827.

While it is possible to use the $3,000 income level as a rough indicator of poverty, more refined measurements are available. Poverty income levels that vary by family size and type, and by farm and nonfarm residence, have been developed by Orshansky in the Social Security Administration of the Department of Health, Education, and Welfare.[8] These levels are so designed that they center around the $3,000 family income level. A rural nonfarm family of four, for example, would need at least $3,200 to be above poverty. A rural nonfarm family of seven would need $5,205.

The comparable income levels for farm families were set at 70 percent of the nonfarm levels—$2,240 for a farm family of four, for example. This means that a farm family needs only 70 percent as much income as a rural nonfarm or urban family to be above poverty. We doubt that this is lating census data, in determining overall trends and characteristics of the nation's poor. For this purpose they have served fairly well, aside from accurate. The procedures and assumptions used in deriving this 70-percent adjustment factor are questionable and should be re-examined.

The Social Security Administration developed its set of poverty income levels to be used in tabu- the shortcomings discussed above. They are a big improvement over the straight $3,000, which completely ignored variations in family needs.

However, their apparent precision has invited misuse. Many Federal, State, and local government agencies have adopted these new poverty income levels, and are using them as eligibility criteria for welfare and antipoverty programs. The experts who developed the poverty levels are appalled at their being used in this way. They were not intended for this purpose and they are not adequate.

Further analysis is needed to determine the exact income needed to raise a household above the poverty level. Regional variations in the cost of living remain to be taken into account. The fact that rural people often must travel great distances to buy necessities, or to obtain medical service, has yet to be allowed for. We still need indices of poverty that will be both accurate and fair. The Federal Government should take the initiative in developing a standard set of poverty lines. As a start, this Commission has conducted a study to determine the income needed to support a comparable level of living for farm, rural nonfarm, and urban families. Preliminary results indicate that farm families need about 85 percent, rather than 70 percent, as much income as a comparable family in urban areas. Using this ratio, the Commission estimated that the number of rural poor have been undercounted by 700,000 persons, or more than 20 percent.[9]

In interpreting and using poverty income levels, it is necessary to recognize that people whose incomes are a few dollars above the poverty level may nevertheless be in genuine distress and living at a level below an acceptable one. We have to keep in mind that training and educational programs designed to help the poor can help the near-poor, and should be so used.

The urgent goal, of course, must be to help those in greatest need. But an income level of $3,000 ought not to be thought of as an upper limit for today's poor. Rather, is should be considered a threshold over which low income families may pass to higher levels. This Commission firmly believes that antipoverty programs should not only lift people to the poverty line, but help them to rise as much further as their abilities will permit.

A Culture of Poverty

There is such a thing as a culture of poverty. No one knows how many of the rural poor have fallen into it, but it is common enough to deserve attention. One witness who testified at a hearing before this Commission, the Rev. A. J. McKnight, of Louisiana, described rural poverty this way:

> Many of these undeveloped people have developed a culture of poverty. . . . The poor think differently; they have a different sense of values. . . . Take the concept of education: To the middle class it stands for the road to better things for one's children and one's self. To the poor it is an obstacle course to be surmounted until the children can go to work. . . .
>
> The poor tend to be fatalistic and pessimistic because for them there is no future; everything is today. They do not postpone satisfactions. When pleasure is available, they tend to take it immediately. They do not save, because for them there is no tomorrow.
>
> The smug theorist of the middle class would probably deplore this as showing a lack of traditional American virtues. Actually it is the logical and natural reaction of a people living without hope, without a future.

[8] Mollie Orshansky. The poor in 1965 and trends, 1959–65, U.S. Dept. Health, Education, and Welfare, Research and Statistics, Note. Feb. 16, 1967.

[9] Table 1 is based on the Commission's estimates. Details are given in a technical report to be published.

We do not know how many people in rural America have lost all hope in a future. It is tragic and shameful that any have.

This Commission believes that by adopting the program of action recommended in this report, we can restore hope to many who are now without it, and we can help the 14 million rural poor climb out of poverty. The nation can do this, that is, if there is the will to do it.

The time for action is now.

Chapter 2

Six Reasons For Action Now

That 14 million rural Americans have been left behind, consigned to poverty and destitution, should be reason enough for action. Still, there are those who will say, "Any American who is poor has only himself to blame." The findings of this Commission are impressive proof to the contrary. On the basis of these findings, the Commission offers the following six reasons which justify prompt and effective action against rural poverty.

First, simple justice demands that we take action now. It is imperative that the United States provide rural poor people with the same opportunities to share in the fruits of our social and economic progress that all other citizens enjoy. Today's rural poor have been left behind in the wake of basic changes in the fabric of rural life. Many are refugees from an agricultural revolution. Others are refugees from similar revolutions in mining and other natural-resource-based industries. Cut off from opportunities to develop and prosper in rural areas, they are ill-equipped to help themselves. They, and the communities in which they live, are doomed to permanent and increasingly severe poverty unless they get help. Justice demands that they not be isolated from the rest of society.

Moreover, rural people have suffered severely because of discrimination. The incidence of poverty is especially heavy among Negroes, Mexican Americans, and Indian Americans living in rural areas. A much higher percentage of these minorities than of the rural white is poor. Unless the barriers of economic, social, and racial discrimination are removed, many of them will never have a chance to work their way out of poverty.

Second, we must act now because the rural poor, in their desire for the same goods and services enjoyed by most urban people, continue to pile up in the central cities of America. Yet, for many migrants who lack the training and skills for employment in the cities, the move is like jumping from the frying pan into the fire. The result is frustration, despondency, and despair.

The blight in our central cities, as well as the continued blight in rural America, is a national disgrace. The problems of rural America and central city America are closely linked through migration. A high proportion of the residents of our cities formerly lived in rural areas. Many more are one or two generations removed from a rural parentage.

The senseless piling up of refugees from rural America in our central cities provides no solution to the problems of rural areas or of the cities.

Third, we must act because our antipoverty programs have bypassed the rural poor. Rural poverty is not as apparent as urban poverty. The rural poor, especially the white rural poor, are not well organized, and have few spokesmen for bringing the nation's attention to their problems. The urban poor are more concentrated, organized, and vocal in their call for help, and they receive more help than the rural poor. Rural poor people have been shortchanged in public programs designed to improve transportation, housing, education, health services, area development, and income maintenance.

Even though living conditions in central city America are intolerable, the continuing stream of rural migrants to our central cities strongly suggests that conditions there are better than in our blighted rural areas.

This Commission questions the wisdom of massive public efforts to improve the lot of the poor in our central cities without comparable efforts to meet the needs of the poor in rural America. There is danger that programs limited to the needs of our central cities will be self-defeating. If economic and social conditions are greatly improved in our central cities without comparable improvement in rural areas, additional incentives will be created for migration to the cities. In the end, therefore, the special housing, education, employment, and other special programs for the central cities may lead to increased migration, thereby complicating the very problems we are trying to solve.

Even more important is the fact that there is a growing restlessness in rural America. Many people whose families have been deprived for generations are deeply resentful that little is being done to meet their needs. National action which in effect rewards the violence in the central cities is not unnoticed in rural America. Through such action, the nation is telling rural poor people that if they want effective programs, they must find more violent ways of making their demands known. This is a tragic message and it could have tragic consequences. The problems of poverty in both rural and urban America are so serious and so interrelated that we cannot ignore one group while helping the other.

Fourth, we must act now because our rural communities do not share the benefits of much of our nation's economic growth and technical change, and conditions in these communities are destined to become much worse unless basic changes are made.

The early rural community was largely self-sufficient. It performed the services needed by farmers and other rural people. But now most of these services are performed in small to medium-sized cities to which rural areas are linked by an increasing number of channels. Today the area of an effective community is approximately 100 times that of the effective community of the early 1900's.[1]

Many small communities have been unable to adjust and keep pace with the changing economic and social fabric of the more prosperous ones. Accordingly, many rural communities formerly providing service functions for rural families now find their economic base eroded away. They, and the people within them, are trapped in poverty.

Numerous rural centers have lost so much population they have become ghost towns and resemble abandoned gold-mining villages. Their economic and social facilities are not meeting the needs of the people in the communities they serve. Nor can they without help. Poverty in these communities promises to be self-perpetuating unless there are effective programs to reach and assist the people who live there.

[1] Karl A. Fox. Change and interest adjustments: a metamorphosis of rural america. (Paper prepared for the Conference on Implications of Structural and Market Changes on Farm Management and Marketing Research.) Dept. Econ., Iowa State Univ., April 1967.

The changes in the social and economic fabric of rural America are irreversible. Indeed, it is unthinkable that we should try to reverse them. The capacity of this nation to eradicate poverty stems from its rapid technological progress and its greatly expanded capacity to produce. But the same changes giving us greatly increased production and improved levels of living have created very difficult adjustment problems for many rural families and rural communities. And they will continue to do so. Fewer people will be employed in agriculture, forestry, fisheries, and mining in the future than today.

The job to be done is to restructure rural facilities and services on a broader geographical base and to connect them with their urban counterparts. There will be little or no abatement of rural poverty until this is done. We have to change our traditional view of rural America—its function, its relation with the rest of the nation, and the social and economic processes required to assure a better life for rural people.

Fifth, we must act because our rural communities are unable to prepare people to participate in the modern economy, and they will become increasingly less able to do so unless there are concerted and extensive changes.

There is in rural America today a serious and widespread failure to prepare the people for participation in a modern and advancing economy. In entirely too many instances the schools, libraries, health facilities, churches, and governments in rural America have failed to develop programs to meet the needs of the people. The extensive unemployment and underemployment in rural areas attest to the fact that our record is not good in preparing people for jobs and in helping them to locate productive employment.

State and local governments are not able to meet the needs of the people in most rural communities. At the same time that the citizens of rural communities have begun to demand the kind of services that cities offer, local governments are finding it harder and harder to provide even the basic services.

The winds of change have struck rural government, though local leaders often seem unaware of it. Recent changes in rural America have rendered obsolete many political boundaries of villages and counties. Too many local governments in rural areas operate on too small a scale to be practicable.

They are able to provide no more than the most elementary public needs. Their tax base is eroding as their more able-bodied wage earners leave for jobs elsewhere.

In a very practical sense, rural government has been left behind politically as well as economically. Though these governments continue to operate as they have for 100 years, the center of political power has shifted drastically. It has moved toward the more professional governments of urban areas and toward State and national governing bodies. The important decisions on education, health, welfare, and other matters of vital public concern are made, more and more often, at higher levels. Because local rural government has failed to change, it has isolated itself and its constituents from the political mainstream.

The problems of overcoming rural poverty are complicated by the fact that many rural poor have lost almost all hope of improving their situation. Many have attempted to keep up with the technological tide in farming and have failed. Many have been disillusioned in their efforts to obtain employment outside agriculture, forestry, fisheries, or mining. Their lack of the requisite skills to earn a decent living is discovered too late. It will not be easy to motivate these people to try again. But we must.

Part of our problem stems from our unwillingness to face realistically the limited employment potential of today's modern farming, and tomorrow's farming. Likewise, we have failed to comprehend the limited job opportunities in forestry, fisheries, and mining. We have not developed good employment opportunities for the people in rural areas. Worse yet, we lack the kind and quality of educational and manpower training services to provide rural people with skills necessary for other employment. Without forthright action, jobs will get scarcer in rural areas, and the skill gap between urban and rural people will widen.

Sixth, we must act now because our public programs in rural America are woefully out of date. Many of them, especially your farm programs and vocational agriculture programs, are relics from an earlier era. They were developed during a period when there was a strong belief that people born in rural America should stay there and work on farms, or in farm-related occupations. The programs emerged from legislation which equated the welfare of farm families with conditions on farms and the welfare of rural communities with the incomes of farmers. These conditions no longer prevail.

Although many farm programs were originally developed with the express purpose of increasing the incomes of low income rural families, they did not take into account the vast changes in technology of the last 30 years. As a result instead of combating low incomes among rural people, these programs have helped to increase the wealth of landowners while largely bypassing the rural poor.

It cannot be emphasized too strongly that the poverty in rural areas is self-perpetuating. There will be little or no abatement and no real solution unless specific steps are taken to cope with it. Moreover, since the basic structure of rural America has been altered, the old programs are not sufficient for coping with problems of today. A new approach clearly is required.

The Commission has endeavored to chart a course to wipe out rural poverty. Emphasis is placed upon the many problems of the rural poor people. The problems of the people differ because of differences among them in age, race, education, geographic location and other attributes. The diversity of their needs is recognized, and recommendations are made to meet the diverse needs.

In developing these recommendations, the Commission gave consideration to problems of the rural poor and to problems of impoverished rural communities. Changes in existing programs and the development of new programs are proposed. The immediate needs of the rural poor are emphasized, but the necessity for changing the conditions that have made them poor is also stressed. Better programs for human resource development and the physical resources needed for their development are urged. Emphasis is placed upon improving the operation of the private economy so as to provide rural people with better opportunities for jobs and a decent living. Government is called upon to complement the private sector where necessary to erase rural poverty.

In the Commission's view, the complexity of the problems of rural poverty preclude the success of a single program or approach. Programs emphasizing immediate needs will not change the conditions creating and perpetuating rural poverty,

and programs designed to change these deeply rooted conditions will take time. The recommendations complement and reinforce one another. Taken together, the recommendations will eliminate rural poverty, and thereby remove the basis for much of our urban poverty.

The costs to society for implementation of the Commission's recommendations will be high, but the costs will be immeasurably higher if we do not implement them. Over the long pull, the gains to society from wiping out poverty will far exceed the costs. The time for action is indeed now.

* * * * * * *

69-133 O - 73 - pt. 5B - 3

THE CASH METHOD AS APPLIED IN AGRICULTURE —A REEXAMINATION

*Harvie Branscomb, Jr.**

Since the early days of the income tax, agricultural taxpayers using the cash method of accounting have been permitted to deduct costs of growing crops and livestock in the year in which the costs were paid, even though the sale of the crops or livestock was reportable in a subsequent year, and in some cases at capital gains rates.[1]

During deliberations on the Tax Reform Act of 1969, the Administration,[2] the House Ways and Means Committee,[3] and the Senate Finance Committee[4] all concluded that this method of accounting resulted in some instances in distortions of income and was susceptible to abuse. The Treasury has not to this point advanced, nor has the Congress seriously considered, any proposal that agricultural taxpayers be required to switch to the accrual system or to a modified cash system in which growing costs must be capitalized,[5] but accrual accounting has been described as the only "proper" method for use in agriculture.[6]

---

* Harvie Branscomb, Jr. (B.A., Duke University, 1943; LL.B., Yale University, 1948) is a member of the Texas Bar and of the firm of Branscomb, Gary, Thomasson & Hall, Corpus Christi, Texas.

[1] T.D. 2153, 17 TREAS. DEC. INT. REV. 101 (1915); Treas. Reg. 33, § 4 (1917); Treas. Reg. 45 § 110 (1918); Treas. Reg. § 1.162-12 (1958), Treas. Reg. § 1.471-6 (1958). The amendment in 1951 of section 117(j) the Internal Revenue Code of 1939 to confirm its applicability to breeding livestock did not modify the deductibility of agricultural costs under the cash method, but increased the benefit of such deductions to livestock breeders.

[2] Statement of the President to the Congress, April 21, 1969; TREASURY DEP'T TECHNICAL EXPLANATION OF TAX REFORM PROPOSALS 39-47 (Comm. Print 1969); TREASURY DEP'T, TAX REFORM STUDIES AND PROPOSALS 152-63; (Joint Comm. Print 1969); *cf.* THE PRESIDENT'S 1963 TAX MESSAGE 144-45 (Comm. Print 1963).

[3] H.R. REP. No. 91-413, 91st Cong., 1st Sess. 62-71 (1969).

[4] S. REP. No. 91-552, 91st Cong., 1st Sess. 95-99 (1969).

[5] No provisions of the Tax Reform Act of 1969 (hereinafter cited as Tax Reform Act) dealt directly with the cash receipts and disbursements method as applied to farmers and ranchers, but several were designed to limit its advantages. Section 211 of the Act increased the holding period for capital gains on breeding cattle and horses, and eliminated the prior exception of livestock from the recapture provisions of section 1245 of the Code. Section 213 was intended to improve the rules for disallowing losses where an activity is motivated by tax avoidance or other non-profit objectives, and section 214 provided for a limited recapture of deductions for soil and water conservation and land clearing costs when farm land is sold.

[6] "Under present law, income or losses from farming may be computed under more liberal accounting rules than those generally applicable in the case of other types of business activities. . . . As indicated above, a taxpayer who elects to follow *proper* accounting rules [i.e., accrual rules] is not to be subject to the limitations provided by the bill." (Emphasis added.) S. REP. No. 91-552, 91st Cong., 1st Sess. 95, 98 (1969); "Farmers . . . have been excepted from these general rules [requiring inventories where the production or sale of merchandise is a significant factor] . . . . This

The changes made by the Tax Reform Act did not affect the average farmer or rancher greatly.[7] On the other hand, a steady administrative and judicial development of the basic concepts of agricultural taxation has been occurring for a number of years as a result of concern over the revenue consequences of tax methods used by cash basis agricultural taxpayers. Since a taxpayer receives no unwarranted benefit from the current deduction of costs of raising agricultural products unless the tax impact of the corresponding income is avoided by transfer to some other taxpayer, reduced by realization at capital gains rates, or deferred to a year in which it will occasion less tax, these three areas have been the most troublesome. An understanding of the cash method [8] as it operates in each of these areas is a prerequisite to an evaluation of the existing system, as well as of any proposals for further change.

Income Realization in Agriculture—The Interplay of the Concepts of Agricultural Taxation and Helvering v. Horst

Basic to the problem of assignment and deferral of agricultural income is the concept of income realization as it applies in this area. Most agricultural products are fungible and easily marketable, and as a conse-

---

results in an inaccurate reflection of annual income in situations where expenditures are fully deducted in the year incurred, but the assets produced by those expenditures (inventories) are not sold, and the income not reported, until a later year." TREASURY DEP'T, TAX REFORM STUDIES AND PROPOSALS 153 (Joint Comm. Print, 1969); *cf. United States v. Catto*, 384 U.S. 102, 114-16 (1966); "The issue in the present case, however, is complicated by the substantial tax differential worked by the Treasury Regulations in favor of cash-method ranchers . . . . It is clear that application of the cash method . . . to sales of breeding livestock would substantially distort the economic picture of the respondents' ranching operations. The sacrifice in accounting accuracy under the cash method represents an historical concession by the Secretary and the Commissioner to provide a unitary and expedient bookkeeping system for farmers and ranchers in need of a simplified accounting procedure. A concomitant of the special dispensation that has been made available to cash-method ranchers is the favorable capital gain treatment that results whenever breeding livestock are sold."

[7] *See* note 5 *supra*.

[8] The use of the term "cash method" to encompass the rules governing the deduction of growing costs by cash basis farmers and ranchers may be semantically misleading. There is nothing inherent in the cash receipts and disbursements method of accounting which requires deduction of the costs of raising agricultural products. Taxpayers who produce merchandise for resale are ordinarily required to maintain inventories, Treas. Reg. § 1.471-1, and taxpayers who are required to maintain inventories are ordinarily required to use the accrual method of accounting, Treas. Reg. § 1.446-1(c)(2)(i). The deduction of growing costs by cash basis farmers and ranchers is authorized in Treas. Reg. § 1.162-12, and its predecessor regulations, *supra* note 1, and in the *Farmers Tax Guide*, 20-23 (1971). The exclusion of cash basis farmers and ranchers from the requirement of inventories is indicated, at least inferentially, by Treas. Reg. § 1.471-6. Since the deduction of costs of raising agricultural products is limited to taxpayers using the cash receipts and disbursements method of accounting, the term "cash method" as applied to taxation of agriculture is widely used to refer to the rules relating to such deductions.

quence the taxpayer is often in a position to control the time of receipt of the income which their sale will produce. When agricultural products are delivered into the stream of commerce, they may be represented by negotiable warehouse receipts which are, for practical purposes, equivalent to cash. Even prior to this point, the conversion of livestock and harvested crops to cash often requires only the farmer's willingness to accept the money. Should a taxpayer in this position be permitted to claim he has not realized income, however he may dispose of his produce?

There are a number of situations in which this problem may arise. Agricultural products may be given to a member of one's family or to charity prior to sale; they may be transferred to a corporation in exchange for stock, or transferred from a corporation as a dividend or in liquidation or in redemption of stock; they may be acquired by an estate from a decedent; they may be sold with land and as a part of the real estate.

The fruit-tree language of the *Horst*[9] decision seemed to suggest that income would be realized in such situations, and the extension of the assignment of income principle to agricultural taxpayers appeared to be a logical development. Thus, in 1948 the Commissioner took the position that income was realized by the donor, to the extent of the fair market value of his gift, upon the gift of wheat to charity[10] and upon the gift of feeder cattle to his son.[11]

There were serious problems in the Commissioner's approach. Under the anticipatory assignment of income doctrine, it is the receipt of the proceeds of sale by the donee and not the act of assignment that results in income to the donor.[12] Otherwise, as pointed out by the Tax Court, a taxable event would be created where one might otherwise never have occurred.[13]

More fundamentally, it is not the ability to market one's assets that generates taxable income; it is the act of marketing and the actual or constructive receipt of the proceeds of sale, in the case of a cash basis taxpayer, and the occurrence of all events which fix the right to receive the income and permit the amount to be determined with reasonable accuracy, in the case of an accrual basis taxpayer.[14] No other rule would be workable; otherwise it would be necessary to reflect in the taxpayer's return fluctuations which occur in the value of the marketable assets he holds. Ordinarily, it is the decision to market at a particular time which

---

[9] *Helvering v. Horst*, 311 U.S. 112, 120 (1940); following *Lucas v. Earl*, 281 U.S. 111, 115 (1929).

[10] I.T. 3910, 1948-1 C.B. 15.

[11] I.T. 3932, 1948-2 C.B. 7.

[12] *Helvering v. Eubank*, 311 U.S. 122 (1940); *Siegel Productions, Inc.*, 46 T.C. 15 (1966); *Estate of Florence Carr*, 37 T.C. 1173 (1962); Rev. Rul. 58-275, 1958-1 C.B. 22; Rev. Rul. 63-66, 1963-1 C.B. 13.

[13] *W. G. Farier*, 15 T.C. 277 (1950).

[14] Treas. Reg. § 1.451-1(a); Rev. Rul. 58-162, 1958-1 C.B. 234.

governs the amount of income which will be realized from sales of agricultural products, and it is only after this decision has been made that the income will be received or accrued.

Quite properly, therefore, the Commissioner was defeated in his efforts to treat gifts of crops and livestock as income producing events [15] and was forced to accept the concept that transfers of unsold agricultural produce constitute transfers of property and not assignments of income, not only in the case of gifts,[16] but also in a variety of other situations.[17] There is no impropriety in such situations in taxing the transferee upon disposition of the product by him. In this context, the sale of the fruit is attributed to its owner, even if he is not the owner of the original tree.[18]

Disallowance of Costs

The Commissioner then developed an alternate approach. Conceding that the gift of agricultural products did not result in the realization of income by the donor, he took the position that the donor was not entitled to deduct the costs incurred in raising the crop, at least in the year of gift,[19] whether the gift was to an individual or to a charity. In the case

---

[15] *Ralph Romine,* 25 T.C. 859 (1956), *acq.,* 1956-1 C.B. 5; *White v. Broderick,* 104 F. Supp. 213 (D. Kan. 1951), *appeal dismissed on appellant's motion,* 198 F.2d 751 (10th Cir. 1952); *Campbell v. Prothro,* 209 F.2d 331 (5th Cir. 1954).

[16] Rev. Rul. 55-531, 1955-2, C.B. 520; Rev. Rul. 55-138, 1955-1 C.B. 223; Rev. Rul. 58-436, 1958-2 C.B. 366; Rev. Rul. 57-490, 1957-2 C.B. 231.

[17] Unsold agricultural products not income in respect of a decedent, step-up in basis allowable: Rev. Rul. 58-436, 1958-2 C.B. 366; *Estate of Tom L. Burnett,* 2 T.C. 897 (1943), *acq. on issue as to raised livestock and feed,* 1944 C.B. 4; *Perry v. United States,* 58-2 USTC ¶ 9587, 1 AFTR 2d 2028 (N.D. Miss. 1958); *in accord,* Treas. Reg. § 1.691(a)-2(b), Example (5)(1); cf. Rev. Rul. 68-154, 1968-1 C.B. 395, (step-up in basis, optional valuation date, interest in agricultural partnership). No assignment of income in section 351 incorporation: *Rooney v. United States,* 305 F.2d 681 (9th Cir. 1962); *Central Cuba Sugar Co. v. Comm'r,* 198 F.2d 214 (2d Cir. 1952), *cert. denied,* 344 U.S. 874 (1952). No income created by distribution of crops as dividend: Rev. Rul. 57-490, 1957-2 C.B. 231. Liquidation of accrual basis subsidiary into parent under I.R.C. § 334(b)(2): *Comm'r v. South Lake Farms, Inc.,* 324 F.2d 837 (9th Cir. 1963); *cf. Winer v. Comm'r,* 371 F.2d 684 (1st Cir. 1967) (*South Lake Farms* decision not applicable to manufacturing). Sale of crop with land: I.R.C. § 1231(b)(4); not applicable to assignment of crop and leasehold estate: *Nutt v. Comm'r,* 351 F.2d 452 (9th Cir. 1965), *cert. denied,* 384 U.S. 918 (1966); *cf. Olin Bryant,* 46 T.C. 848 (1966) (ABC deals not applicable to agricultural products). Value of growing crops not subject to income tax at death: *Perry v. United States,* 58-2 USTC ¶ 9587, 1 AFTR 2d 2028 (N.D. Miss. 1958); *Estate of Tom L. Burnett,* 2 T.C. 897 (1943), *acq. on issue as to raised livestock and feed,* 1944 C.B. 4.

[18] Although rights to an unsold crop are not ordinarily considered equivalent to rights to accrued income, a transfer of a crop which has been previously sold is in effect an assignment of the proceeds of sale, and taxable as an anticipatory assignment of income. *Adolph Weinberg,* 44 T.C. 223 (1965), *aff'd in part and rev'd in part, sub. nom. Comm'r v. Sugar Daddy, Inc.,* 386 F.2d 836 (9th Cir. 1967), *cert. denied,* 392 U.S. 929 (1968); *cf. Greer v. United States,* 408 F.2d 631 (6th Cir. 1969) (sale of a "racing interest" in a racehorse).

[19] Rev. Rul. 55-531, 1955-2 C.B. 520; Rev. Rul. 55-138, 1955-1 C.B. 223.

of charitable donors, the Commissioner was supported by Treasury Regulations.[20] The tax advantages of such gifts have now been eliminated by statute.[21] Similarly, where crops are transferred to a corporation under section 351 the Commissioner has been able to reallocate costs under section 482 so as to deny to the transferor deductions for costs incurred by him prior to transfer, but related to income realized thereafter by the corporation.[22] Deductions prior to a corporate reorganization have been reallocated on the same basis.[23] Although the Commissioner has ruled that the distribution of crops as a dividend does not produce income to the declaring corporation, he disallows growing costs for the current and all prior years in such cases.[24]

Congress has followed the same approach. Although it has permitted capital gain treatment on the sale of a crop with the land on which it is situated,[25] current as well as prior growing costs are disallowed as deductions.[26]

The cost capitalization approach is being applied with increasing breadth in agriculture. In the recent decision of *Spitalny v. United States*,[27] the Ninth Circuit held that where a corporation engaged in the business of cattle feeding had deducted as an expense feed and supplies which it sold later in the same year during the course of a section 337 liquidation, costs previously incurred for such feed and supplies were to be disallowed. The court reached this result under an extension of the so-called "tax benefit rule," under which accounts written off as bad debts and later recovered are restored to income in a liquidation under this section.[28] It recognized that where both deductions and offsetting recovery occur in the same taxable year, the use of the "tax benefit rule" label is inappropriate, but concluded that the same principles would apply with even greater force in a case where an agricultural taxpayer using the cash basis has taken deductions for feed and supplies not consumed in production and for which value is received.[29]

---

[20] Treas. Reg. § 1.170-1(c); *cf. Wylie v. United States*, 281 F. Supp. 180 (N.D. Tex. 1968).

[21] I.R.C. § 170(e)(1)(A).

[22] *Rooney v. United States*, 305 F.2d 681 (9th Cir. 1962). Neither section 482 nor section 446(b) disallows the deductions of an accrual basis subsidiary liquidating its assets into its parent. *Comm'r v. South Lake Farms, Inc.*, 324 F.2d 837 (9th Cir. 1963).

[23] *Central Cuba Sugar Co. v. Comm'r*, 198 F.2d 214 (2d Cir. 1952), *cert. denied*, 344 U.S. 874 (1952).

[24] Rev. Rul. 57-490, 1957-2 C.B. 231; *cf. Comm'r v. First State Bank of Hartford*, 168 F.2d 1004 (5th Cir. 1948), *cert. denied*, 335 U.S. 867 (1948).

[25] I.R.C. § 1231(b)(4).

[26] I.R.C. § 268; Treas. Reg. § 1.268-1. Applicable to crops sold in liquidation of a corporation under section 337, *Beauchamp & Brown Groves Co.*, 44 T.C. 117 (1965).

[27] 430 F.2d 195 (9th Cir. 1970).

[28] *West Seattle Nat'l Bank of Seattle v. Comm'r*, 288 F.2d 47 (9th Cir. 1961); *cf. Comm'r v. Kuckenburg*, 309 F.2d 202 (9th Cir. 1962) *cert. denied*, 373 U.S. 909 (1963).

[29] The court found no difference, in principle, between the disallowance of an item

It is apparent, therefore, that the Commissioner now has considerable authority to capitalize or disallow costs previously incurred in raising agricultural products which are disposed of in a way which does not result in the realization of income. In this area the cash method as applied to agricultural taxpayers no longer affords any substantial opportunities for deductions which are not offset by the related income.

Crop Proceeds as Income in Respect of a Decedent

Notwithstanding these developments, the concept that crops are "property" under *Helvering v. Horst,* as distinguished from "income rights," has enjoyed an uneasy existence. In 1954 the Commissioner persuaded the Ninth Circuit in *Commissioner v. Linde* [30] that where agricultural products are delivered prior to death to a cooperative association and commingled by it with the produce of others, income received by the decedent's estate on a subsequent sale of the estate's interest in the commingled products will be treated as "income in respect of a decedent" under section 691. As a consequence, the estate, in computing gain on sale of the products, did not enjoy the step-up in basis which it otherwise would have enjoyed under section 1014.[31] The *Linde* decision was incorporated in the Treasury Regulations in 1957.[32]

Although for state law purposes, it was clear that the taxpayer in *Linde* had a property interest in the pooled produce, the decision is based on the conclusion that the decedent had only a contractual right to receive income at the time of death. *Linde,* therefore, is not necessarily inconsistent with the concept that a transfer of crops represents a transfer of property and not of income rights for tax purposes.

Whether the *Linde* decision is to be regarded as inconsistent with the construction of *Helvering v. Horst* as applied to agriculture, the extension in *Linde* of the "income in respect of a decedent" category has been regarded as questionable.[33] The purpose of section 691 as it applies to cash basis decedents is to tax to an estate income which would otherwise escape taxation because it has accrued but has not been received at the date of death.[34] The fact that negotiations for the sale of a

---

of expense incurred in the current year, and the restoration to income of an item expensed in a prior year. 430 F.2d 195, 198. The amount restored is limited to the amount previously deducted, and the restoration rule applies to accrual as well as cash basis taxpayers. *Bishop v. United States,* 71-1 USTC ¶ 9165 (D. Ga. 1971).

[30] 213 F.2d 1 (9th Cir. 1954), *cert. denied,* 348 U.S. 871 (1954).

[31] I.R.C. § 1014(c).

[32] Treas. Reg. § 1.691(a)-2(b), Example (5)(2), first published as T.D. 6257, 1957-2 C.B. 419.

[33] Ferguson, *Income and Deductions in Respect of Decedents and Related Problems,* 25 TAX L. REV. 1, 45-46 (1969); Young, *Linde Decision Confuses Tax Treatment of Cash Basis Decedent's Inventory,* 4 J. TAX. 160-62 (1956); Note, *Income in Respect of Decedent: The Scope of § 126,* 65 HARV. L. REV. 428, 444-45 (1952).

[34] *Davidson's Estate v. United States,* 292 F.2d 937, 941 (Ct. Cl. 1961), *cert. denied,* 368 U.S. 939 (1961). The alternative of taxing all accrued income of cash basis tax-

decedent's property have preceded his death,[35] or even that he has entered into an executory contract,[36] will not ordinarily subject the proceeds of a sale consummated after his death to the provisions of section 691. Neither the *Horst* rule nor the concept underlying section 691 appear to justify the accrual at the date of death of income of a cash basis taxpayer which has not been actually or constructively received.

Crop Shares as Rents

A substantial exception to the general rule that agricultural produce is to be regarded for income assignment purposes as property, and not as a right to income, has developed from the *Linde* case. In *Davidson's Estate v. United States*,[37] the Court of Claims sustained the Commissioner's position, inconsistent with his own prior Revenue Ruling,[38] that crops received by a decedent as his share of those grown on his land under a sharecrop arrangement resulted in income in respect of a decedent to his estate when later sold. Even if the contractual rights which Linde had in pools of unsold wine are regarded as accrued rights to income, it would not seem to follow that a distinction should be made for purposes of section 691 between produce owned by a taxpayer who provided the land on which it was grown, and produce owned by one who provided the labor, seed and fertilizer. In any event, the *Linde* and *Davidson* decisions must rest primarily on the construction of section 691, and not on the principle of *Helvering v. Horst*. Nevertheless, from this beginning, crop shares received by agricultural landowners for the use of their land have been held to have a special status under the anticipatory assignment of income doctrine in a wide variety of situations,[39] and are not distinguished from agricultural produce grown by the farmer himself for such purposes.

---

payers in their last returns, regardless of the date ultimately received, could result in the accrual of several years' income in one return. *O'Daniel's Estate v. Comm'r*, 173 F.2d 966 (2nd Cir. 1949).

[35] Treas. Reg. § 1.691(a)-2(b), Example (5)(1).

[36] Treas. Reg. § 1.691(a)-2(b), Example (4); Ferguson, *supra* note 33, at 43-52; M. FERGUSON, FEDERAL INCOME TAXATION OF ESTATES & BENEFICIARIES 147 (1970).

[37] 292 F.2d 937, 941 (1961), *cert. denied*, 368 U.S. 939 (1961).

[38] Rev. Rul. 58-436, 1958-2 C.B. 366.

[39] Rev. Rul. 63-66, 1963-1 C.B. 13 (donor of warehouse receipts representing crop shares received as rent must include in income amounts received by donee upon sale of crops); *Tatum v. Comm'r*, 400 F.2d 242 (5th Cir. 1968) (gift of warehouse receipts for crop shares to charity, donors taxable); *contra, Peterson v. United States*, 65-2 USTC ¶ 9672, 16 AFTR 2d 5761, (E. D. Wash. 1965); Rev. Rul. 64-269, 1964-2 C.B. 173 (crops received as rental constitute income in respect of a decedent, prorated to date of death), *modifying* Rev. Rul. 58-436, 1958-2 C.B. 366; *ABCD Lands, Inc.*, 41 T.C. 840 (1964) (income from sale by shareholders of crop shares distributed in kind by corporation "imputed" to corporation for income tax purposes); Rev. Rul. 64-32, 1964-1 C.B. 319; *Farmers' Tax Guide*, 41-42 (1971) (self-employment income under section 1402); Rev. Rul. 55-538, 1955-2 C.B. 313; Rev. Rul. 54-447, 1954-2

This treatment of crop shares as income rights appears to be inconsistent with the regulations governing the realization of such income, which provide that "crop shares (whether or not considered rent under state law) shall be included in gross income as of the year in which the crop shares are reduced to money or the equivalent of money." [40] It has been suggested that this is a rule of convenience only,[41] and that since an assignment of other types of rents by a landlord is subject to the *Horst* decision, there is no reason that crop shares should be an exception.[42]

There are reasons other than convenience to defer the recognition of gain on crop shares until the crops are sold. Generally a landowner who farms on shares is regarded as having an interest in the crop from the time it is first planted.[43] Thus, the landowner and farmer both contribute to the production of the crop, each owns his respective share of it, and each is entitled to treat his share as his own property when he sells it. From this point of view, the harvest and delivery of the landowner's share of the crop does not result in the payment of rent.

The alternative possibility of taxing a landlord on the fair value of crops received by him under a sharecropping arrangement would have several ramifications. In the first place, when the crop is sold by the landowner, he would ordinarily realize gain or loss again. The existing treatment of sharecrop arrangements avoids these problems, provides a single taxable event, and ordinarily results in no loss of revenue.

The Material Participation Concept

The ease of avoidance provides another reason to question the crop shares rule. The landowner who participates with his tenant, to a material extent, in management or expenses is ordinarily deemed to be a farmer and not a renter. Material participation leases have been held sufficient to avoid classification of crop proceeds [44] and soil bank payments made in lieu of them [45] as personal holding company income

---

C.B. 351 (tenant's status as employee); Rev. Rul. 60-32, 1960-1 C.B. 23 (soil bank payments); Rev. Rul. 58-482, 1958-2 C.B. 273; *United States v. Myra Foundation*, 382 F.2d 107 (8th Cir. 1967) (not unrelated business taxable income under section 512).

[40] Treas. Reg. § 1.61-4, applicable to both cash and accrual basis farmers. The latter are not permitted to include crop shares received as rent in inventory, Rev. Rul. 56-496, 1956-2 C.B. 17.

[41] Eustice, *Contract Rights, Capital Gain, and Assignment of Income*, 20 TAX L. REV. 1, 56 (1964); *followed, Tatum v. Comm'r*, 400 F.2d 242 (5th Cir. 1968).

[42] *Galt v. Comm'r*, 216 F.2d 41 (7th Cir. 1954); *United States v. Shafto*, 246 F.2d 338 (4th Cir. 1957).

[43] 52A C.J.S. *Landlord & Tenant* § 810; *Renfrow v. Lancaster*, 31 S.W. 229 (Tex. Civ. App., 1895); *Thomas v. Callaway*, 251 S.W.2d 921 (Tex. Civ. App. 1952) ref. n.r.e.; *Miles v. Dorn*, 90 S.W. 707 (Tex. Civ. App. 1905).

[44] *Comm'r v. Webster Corp.*, 240 F.2d 164 (2d Cir. 1957).

[45] Rev. Rul. 60-32, 1960-1 C.B. 23; Rev. Rul. 67-423, 1967-2 C.B. 221.

and as passive investment income for purposes of subchapter S.[46] Income from such leases has been classified as self-employment income under section 1402.[47] Rents under such leases are not unrelated business taxable income under section 512.[48] There are a wide variety of possible arrangements between landowners and farmers who are compensated on shares, but if one wishes to be classified as a farmer or rancher for tax purposes, he may ordinarily do so without serious change in his economic position by reserving a voice in the conduct of operations on his land, and by allocating to himself a share of some of the costs of production accompanied by a corresponding increase in his share of the proceeds of sale.

It appears, therefore, that the treatment of crop shares as rights to income for purposes of the *Horst* rule is a questionable response to tax benefits derived from cash basis deductions in particular situations. *Helvering v. Horst* applies to accrual as well as cash basis taxpayers;[49] it cannot solve the problems generated by deduction of growing costs in agriculture without creating more problems of its own. It is anomalous that the principal situation in which an assignment of agricultural produce is treated as an anticipatory assignment of income involves landowners who lease on shares, whose deductions consist primarily of interest and taxes, and who are unlikely to benefit materially from the deduction of growing costs.

Capital Gains in Agriculture

The second area in which the use of the cash method as it is applied in agriculture has been troublesome from a revenue standpoint, and the one which has attracted the most attention recently,[50] is the deduction of the costs of developing agricultural property, and especially breeding livestock, which can be subsequently sold at capital gains rates. In this area the benefits of prior deductions are offset to some extent by more stringent requirements for capital gains than those applicable to taxpayers generally.[51] In the Tax Reform Act these requirements were increased. Under it the holding period required in order for livestock to be classified as depreciable property used in the trade or business of

---

[46] Rev. Rul. 61-112, 1961-1 C.B. 399; *cf.* Treas. Reg. § 1.1372-4(b)(5)(vi).

[47] Rev. Rul. 64-32, 1964-1 C.B. 319; *Foster v. Celebrezze*, 313 F.2d 604 (8th Cir. 1963); *Celebrezze v. Miller*, 333 F.2d 29 (5th Cir. 1964); *Farmer's Tax Guide*, 41-42 (1971).

[48] Rev. Rul. 58-482, 1958-2 C.B. 273; *United States v. Myra Foundation*, 382 F.2d 107 (8th Cir. 1967).

[49] *Freidman v. Comm'r*, 346 F.2d 506 (5th Cir. 1965).

[50] Davenport, *A Bountiful Tax Harvest*, 48 Texas L. Rev. 1 (1969); Hawkinson, *Farm Expenses and General Accounting Principles*, 22 Tax L. Rev. 237 (1967).

[51] I.R.C. § 1231(b)(3).

the taxpayer, which had already been extended to one year as compared to the six months' period required of other taxpayers,[52] was further extended to two years in the case of cattle and horses.[53] In section 1251,[54] taxpayers with substantial outside income are now required to recognize certain gains as ordinary income instead of capital gains if they have in the past offset farm losses against non-farm income in excess of specified amounts. In addition, the 1969 Act provides for the partial conversion of gain on the sale of farm land to ordinary income where the property has been previously improved by deductible expenditures for soil and water conservation or for land clearing.[55] The exclusion of agricultural taxpayers from the recapture provisions of section 1245 was also eliminated.[56] This exclusion was the principal remaining capital gains advantage in the Internal Revenue Code itself for the benefit of agricultural taxpayers, as compared to those in other walks of life.

The most questionable use of capital gains in agriculture is found in tax-gimmick schemes designed to produce large ordinary deductions followed by maximum capital gains, such as the rent-a-cow plans, syndicated buildups of breeding herds for potential resale, and the like. There may be answers in the existing case law to such deliberate efforts to maximize use of the capital gains provisions of the Code. Where the promotional literature or surrounding circumstances disclose a preconceived plan to sell the herd when developed, or to sell the progeny of the rented cow, may this not indicate that the animals were acquired and held for sale? [57] If deliberate operating losses are realized for a series of years in the buildup of a herd under a plan to maximize tax benefits, rather than operational opportunities, are the losses deductible? [58] If "rent" is paid on a cow to obtain her calf, is not the "rent' in fact the purchase price of the calf? [59]

Whether a reduced rate of tax on gain from the sale of depreciable property used in business is justified is a matter of policy, but when

---

[52] § 342 Int. Rev. Act of 1951, *amending* § 117(j)(1) of Internal Revenue Code of 1939.

[53] Tax Reform Act of 1969 § 212, *amending* I.R.C. § 1231(b)(3).

[54] Tax Reform Act of 1969 § 211.

[55] Tax Reform Act of 1969 § 214.

[56] Tax Reform Act of 1969 § 212(a).

[57] *Stockton Harbor Indus. Co. v. Comm'r*, 216 F.2d 638 (9th Cir. 1954), *cert. denied*, 349 U.S. 904 (1955); *Malat v. Riddell*, 383 U.S. 569 (1966) (per curiam).

[58] *Cf. Bessenyey v. Comm'r*, 379 F.2d 252 (2d Cir. 1967).

[59] I.R.C. § 162(a), "There shall be allowed as a deduction . . . (3) rentals or other payments required to be made as a condition to the continued use or possession, for purposes of the trade or business, of property *to which taxpayer has not taken or is not taking title or in which he has no equity.*" (Emphasis added.) *M & W Gear Co.*, 54 T.C. 385 (1970).

tax-gimmick transactions such as those described above are excluded, one wonders whether agriculture receives a disproportionate share of capital gains benefits. As an industry, it requires a relatively large capital investment which provides a comparatively low return. Capital gain provisions have been justified, by their proponents, as permitting replacement of capital assets and assets required in business production without excessive reduction of the funds available for reinvestment due to taxes. The evaluation of the relative position of agricultural taxpayers, from a capital gains standpoint, is thus a complex problem which involves a balancing of the deductions which cash basis farmers and ranchers receive against the capital gains penalties that apply to them, a comparison of the impact of capital gains in agriculture with that in other industries, a determination to the public policy to be effected, and a consideration of possible alternative approaches.

The Use of Inventories in Agriculture

The alternative which has been most recently suggested is to require inventories of all farmers and ranchers.[60] This might, in theory, be done in either of two ways. One would be to require the adoption of the accrual method for all items of expense and income. The other would be to continue to authorize the cash method for normal recurring expenditures, but to require annual inventories of livestock and harvested crops.[61]

It should be recognized at the outset that the problem which has been of primary concern to the Treasury and Congress—that of deducting against ordinary income the costs of developing herds which are ultimately sold as breeding stock at capital gains rates—would not be solved by subjecting farmers and ranchers to the same inventory requirements that apply to manufacturers and other producers of goods. Normally, inventory accounting relates to merchandise manufactured or purchased for resale, and includes raw materials, goods in process, and finished products held for sale.[62] Depreciable property used in the trade or business is not ordinarily included in inventory.[63] Thus, subjecting farmers to usual inventory practices would not, in itself, affect the taxation of breeding stock.

---

[60] *See* note 6 *supra*.

[61] Growing or standing crops are not included in inventory unless such crops were purchased. I.T. 1368, I-1 C.B. 72 (1922); *Farmer's Tax Guide* 24 (1971); *cf.* Rev. Rul. 68-216, 1968-1 C.B. 216. An accrual basis hatchery operator must inventory eggs in process of incubation and pre-market chickens.

[62] Treas. Reg. §§ 1.471-1, -3, and -4.

[63] I.R.C. § 1231(b)(1). Depreciation is not allowable on inventories or stock in trade. Treas. Reg. § 1.167(a)-2.

There are other difficulties in the proposal that farmers and ranchers be required to use inventories. The fundamentals of accrual accounting as usually applied to a manufacturer or other producer require that the direct costs of manufacture be deducted when the product is sold, and that the indirect costs be included in computing cost of goods sold by some consistent method of accounting.[64] Larger enterprises ordinarily use cost accounting systems to allocate overhead expenses to the units produced. In the case of an agricultural operation such as ranching, most of the taxpayer's costs are likely to consist of costs of land ownership and maintenance and other overhead and indirect expenses. The deduction of these costs as costs of goods sold would involve allocations to various classifications of breeding stock, animals held for sale, and other ranch products which would be largely arbitrary.

In practice, even where "full absorption costing" of overhead is employed, substantial expenditures may be deducted rather than allocated to cost of goods sold under existing decisions.[65] Furthermore, although it may not be the preferred method, "direct costing," in which inventory is charged only those costs which vary with volume of production, has been considered an acceptable inventory practice.[66] Where self-constructed assets have been involved, the "prime cost" method, in which the only items capitalized are direct labor plus materials used, has been approved.[67] Many ranches employ little labor other than that needed for routine operations, such as maintenance of fences, and purchase little feed, and in such cases the prime cost and other hybrid methods would result in the capitalization of relatively small amounts. For this reason, an inventory requirement for breeding stock would not necessarily have a substantial effect on the amount of capital gains realized in many cases.

The Treasury Regulations expressly recognize the difficulties in ascertaining the actual cost of raised livestock and other farm products,[68] and for this reason authorize two alternatives to the accrual method. Under the "unit-livestock" method, animals are valued at a standard unit price which is designed to reflect the normal raising costs, and

---

[64] Treas. Reg. §§ 1.446-1(c)(ii), 1.61-3(a), 1.471-1; *cf.* Treas. Reg. § 1.471-3(c).

[65] *All Steel Equipment, Inc.*, 54 T.C. 1749 (1970); *cf.* Treas. Reg. § 1.446-1(e)(2)(iii) as amended by T.D. 7073, 1970-2 C.B. 98, Example (7).

[66] *The Geometric Stamping Co.*, 26 T.C. 301 (1956); *Photo-Sonics, Inc. v. Comm'r*, 357 F.2d 656 (9th Cir. 1966); Rev. Rul. 141, 1953-2 C.B. 101. A taxpayer using the accrual method of accounting with respect to purchases and sales of merchandise may use the cash method in computing all other items of income and expense. Treas. Reg. § 1.446-1(c)(iv). The provisions in prior regulations to the contrary (Treas. Reg. 118, § 39.41-2; Treas. Reg. 111, § 29.41-2; Treas. Reg. 103, § 19.41-2) have now been deleted.

[67] *Fort Howard Paper Co.*, 49 T.C. 275 (1967); *Bernard B. Carter*, T.C. Memo 1957-65, *aff'd* 257 F.2d 595 (5th Cir. 1958); *cf. All Steel Equipment, Inc., supra* note 65; *cf. Dearborn Gage Co.*, 48 T.C. 190 (1967).

[68] Treas. Reg. § 1.471-6(c). See also I.T. 3666, 1944 C.B. 270.

under the "farm-price" method agricultural produce is valued at market price less direct costs of disposition.[69] In neither is the farmer required to determine the actual cost of the goods sold by him during the accounting period, or the cost of goods on hand at its end. On the other hand, neither permits the exclusion from inventory costs of overhead expenses which may, to a varying extent, be deducted by other taxpayers who maintain inventories and who develop assets used in production. Furthermore, under the unit-livestock method, breeding, draft, and dairy stock must also be included inventory,[70] which deprives the farmer of the depreciation on such animals which would be allowable to him if he used the accrual system,[71] and under the farm price method profit on unsold production must be included in income.[72] Thus, although these special inventory methods may achieve their stated purpose of overcoming the problems involved in determining actual inventory costs, they do so by requiring agricultural taxpayers to use values which, to varying extents, depart from those required of other taxpayers.

For these reasons, the proposal that inventories be required in agriculture as a means of recapturing previously deducted costs on sale of breeding stock fails in some respects to deal with the problem and is likely in many cases not to recapture the desired income. In addition, mandatory inventories would inevitably prompt a demand for the same six months holding period for livestock that is a prerequisite to capital gains treatment elsewhere.

Unmatched Income and Deductions

The usual purpose of inventories is unrelated to the conversion of ordinary income to capital gain; it is to assign to each period its proper income and expense[73] and to prevent the deduction of the costs of manufacture or production prior to the sale of the product. A satisfac-

---

[69] Treas. Reg. §§ 1.471-6, 1.162-12, 1.61-4, and 1.446-1(c)(iii). A third alternative, the "crop" or "crop cost" method, is also permitted. Under this method, the cost of a crop is charged to "deferred crop costs" as incurred and then written off as the crop is sold. However, even costs of crops that take more than one year to raise may be written off as incurred provided consistently treated from year to year. Treas. Reg. § 1.162-12.

[70] Treas. Reg. § 1.471-6(f); *United States v. Catto,* 384 U.S. 102 (1966).

[71] Under the accrual system, the farmer may elect to inventory or capitalize and depreciate breeding stock. *Farmer's Tax Guide* 24 (1971); Treas. Reg. § 1.471-6(c); *cf.* Treas. Reg. § 1.263(a)-2: costs incurred in constructing or developing business assets having a useful life of over one year must be capitalized without regard to the method of accounting used.

[72] Since under the farm price method unsold goods at the end of the year are inventoried at market value, less cost to ship to market, Treas. Reg. § 1.471-6(d), the cost of goods sold during the year is reduced not only by cost of goods unsold at the end of the year, but also by the profit (less cost of disposition) on such goods, thereby increasing profit on goods sold by a like amount.

[73] *Lucas v. Kansas City Structural Steel Co.,* 281 U.S. 264 (1930); *U.S. Cartridge Co. v. United States,* 284 U.S. 511 (1932).

tory system of agricultural inventories, by requiring the deduction of growing and raising costs in the period in which the corresponding income is realized, would serve this purpose.

From a policy standpoint, the deferral of income by the profit motivated farmer or rancher is probably less of a problem than the other issues we have considered. For economic reasons, it is ordinarily necessary for farmers and ranchers to incur costs and realize income on an annual basis, whether the crop consists of grain, calves, fruit or other produce. Nevertheless, a farmer may be able to "carry over" certain types of products for a limited period, either in hope of a better price, or to defer the realization of gain for tax purposes. In this way, he may be able to even out fluctuations in income and to postpone the payment of tax. But the trend in federal taxation is toward increased liberality in income averaging, carry-forwards and carry-backs. So long as all of the taxpayer's income is reported, the possibility of some shifting from one year to another may not be seriously objectionable.

As a practical matter, income shifting possibilities will continue to exist in agriculture even with inventories, since the farmer who maintains inventories may accelerate or defer the sale of his produce as easily as one who does not. The deductions available under the cash method may accentuate the tax effect of a postponed sale, but except insofar as the applicable tax rate may vary from year to year, the separation of the date of deduction from the date of sale will produce no difference in ultimate tax liability.

Conclusion

Under our existing tax structure, no industry is subject to a simple and uniform set of rules equally applicable to all taxpayers. Until such a utopian system is devised, we are faced with the necessity of administering the existing system in such a way so as to achieve as much equity as possible and at the same time to be no more burdensome on any particular area of the economy than is required to produce the necessary revenue.

It is a matter of judgment whether on balance these objectives are achieved under the cash method as it is now applied in agriculture. As we have seen, existing law has largely foreclosed the possibility of tax avoidance by deducting the costs of agricultural production accompanied by the disposition of the products prior to realization of income from their sale. Capital gains conversion through deduction of the costs of raising breeding livestock is offset, to an extent which is difficult to evaluate, by longer holding requirements than those applicable to other taxpayers. There are opportunities for agricultural taxpayers to defer taxable income by methods of tax accounting which are available to them, but it is not clear that these opportunities exceed those available

to other taxpayers or that they create, in themselves, any serious revenue problems. In any event, if it were determined that the existing method of taxation of farmers and ranchers who use the cash receipts and disbursements method of accounting should be changed, it is not clear that the requirement of inventories would be either effective or appropriate for such purposes.

Any evaluation of the cash method as applied in agriculture can only be made in the context of the policy to be effectuated. Although those with capital often decry our income tax system, it is at the present time essentially capitalistic in the sense that to a taxpayer with substantial earned income, the alternative to high taxes is often the adoption of a program of investment in an area in which deductible costs of ownership and development may be speculated for future appreciation and profits. The trend appears to be to continue, and even to expand the tax incentives to make such investments, but to assure that income which is realized from them does not escape tax and that taxes lost through previously deducted costs are recaptured.

Undoubtedly, agriculture has had its share of investors who are willing to forego the use of funds for personal purposes in favor of investment in farm or ranch property. Where recreational motives are paramount, it is clear that such taxpayers are not entitled to deduct the expenses they incur, except for specific items, such as interest and taxes, which are deductible in any event.[74] Even where recreational motives are not primary, difficult questions of policy may be raised where a desire to make profits or to minimize the losses of land ownership by using it for agricultural purposes exist in combination with non-commercial objectives, such as the satisfaction of owning and improving a farm or ranch, or breeding livestock, dogs, or horses.[75]

As a result of these problems, there have probably been more tax barriers erected against outside investors in agriculture than against those entering any other industry. The divergent treatment of crop shares received by a landowner has been explained on the basis that the recipient is not a farmer; [76] the so-called hobby loss cases have often turned on the fact that agriculture was not the principal endeavor of the taxpayer.[77] The provisions of section 1251 of the Code relate only to investors in agriculture with substantial non-farm income, and the provisions of section 183 are directed primarily to identification of the

---

[74] I.R.C. § 183.

[75] "Generally speaking, the Board and the courts have been liberal to find the requisite greed." *Weir v. Comm'r*, 109 F.2d 996, 997 (3rd Cir. 1940).

[76] *Tatum v. Comm'r*, 400 F.2d 242 (5th Cir. 1968).

[77] The recent cases are collected in *Important Developments in Agriculture*, 22 THE TAX LAWYER 788, 792 (1969); 21 THE TAX LAWYER 762, 768 (1968); 20 THE TAX LAWYER 139, 143 (1967).

non-profit motivated investor in farming and ranching. It appears likely that most of the concern over the cash method as it is used in agriculture in fact reflects dissatisfaction with tax benefits received by outside investors in unprofitable agricultural ventures, and not dissatisfaction with the cash receipts and disbursements method as it is applied to the ordinary farmer or rancher.

69-133 O - 73 - pt. 5B - 4

TEXAS LAW REVIEW

A Bountiful Tax Harvest

CHARLES DAVENPORT

[Reprint from December, 1969, issue of the TEXAS LAW REVIEW]

PUBLISHED BY THE TEXAS LAW REVIEW, INC.
AT THE UNIVERSITY OF TEXAS SCHOOL OF LAW

[Reprint from December, 1969, issue of the TEXAS LAW REVIEW]

A BOUNTIFUL TAX HARVEST

CHARLES DAVENPORT*

Professor Davenport traces the development of the "farm loss" inequity and analyzes the possible remedies. He meticulously examines the proposed solutions now before Congress, explains why he favors Senator Metcalf's Bill, and expresses his fear that division within the ranks will defeat reform.

I. INTRODUCTION

The nation's income tax law takes its form from its various architects. Congress has the initial chance to structure it. Then the Treasury promulgates regulations. These sources are subsequently interpreted by the courts in deciding cases and by the Internal Revenue Service in many administrative proceedings. Each institution is undoubtedly reacting to a peculiar set of pressures and to special arguments being exerted at the moment. As a consequence, the law at any time may be something that just happened. It is not surprising that a system growing like Topsey may sometimes reach a topsy-turvy result.

At this writing, several industries, notably oil and gas, real estate, perhaps timber, and some farming, offer this opportunity. This paper, however, is limited to the "farm loss" problem, but it seems likely that the conclusions and analytic techniques set forth are equally applicable in any case in which premature deductions are allowed for the cost of assets, while also conferring capital gain treatment on the sales proceeds to the extent they exceed any basis the property may have. Thus the conclusions and techniques discussed herein might just as easily apply to depreciation on real estate unless this deduction is sharply reduced by the current tax reform proposals.

* Acting Professor of Law, University of California at Davis. A.B., 1954, Chico State College; LL.B., 1957, Harvard Law School.

The "farm loss" problem arises from the deduction of capital costs while allowing sales proceeds to be treated as capital gain. We shall first trace briefly the development of the tax law in agriculture to ascertain just how we got where we are. Then we shall turn to a demonstration of the benefits afforded by the tax law. Thereafter the areas of principal application shall be outlined, and finally some solutions currently proposed will be evaluated.

II. Growth of the Tax Harvest

A. A Seed Is Planted

One root of the farm problem lies in a number of administrative decisions made very early in the game. A Treasury Decision[1] in 1915 and regulations issued under the Revenue Act of 1916[2] provided that the farmers could report their income on either the cash or accrual method of accounting. More importantly, the same authority gave the farmers permission to dispense with accounting practices employed by other businesses and permitted them to deduct livestock-raising costs even though they were capital expenditures.

This decision seems to have been prompted by several considerations. First, since the identification of specific costs attributable to particular animals on hand at year's end would have been very difficult, the easy answer was to ignore such costs. Furthermore, the accounting principles of the time appear to have been unsophisticated and unprepared to deal with the problem of segregating and capitalizing costs associated with livestock. Finally, there was undoubtedly some notion that the average farm did not represent the type of investment or financial acumen usually found in other business operations. To ask that expensive accounting techniques be employed would not only have overburdened the investment, but would also have overtaxed the farmer's financial management capacity.[3] In a sense, farms were just not considered businesses.

These early regulations also addressed themselves to the amounts incurred in the development of orchards and ranches. Contrary to the rule for livestock, the initial regulations required these costs to be capitalized.[4] Presumably, the inconsistency of allowing livestock

---

1 T.D. 2153, 17 Treas. Dec. Int. Rev. 101 (1915), *as amended*, T.D. 2665, 20 Treas. Dec. Int. Rev. 45 (1918).

2 Treas. Reg. 33, art. 4 (1917).

3 United States v. Catto, 384 U.S. 102, 110 (1966).

4 Treas. Reg. 33, art. 4 (1917).

farmers an immediate writeoff while requiring capitalization of development costs of orchards and ranches was raised, and the issue was resolved for deductibility of both kinds of expenses when the next regulations were issued in 1919.[5] Case law stemming from this era indicates that, left to its own devices, the judiciary would have reached contrary results for those development costs.[6]

When these liberal rules, the expensing of raising and developing costs, were formulated, they had but one effect on tax liabilities. The deductions were premature and created artificial tax losses, which would not have arisen had the costs been properly capitalized. These artificial tax losses offset income from other sources and permitted a deferral of tax liabilities on other income until the farm assets were sold. This gross mismatching of income and expense could be tolerated when tax rates were relatively low. They became quite another matter when, as later explained, they combined with very high ordinary income rates and lower capital gains rates on many farm assets.

The point of recounting the historical is that these liberal accounting rules were developed by an administrative agency under a statute requiring that income be properly reflected. While expediency might be their chief justification, there is nothing to indicate that their impact as a stimulant for investment in farm assets was ever considered. Indeed, that consideration would have been improper. Furthermore, it is doubted that they originally had any such effect; instead, they dealt with difficult accounting problems.

B. The Flower Blooms

Congress discovered capital assets in the Revenue Act of 1921. It did not see fit, however, to include within that category depreciable property used in the trade or business. We were later told that this property had been excluded in order to assure full deductibility of losses.[7]

Whatever the reason for excluding these assets from the preferred treatment, World War II brought forth a rash of condemnations, destructions, and sales of depreciable property that had appreciated substantially. To prevent virtual confiscation of such ap-

---

[5] Treas. Reg. 45, art. 110 (1919).

[6] *See* Ribbon Cliff Fruit Co., 12 B.T.A. 13 (1928); Harry B. Hooper, 8 B.T.A. 397 (1927).

[7] H.R. REP. No. 2333, 77th Cong., 2d Sess. 53-54 (1942). *See* Wells, *Legislative History of Treatment of Capital Gains Under the Federal Income Tax, 1913-1948*, 2 NAT'L TAX J. 12, 31-32 (1949).

preciation by high wartime rates, Congress conferred capital gain on depreciable property used in the trade or business but preserved full deduction of losses realized on this property.[8] While the House specifically excluded real estate from the preferred dual treatment, the Senate added real estate and its improvements—largely to assure that losses on sales of plants and the like would be fully deductible.[9]

Although the Commissioner of Internal Revenue sought on several occasions[10] to compel a contrary result, farmers considered their breeding animals to be property used in the trade or business and applied the new rules to their own benefit. The ensuing controversy was settled in favor of the taxpayers in *Albright v. United States*,[11] when the court found that all the culls[12] from a dairy herd were property used in the trade or business and that sales proceeds therefrom qualified for capital gain treatment.

Even with this victory, the livestock interests were concerned that administrative practice might not be so lenient as the cases and in 1950 urged the Senate to legislate on the subject. These efforts failed,[13] but a renewed fight in 1951 moved Congress to clear up any uncertainties by enacting the predecessor of the Internal Revenue Code of 1954 section 1231(b)(3) in the Revenue Act of 1951.[14] The explanation of the Act also made clear that the animals' basis for gain was to be determined under the taxpayers' method of accounting.[15] That is, a cash basis taxpayer would have no basis for raised animals, and the entire sales proceeds would be capital gain. A taxpayer who capitalized or inventoried costs would use this basis and have gain only to the extent proceeds exceeded his basis.

The adverse effects of this legislation were noted in a letter from

---

8 Wells, *supra* note 7, at 32.

9 S. REP. No. 1631, 77th Cong., 2d Sess. 49-50 (1942).

10 I.T. 3666, 1944-1 CUM. BULL. 270. I.T. 3712, 1945-1 CUM. BULL. 176; Mim. 6660, 1951-2 CUM. BULL. 60; Special Ruling by the Commissioner of Internal Revenue, CCH 1948 STAND. FED. TAX REP. ¶ 6091 (Aug. 4, 1947).

11 173 F.2d 339 (8th Cir. 1949).

12 In a livestock operation, there is an annual crop of young animals. Since few farmers have either the capacity or the desire to increase their operation by the full amount of each crop, some part of the livestock must be sold. Normally those animals least fitted for the operation are sold. The process of selecting the animals to be sold is referred to as "culling," and the animals so selected are "culls."

13 H.R. REP. No. 3124, 81st Cong., 2d Sess. 28 (1950) makes clear that Senate Amendment No. 82 was rejected largely because it was limited to cattle. It also expressed hope that the Treasury would administer the law in accordance with the *Albright* decision.

14 Revenue Act of 1951, § 324. The Act stated that livestock held more than 12 months regardless of age and held for draft, breeding, or dairy purposes would be treated as property used in the trade or business for the purpose of § 117(j) of the Internal Revenue Code of 1939, now § 1231 of the Internal Revenue Code of 1954.

15 S. REP. No. 781, 82d Cong., 1st Sess. 41 (1951).

Secretary of the Treasury Snyder to the Chairman of the Senate Finance Committee on June 27, 1952.[16] This is the first statement of the taxable income distortions that occur from permitting capital costs to be deducted while permitting proceeds to be treated as capital gain. As has often been the case, the mechanics of creating a tax loss that offsets income otherwise taxable at ordinary rates were accurately described, but the full tax consequences were not sharply delineated.

Again, recounting the legislative history of the capital gain aspects of the problem has a purpose beyond the historical. That purpose is to lay to rest the notion that the provision had any design other than to limit the tax on sales proceeds. There is nothing to suggest the limited tax rate was to produce the effect described in the next section of this paper. Furthermore, the farm industry wanted treatment equal[17] to that accorded other industries. The industry argued that the aged cow was the equivalent of machinery scrapped by the manufacturer. Both were claimed to be entitled to capital gains on sale. There is nothing in this history to suggest that Congress was purposefully subsidizing, in a rather haphazard manner, certain segments of the farm industry. Congress intended only to give farmers relief generally granted others.

With this historical note we can turn to demonstration of the negative tax impact.

III. How the Principle Operates

The problems in the farm tax loss area are described in various ways. The Treasury may point to the offsetting of farm losses against other income or to the creating of tax profits when there are no economic profits. Others write about "hobby farming."[18] These descriptions are not satisfactory, and the scope of this paper is not so narrow.

---

16 The letter pointed out that the deduction of livestock raising costs from ordinary income while allowing capital gains treatment for the sale of breeding livestock distorted income downward by $275,000,000 a year and gave a windfall to those farmers and ranchers then using cash basis accounting. Letter from Secretary of Treasury Snyder to the Chairman of the Senate Finance Committee, 98 Cong. Rec. 8307, 8308 (1952), also reported in CCH 1952 Stand. Fed. Tax Rep. ¶ 6239 (June 27, 1952).

17 *See* notes 13, 14 & 15 *supra*.

18 *See* House Comm. on Ways and Means and Senate Comm. on Finance, Tax Reform Studies and Proposals of the U.S. Treasury Department, 91st Cong., 1st Sess. 151, 154 (1969) [hereinafter cited as Treasury Studies]; House Comm. on Ways and Means, The President's 1963 Tax Message, 88th Cong., 1st Sess. 144-45 (1963) [hereinafter cited as 1963 Tax Message]; letter from Secretary Snyder, *supra* note 16. For a discussion of "hobby farming" see Sweeney, *The Farm Loss Deduction*, 53 A.B.A.J. 447 (1967), and Dickinson, *The Farm Loss Deduction: A Reply*, 53 A.B.A.J. 1111 (1967).

Rather, this paper is concerned largely, but not solely, with the negative tax rate that may be applied to farm *profits*.

What is a negative tax rate? A positive income tax rate takes a part of a taxpayer's profits and puts them in the Treasury. A negative tax rate, on the other hand, takes dollars from the Treasury and puts them in the hands of citizens, just as a spending program does. In the analysis that follows, this latter process is shown to flow from the conferring of capital gain treatment on the sales "proceeds" of assets, "proceeds" that are created by expenses, which may be fully deducted when paid.

The negative tax effect may be fully demonstrated by the following five cases. In each case, the asset sold is assumed to have no basis because its costs have been fully deducted, and as a consequence, the entire sales proceeds are given capital gain treatment. The cases are:

Case No. 1. An economic loss is incurred.
Case No. 2. An economic breakeven is reached.
Case No. 3. An economic profit is realized, but the profit margin is less than 100 percent of cost.
Case No. 4. An economic profit is realized, and cost is 50 percent of the selling price.
Case No. 5. The same as Case No. 4 except cost is less than 50 percent of sales proceeds.

The economic and tax reporting of these cases would be as follows:

CHART A

	Economic Reporting			Tax Reporting		
	Sales Price	Cost	Economic Profit or (Loss)	Ordinary Loss[19]	Taxable[20] one-half of Capital Gain[21]	Profit or (Loss)
Case No. 1	80	100	(20)	100	40	(60)
Case No. 2	100	100	0	100	50	(50)
Case No. 3	120	100	20	100	60	(40)
Case No. 4	200	100	100	100	100	0
Case No. 5	250	100	150	100	125	25

[19] Reported on Schedule F, Internal Revenue Service Form 1040, and which would offset other fully taxable income.

[20] This is the taxable portion of the capital gain, which is reached by reducing the entire gain by the deduction allowed by Internal Revenue Code of 1954, § 1202 so that the taxable portion is only 50% of the gain. This one-half of the gain is taxed either at the taxpayer's marginal tax rate or at a 50% rate, whichever is lower. In cases in which the 50% rate (resulting in a tax of 25% on the gain) is lower, the taxpayer pays the *alternative tax on capital gains*. This additional rate limitation on long term capital gain (in practical effect of benefit only to those taxpayers having sufficient income to be in a tax bracket above 50%) would be removed by § 511 of H.R. 13270, 91st Cong., 1st Sess. (1969) (passed

In each case, the ordinary tax loss may be fully offset against other nonfarm income while only one-half of capital gain is subject to tax. The result is that if the taxpayer has other income against which the loss may be deducted, taxes on this other income will be reduced by the amount of the loss multiplied by the taxpayer's marginal tax rate. The taxpayer will, however, incur a tax on the gain that may never exceed more than 25 percent of the entire capital gain.

The consequences of this reporting may best be illustrated by reference to four taxpayers having the different marginal tax brackets of 0 percent, 30 percent, 50 percent, and 70 percent. The assumption of a 0 percent bracket is valid only if the taxpayer has no other taxable income. Except in the case of the 0 percent taxpayer, the tax on the gain is less than the benefit of deducting the loss from other income. The net benefit or payment from the Treasury to the taxpayer is the difference in the value of the loss and the liability for the capital gain tax.[22] Specifically, the size of the payment or reduction of other taxes after giving effect to the capital gains liability is in each case as follows:

CHART B

	Effective Tax Rate on Additional Income			
	0%	30%	50%	70%[23]
Case No. 1	0	18	30	50
Case No. 2	0	15	25	45
Case No. 3	0	12	20	40
Case No. 4	0	0	0	20
Case No. 5	[24]	(7.50)	(12.50)	7.50

by the House and referred to the Senate Finance Committee on August 7, 1969). Conclusions herein, which assume the alternative tax computation, must be considered in light of this possible change in the law. The Treasury Department has announced opposition to the elimination of the alternative tax. *See Hearings on Tax Reform Act of 1969 Before the Senate Comm. on Finance*, 91st Cong., 1st Sess. 6 (interim manuscript) (Statement of David M. Kennedy on Sept. 4, 1969).

The foregoing analysis applies to individuals only. Corporations receive substantially the same benefit under a slightly different statutory framework. Section 461 of H.R. 13270 would raise the corporate alternative tax rate to 30%. While the farm loss problem is largely related to individuals, the rate of corporate expansion into farming in the last several years has grown. *See Hearings Before the Subcomm. on Monopoly of the Select Comm. on Small Business*, 90th Cong., 2d Sess. 2 (1968). *See also* Thomas, *Corporate Sodbusters*, Barron's, Aug. 5, 1968, at 3, col. 1; Thomas, *Lure of the Land*, Barron's, Aug. 19, 1968, at 3, col. 1.

21 Reported on Schedule D, Internal Revenue Service Form 1040, as a sale of a capital asset.

22 This usually will be the taxpayer's effective tax rate multiplied by the difference between the loss and the taxable one-half of capital gains. When the taxpayer uses the alternative tax on capital gains, the benefit is greater.

23 These results are proportionately greater because the tax rate on the taxable one-half of capital gains is limited to 50%, while the loss is fully deductible against ordinary income taxed at more than the 50% rate. Also note that the top tax rate of 70% would be reduced to 65% by H.R. 13270, 91st Cong., 1st Sess. (1969).

24 The parentheses indicate that a positive tax is paid by the taxpayer. For the 0%

Chart B is the net tax benefit to each taxpayer. This amount should be added to the economic net return to ascertain the overall dollar gain for each taxpayer. When this is done, the total after-tax dollar profit in each case to taxpayers in various tax brackets would be:

CHART C

	0%	30%	50%	70%
Case No. 1	(20)	(2)	10	30
Case No. 2	0	15	25	45
Case No. 3	20	32	40	60
Case No. 4	100	100	100	120
Case No. 5	150[25]	142.50	137.50	157.50

These charts permit a number of observations.

(1) There is no taxable income until the economic profit is at least as much as the cost, (See Chart A, Case No. 4). Any profit beyond that is taxed at no more than the applicable capital gain rate (See Chart B, Case No. 5, 50 percent taxpayer).

(2) If there is no other income, the tax rate is never less than zero; in other words, the taxpayer receives no refund or abatement of taxes on other income (See Chart B, 0 percent taxpayer column).

(3) If there is other taxable income,[26] the interplay of ordinary deductions and capital gain produces a negative tax rate until the profit is as great as cost (See Chart B, Cases No. 1, 2, and 3, 30 percent and 50 percent taxpayers).

(4) The taxpayer who pays the alternative tax on capital gains continues to receive a negative tax benefit even though profit exceeds cost. This negative tax benefit does not disappear until the ratio of sales price to cost exceeds the ratio of the marginal ordinary income tax rate to the capital gain rate (See Chart B, Cases No. 4 and 5, 70 percent taxpayer).

(5) To a taxpayer without other income, his tax rate is the same regardless of profit margins until his sales price is twice his cost (See Chart B, Case No. 5, for 0 percent taxpayer).

While the foregoing appears generous in the extreme, one other

taxpayer, the taxable income would be taxed at the lowest rate if the income was not eliminated by itemized deductions and personal exemptions. For the 30% and 50% taxpayer, the profit for tax purposes is subjected to capital gain rates. The 70% taxpayer continues to show a net payment from the Treasury.

25 Since no amount of tax for this taxpayer is shown in Chart B, the total economic profit has not been reduced by any tax. The tax would be $25 multiplied by the effective tax rate.

26 The income might be realized in another year because the loss may become a net operating loss deduction in another year.

potential benefit has not been mentioned. It arises when the costs are incurred and deducted in years before the sales proceeds are realized. For example, in Case No. 3, the 50 percent taxpayer who deducts the $100 of costs in the first year reduces his taxes on other income by $50. If the income is not realized until later years, this $50 is an interest-free loan from the federal government to the taxpayer, which is wholly or partially repaid when the income is realized and subjected to tax. This benefit exists apart from any differential in tax rates. Even if the sales proceeds are fully taxed as ordinary income in a later year, the taxpayer has had a substantial benefit from the premature deduction of capital costs.

This note on deferral completes the analysis, and for the purposes of this discussion, we can now specify that the progeny of fully deductible costs and capital gain income are three in number. First, is the opportunity to defer taxes on other income by deducting costs before realization of the income produced by them. This is the *deferral* benefit. Second, in some circumstances, an economic profit bears no tax at all. This occurs when the sales proceeds, fully reported as capital gain, are not more than twice the amount of the deducted costs. This is the *exemption* benefit. Third, in some cases the tax saving resulting from the deduction of the costs is greater than the tax paid on the sales proceeds at capital gain rates. This occurs in all cases in which (1) there is other income, noncapital gain income, to absorb the deducted costs, and (2) the ratio of the sales proceeds (taxed only at capital gain rates) to the costs does not exceed the ratio of the marginal ordinary income tax rate to the capital gain tax rate. This is the majority of cases. The difference between the tax saving produced by the deduction and the tax paid on the sales proceeds is, in effect, a *payment from the Treasury* to the taxpayer. This payment varies in proportion to the taxpayer's tax rate. It is thus a kind of a *negative income tax*. It can be argued that the negative income tax is just an extension of the exemption benefit. That is, the deducted costs exempt not only the income produced by them but other income as well. While there is some merit to this argument, the division between the exemption benefit and the negative income tax will become more meaningful in the discussion of pending legislative proposals.

It seems appropriate now to narrow the area of our discussion by considering the cases in which the opportunity to realize these benefits arises.

IV. The Greenest Pastures

While there are other avenues of abuse[27] in the farm field, the investment literature suggests that the potential for artificial farm tax

---

[27] There are basically six areas in which the farm loss problem may arise. In addition to those discussed in the text, they are:

(a) The do-it-yourself averager, who shifts income and expense from year to year through the use of cash accounting. For example, a taxpayer, who desires to reduce taxes in a particular year, might purchase a large amount of supplies that would not be consumed until the following year. The deduction would be claimed in the year of purchase, and no adjustment would be made for the goods on hand at year's end. Similarly, a taxpayer might sell products and defer payments until the following year. The income would be reported by a cash basis taxpayer only in the following year. The extent of the premature deductions, which may be taken, is not clear. Recent cases indicate that the taxpayer faces increasing judicial resistance to this tax limiting approach. For cases concerning supplies see Lillie v. Commissioner, 370 F.2d 560 (9th Cir. 1967), *aff'g per curiam*, 45 T.C. 54 (1966); Shippey v. United States, 308 F.2d 743 (8th Cir. 1962); Cravens v. Commissioner, 272 F.2d 895 (10th Cir. 1959); Harry W. Williamson, 37 T.C. 910 (1962); John Ernest, 32 T.C. 181 (1959), *acquiesced in*, 1959-2 Cum. Bull. 4. *See also* Pauley v. United States, 63-1 U.S. Tax Cas. ¶ 9280 (S.D. Cal. 1963); Rev. Rul. 170, 1953-2 Cum. Bull. 141 (intangible drilling expenses); Rev. Rul. 58-53, 1958-1 Cum. Bull. 152 (personal services under § 212). Prepaid alimony is not deductible. George R. Joslyn, 23 T.C. 126 (1954), *rev'd and rem'd in part and aff'd in part on other grounds*, 230 F.2d 871 (7th Cir. 1956). Nor are prepaid medical expenses deductible. Robert S. Bassett, 26 T.C. 619 (1956). Deduction of prepaid interest, long considered a somewhat special case, is also now subject to severe limitations. *See* Rev. Rul. 68-643, 1968-2 Cum. Bull. 76. While Lillian Bacon Glasswell, 12 T.C. 232 (1949), *acquiesced in*, 1949-2 Cum. Bull. 2, and Estate of Aaron Lowenstein, 12 T.C. 694 (1949), *acquiesced in*, 1949-2 Cum. Bull. 2, permit deduction of taxes on current income even though paid prior to the time the taxes became due, these cases clearly rely on a lack of distortion in income. Indeed, they represent cases in which income is perfectly matched against the taxes imposed upon it. This liberality in timing income and expenses seriously weakens § 270 as well.

(b) The hobby farmers, who are engaged in activity which they refer to as farming but for whom the profit motive is not the inducing factor. This presents the question of subjective intent, which is usually litigated by the Internal Revenue Service. For excellent summaries of the hobby loss cases see 18 Section of Taxation, ABA, Annual Report, No. 4, at 275 (1965); 19, No. 4, at 149 (1966); 20, No. 4, at 143 (1967); 21, No. 4, at 768 (1968). This problem is not one unique to the field of agriculture, and legislation designed specifically for it should not be confined to agriculture. Any solution to the other farming problems should be applicable equally to hobby farming. Thus solutions of the farming problem need not be tailored to deal with the hobby problem.

(c) The statutory provisions, which allow farmers to deduct expense which all would concede to be capital. These are § 175 (soil and water conservation expenditures), § 180 (expenditures for fertilizer), and § 182 (expenditures for land clearing). The last section is limited to 25% of *taxable income*. Section 175 is limited to 25% of *gross income* from farming with an unlimited carryover. The charge is often made that § 175 permits the purchase of rundown farm land, which produces gross income but little or no net income, and the rebuilding of it by deductible expenditures. In many cases, the land is then alleged to be held for subdivision and not for farming purposes. This aspect is merely another facet of deducting capital expenditures and perhaps should not be placed in a separate category. It, however, is not as widespread as the problems discussed in text and is relegated to a footnote to concentrate the text on the two major aspects of the farm problem.

(d) The abuser of accelerated depreciation, who purchases animals at a very high price, claims accelerated depreciation on them, and sells well before the end of the depreciable life is reached. Since the animals will be treated as breeding animals and since there is no recapture of depreciation on livestock, the gain may be reported as capital gain. Solving this abuse would seem to be largely a matter of enforcing the present law. Depreciation below a realistic salvage value is not permitted. Salvage value must be established by reference to the expected useful life of animals to the taxpayer. This would seem to be an avenue unsuccessfully traveled by Hertz Corporation v. Commissioner, 364 U.S. 122 (1960). *See* Massey Motors, Inc. v. United States, 364 U.S. 92 (1960). This problem is also

losses arises largely in two areas: (1) the growing of trees, vines, and other plants having a relatively long life and producing annual crops, and (2) the raising of livestock. The purpose in both cases is the deduction of capital costs followed by sale at capital gain rates. There are differences in the two operations, but in each, the virtual impossibility of turning a tax profit is the same.

A. Development Costs of Plants

A number of crops, principally fruit and nuts, are produced by trees or vines only after a substantial development period.[28] The cost of planting them must be capitalized. Under the Treasury's regulations,[29] however, all of the costs thereafter incurred prior to the time that the plant is a commercial producer may be deducted currently. Since the planting costs are relatively insignificant,[30] the major portion of all costs incurred in the preoperation stage may be deducted and may create losses, which can offset ordinary income from other endeavors. When the commercial bearing state is reached, a wise taxpayer may sell out, and his gain will ordinarily be treated as capital gain because the property will be considered as property used in the trade or business. It should be noted that this results from the general language of Code section 1231(b)(1) and not from the special provision added for livestock in 1951.

For example, a taxpayer may purchase ten acres of land and plant it with orange trees. The cost of the land and planting may be assumed to be $12,000. The orange trees will not bear fruit until the seventh year, but during the development period, annual costs of perhaps $1,500 may be incurred for irrigation, cultivation, pruning, spraying, and other care of the trees. By the end of the sixth year, the taxpayer will have incurred "cultural practices expenditures"[31] of $9,000. These expenditures may be currently deducted against other income. To a taxpayer in the 70 percent bracket, the deductions

another facet of deducting capital expenditures. The difference is that the excessive deduction may be spread over a number of years rather than solely in the year when incurred. Again, this problem is also relegated to this footnote to avoid digression from the two major areas of abuse.

28 These crops include citrus, peaches, apricots, cherries, grapes, and nuts. There are undoubtedly others. The foregoing, however, indicates the widespread nature of the area in which these costs are incurred.

29 Treas. Reg. § 1.162-12 (1961).

30 In Robert L. Maple, 27 CCH Tax Ct. Mem. 943 (1968), the cost of raising orange trees to a stage when they could be planted in the grove was $2.75 per tree. Of this amount only $.42 was required to be capitalized. After planting in the grove, the trees may take from four to eight years to bear commercial quantities of fruit. Costs during that period are also deductible.

31 For use of this terminology see Estate of Richard R. Wilbur, 43 T.C. 322 (1965).

over the years will have reduced his taxes on other income by $6,300. If the grove is sold early in the seventh year at an economic profit of 10 percent, the taxpayer will realize $23,100. His basis, however, will be only $12,000, and he must pay a capital gains tax on the difference between his basis and the sales price, amounting to $2,775.[32]

The net economic profit is $2,100 [$23,100 sales price, less $21,000 of costs ($12,000 land and planting costs, plus $9,000 cultural practice expenditures)]. But the taxpayer also realizes an additional *tax profit*. The tax benefit from deduction of cultural practices expenditures was $6,300, and the tax cost of the sale was $2,775. The taxpayer thus has a *tax profit* (money paid to him by the Treasury's reducing taxes on other income) of $3,525. There is an overall profit of $5,625, consisting of an economic profit of $2,100 and a *tax profit* or subsidy of $3,525.

B. Livestock

Livestock also presents an opportunity to realize substantial tax profits from an economically profitable operation. Raising costs also qualify for current deduction.[33] If, however, the livestock are breeding,

---

[32] In the year of sale, the taxpayer will report:

Proceeds of sale of § 1231 assets	$23,100
Basis	12,000
Gain	$11,100
Tax at 25% rate	$ 2,775

[33] Treas. Reg. § 1.162-12 (1961) permits farmers to deduct livestock raising costs and makes no reference to the taxpayer's method of accounting. Certainly the option to deduct these expenses is available to the cash basis taxpayer. As to accrual basis taxpayers who must use inventories, the answer is not so clear. The option is not available to a taxpayer who uses the unit livestock method because he must include raised livestock in his inventory even though held for draft, breeding, or dairy purposes. *See* Treas. Reg. § 1.471-6(f) (1964). This requirement was upheld in United States v. Catto, 348 U.S. 102 (1966). Taxpayers using other methods of inventory valuation are not required to include raised animals in inventory. This has led at least one author to argue that the option to expense raising costs is available to these taxpayers. *See* Hawkinson, *Farm Expenses and General Accounting*, 22 TAX L. REV. 237, 257 (1967). He adds that *United States v. Catto* throws doubt on this conclusion. Since *Catto* merely upheld longstanding regulations, it seems doubtful that it would support a requirement that all taxpayers, even though not specifically mentioned in the regulations, must inventory the cost of raising draft, breeding, and dairy animals. Thus it is likely that only the taxpayer using the unit livestock method must inventory these costs, and if they are inventoried, they are deducted unless capitalized. Whether these costs must be capitalized, if not inventoried, by the accrual basis taxpayer is not clear. Treas. Reg. § 1.61-4 (1963), dealing generally with reporting by cash and accrual basis farmers, might be argued to require capitalization of these costs by accrual basis farmers. Treas. Reg. § 1.61-4(b) (1963), applicable only to accrual basis farmers, states that draft, breeding, or dairy livestock "may be included in inventory . . . instead of being treated as capital assets subject to depreciation." This language may imply that livestock raising costs must be capitalized if not inventoried. The Internal Revenue Service seems never to have so construed this provision. Thus it seems likely, but not clear, that an accrual taxpayer using some method other than the unit livestock method may choose to deduct livestock raising costs, to include the costs in inventory, or to capitalize such costs. Presumably, once the farmer makes a choice, he must continue with that method.

draft, or dairy animals, they qualify for capital gain treatment if held for more than twelve months.[34]

Since "culls" from a breeding herd are characterized as breeding animals, they are also entitled to capital gain.[35] A large part of the farm product may fall into this category with the result that a very significant portion of the total receipts from the operation is reported as capital gain.

While many animals are classified as livestock,[36] cattle appear to offer the widest avenue to escape taxes. For example, a taxpayer may have a herd of ten cows. They have produced ten calves (average would be about eight and one-half or nine) for several years, one-half of which are bull calves. The cost of keeping an animal for a one-year period is $100, so that expenses for the ten cows are $1,000. The five bull calves are sold soon after birth for $40 each, and the proceeds are reported as ordinary income. The five heifers are retained for breeding purposes. The herd will therefore increase unless five of the cows are sold. If the taxpayer has been in business several years, he may have old cows or he may have young heifers of the prior years. In either event, he can cull five animals from his breeding herd and sell them at capital gain rates. Assume that the culls sell for a total of $900. Thus the economic profit for the year is $100, a 10 percent profit margin. If this is all that occurs and if we ignore the alternative tax, the taxpayer will report the following:

Proceeds from culls (reported as capital gain)	$ 900
Less § 1202 deduction (capital gains)	450
	450
Add proceeds from bull calves	200
Total adjusted gross farm income	$ 650
Farm expenses	1,000
Farm tax loss	$ 350

Since there is a crop each year, the same pattern may be repeated year after year.[37] In a properly operated breeding operation, a tax profit

[34] INT. REV. CODE of 1954, § 1231(b)(3). Race horses qualify under the more general language of section 1231(b)(1) and need only be held more than six months.

[35] The case law dealing with culls is extensive. *See* McDonald v. Commissioner, 214 F.2d 341 (2d Cir. 1954), *on remand*, 23 T.C. 1091 (1955), *acquiesced in*, 1956-1 CUM. BULL. 4. *See also* C.A. Smith's Estate, 23 T.C. 690 (1955), *acquiesced in*, 1956-1 CUM. BULL. 5.

[36] Included as livestock are sheep, goats, dogs, foxes, minks, and other exotic little creatures such as chinchillas, Treas. Reg. § 1.1231-2(a) (1965). *See* William W. Greer, 17 T.C. 965 (1951), *acquiesced in*, 1951-1 CUM. BULL. 4. *See also*, U.S. TREASURY DEPARTMENT, FARMER'S TAX GUIDE 24 (ed. 1969).

[37] An excellent illustration of the artificial losses and their effect on taxes on income from other sources may be found in a letter from the National Livestock Tax Committee to Chairman Wilbur Mills of the House Ways and Means Committee, Mar. 28, 1969, for

will never be reported. In addition, a taxpayer in the 50 percent bracket who has dividend income to absorb this $350 loss will be relieved of $175 in taxes on the dividend income. It is this benefit that is his negative income tax.

In these selected areas of agriculture, the problem of the "farm loss" is confronted in its most extreme. Quite clearly, the problem is neither one of hobby losses nor of the gentleman farmer, both of which have received extensive treatment. The problem is not so subtle. Rather it is one of combining the deduction of capital costs with capital gain on sale. Even though the activity produces an economic profit, there is almost no prospect that it will produce a profit for tax purposes because a profit is not reported for tax purposes until the economic profit is as great as cost. The results are (a) a deferral of taxes, (b) an exemption of profits from tax, and (c) a negative income tax.

These results are irrational in a system designed to impose a tax on profits. Congress is not likely to have intended them. But neither the irrationality nor the lack of design assure its removal, a matter to which we now turn.

V. The Ideal Solution—Accrual Accounting and Full Cost Capitalization

The farm loss problem has received much attention in recent years, and a number of solutions have been proposed.[38] In this author's view

---

inclusion in the hearings record of the recent tax reform hearings before the Committee. House Comm. on Ways and Means, Tax Reform, 1969, 91st Cong., 1st Sess. 2056, 2059-60 (1969) [hereinafter cited as Tax Reform 1969]. *See also* Pitcairn & Chandler, *Tax Advantages of Cattle Operations*, 1 P-H Tax Ideas ¶ 17,013, (1968).

[38] In addition to solutions discussed in text see, *e.g.*, Sweeney, *The Farm Loss Deduction*, 53 A.B.A.J. 447 (1967), which advocated amending § 165 to disallow a farm loss unless there was a reasonable expectation of profit, and five consecutive loss years would have been considered as proof that the expectation was not reasonable in absence of clear and convincing evidence. This solution is technically deficient since there is no statutory definition of a farm "loss," and the "loss" arises usually because § 162 deductions (not § 165) exceed ordinary income. It is premised also on the belief that the farm loss problem may be one of "hobby losses." The suggestion is properly rejected in a reply article. Dickinson, *The Farm Loss Deduction: A Reply*, 53 A.B.A.J. 1111 (1967). *See also* Hjorth, *Cattle Congress and the Code—The Dangers of Tax Incentives*, 1968 Wis. L. Rev. 644, 670, in which the author proposes a § 1245 recapture and denial of § 1231 treatment in absence of a failure to capitalize growing costs. This is a good proposal but does not reach citrus groves, although it could be so broadened. It, however, does raise the accounting problems discussed in text. *See also* Tax Reform 1969, at 2056 (letter from the National Livestock Tax Committee), which suggests a § 1245 recapture and lengthening of lives for an asset to qualify under § 1231. As is demonstrated in attachments to this letter suggesting this approach, considerable tax subsidy remains. Thus this proposal must be adjudged largely ineffective.

See also S. 1560, 91st Cong., 1st Sess. (1969), introduced by Senator Miller. This bill would limit farm deductions of nonfarmers to farm income except in the case of an individual whose principal residence is on a farm. In such case, the limit on farm deduc-

only three present even feasible approaches. One goes directly to the problem and recommends accrual accounting and full cost capitalization. It may be the ideal solution. The other two appear to have as their purpose an elimination or reduction of the negative tax on total farm profits while not entirely doing away with cash accounting or capital gain, at least for "real" farmers.

The accrual accounting and full cost capitalization suggestion has much appeal and has been discussed at length,[39] but a few further words may be in order here. Its rationale is that the farm problem arises from the overly simplified accounting rules, and the solution would be outright revocation of the authority for farmers to deduct raising and development costs. In the primary areas of abuse, this solution would require that livestock raising costs either be "inventoried" or "capitalized" (interchangeable terms for our purposes). For growing plants, the dispensation to expense cultural practices expenditures would be revoked. They would be capitalized, as apparently would have been required if the matter had been left to case law.[40] While this suggestion appears to be the proper tax treatment, there are at least two barriers to its adoption. The first is a practical one; the other is a political one. While the first undoubtedly could be reduced to nonobjectionable levels, there is great doubt that the second can be overcome.

---

tions would be the total of (a) farm income, (b) wages and salaries, (c) timber income, and (d) royalties derived from property. A farmer would be entitled to claim all his deductions. A farmer is defined as a taxpayer whose net income from farming for the three preceding years equals two-thirds of the total net income for these years. For this purpose net farm income includes the full amount of gain on the sale or exchange of assets. Total income, however, excludes all those gains except those incurred on farm assets. Certain deductions are not disallowed even though attributable to the farm. They are deductions arising from (a) general casualty and weather conditions, (b) experimental farming, and (c) egg or broiler operations. Also, farms (a) acquired from decedents, (b) acquired by foreclosure, or (c) operated by an estate are excepted for limited periods. Provisions are made to consolidate sole proprietorships with partnerships and Subchapter S farm income and losses.

S. 1560 has many weaknesses. First, it raises difficult definitional problems. What is a principal residence? What is a farm on which the principal residence must be located? This differs radically from the problem of defining farm income and expense—a feature common to many proposals. Second, a farmer may continue to offset nonfarm income, *e.g.*, wages, by farm losses. Additionally, a nonfarmer may do so if he lives on a farm. There would appear to be no policy supporting this exception. Third, the sponsor concedes the definition of "net farm income" and "total income" are designed to prevent, at least to some extent, application of the Bill to livestock—probably the worst abuse. Fourth, the definition of a farmer depends on a new concept of farm income that is not the same as that set out for filing of a declaration of estimate tax. Thus a new category of farmers would be created. Fifth, this approach is not directed toward either of the causes of the problem, *i.e.* capital gain and simplified accounting rules. Its effect would thus be difficult to predict.

As to some other approaches, some redefinition of assets qualifying for § 1231 might also be attempted. This does not appear fruitful so long as their costs can be fully deducted.

39 *See* Hawkinson, *supra* note 33.

40 *See* cases cited note 6 *supra*.

Although the greatest abuses of the present scheme rarely arise in very diversified operations, the farmer engaged in multiple farming endeavors is always cited to illustrate the practical problem. For example, a farmer may be engaged in growing grain crops and livestock. Some of the grain may be fed to his livestock and some may be sold. Labor will be divided between these activities, and accurate separation of labor and other costs as between the various operations may be difficult. The allocation of costs between products on hand and products sold raises another accounting problem. These allocation problems suggest that a shortcut method of tracing costs must be devised if farming operations are not required to adopt cost accounting procedures,[41] which are sometimes claimed to be too sophisticated for the so-called family farm.

While inventories using some simplified valuation technique may fill the gap left by cost accounting,[42] their use is not a path without some obstacles. First, the products must be counted, and then they must be valued. Each process presents some problem.

Counting of the product on hand must occur at the end of the year. Since most tax years end on December 31, a livestock raiser might be forced into winter's blizzards to obtain a count of cattle. Substantial numbers of calves may also be in gestation at that time. These and other special problems might be overcome by delaying inventory until roundup time, assuming this time was approximately the same each year, but administration of this lenience could impose a burden on the Commissioner, who would have to decide in each case whether the special dispensation would be available. Another alternative might be the use of a fiscal year that would end at a time when the difficulties mentioned would be least present.

While these practices would permit the counting of animals, the measurement of grain crops and other feed such as hay might not be susceptible of more than a fair estimate without expensive measuring

---

41 Full cost accounting is used by some farmers for financial reporting purposes even though not for tax purposes. Lenders may also require that financial statements be prepared on at least a modified accrual basis. Thus techniques are available and in use. If, as suggested later in the text, more simplified inventory methods are developed, one might question whether they should be available to taxpayers who now employ better procedures for nontax purposes while reporting taxable income on the special farm accounting rules. Yet denial of these simplified methods could create a competitive edge that does not now exist.

42 Under Treas. Reg. § 1.471-8 (1958), taxpayers engaged in selling at retail may establish an inventory by reducing selling prices in accordance with an established formula to reach approximate costs. While agricultural products normally would not have standard markups, a similar procedure might be used by reducing market value by a reasonable profit margin.

and movement while in storage. Assuming that this burden would not be imposed, a reasonably accurate estimate is better than no count at all.

Although these and other techniques structured to ease the counting problems would grant a taxpayer some latitude and perhaps stretch his conscience, they seem to offer permissible, reasonable approximations, and they would reduce the counting problem to manageable proportions. They also appear likely to reflect income more accurately than the present accounting rules do.

Once the product is counted, its valuation remains, and the inventory method must be selected. At present, four methods are authorized: (a) cost; (b) lower of cost or market; (c) the farm price method; and (d) for livestock, the unit livestock method. Each has at least one feature suggesting either that the method is not feasible or that the method must be modified.

The use of cost suffers from the allocation difficulties just mentioned—the accounting art perhaps has not been sufficiently perfected to permit its use without excessive cost. Rejection of cost also leads to a rejection of cost or market, whichever is lower. If cost cannot feasibly be ascertained, certainly no determination of whether cost or market value is lower can be made. The alternative might be the use of market value. This method has never been acceptable, but its use might be considered. The major criticism of it would be the recognition of potential profit before realization by sale in those cases in which market exceeds cost.[43]

The farm price method is similar to market valuation. It values the product at current selling prices but permits the estimated direct cost of disposition to be deducted from the value. This method also suffers from the criticism that it would force a recognition of profit before realization.

We come then to the unit livestock method, which is, of course, not applicable to grain crops. It requires a classification of livestock by age and kind with a standard valuation, based on approximate costs when the inventory was first established, being given each unit. This unit value may not, however, be changed from year to year.[44] Thus it has some of the characteristics of the LIFO method but is more closely aligned to the base price method, a wholly impermissible

---

[43] One might also consider the constitutional implications of forcing recognition of profit before there is a realization. *See, e.g.*, Eisner v. Macomber, 252 U.S. 189 (1920).

[44] Treas. Reg. § 1.471-6(f) (1958).

method of accounting.[45] It fails to recognize price increases and thus permits a premature deduction of costs when costs are rising.[46]

While the use of inventories does offer a means of estimating costs, each of the methods now in use carries with it at least one infirmity, which suggests that new methods or adaptation of old ones should be considered when applied to farming. Ideally, a method akin to the present retail price method might solve most of the problems by permitting valuation at current market less a reasonable profit margin, so as to prevent the premature recognition of income that now occurs under the farm price method.

But even adaptation of inventory methods would not prevent a number of transitional problems. Costs written off in earlier years might become a part of the opening inventory and become an adjustment for the purposes of section 481, which prescribes rules for handling accounting problems arising out of a change of method. In some cases these adjustments would convert what is capital gain when sold under present law to ordinary income when placed in opening inventory in the year of change. While other problems could also arise, they should soon disappear as all existing operations shifted to proper accounting and as new enterprises commenced business using proper methods. The practical problems thus could be overcome.

This brings us to the political problem. While there may be considerable sentiment in Congress to deal with the farm problem,[47] it does not seem to be premised on the belief that the cash method should be eliminated for farmers. Indeed, the very foundation of the present bills is to preserve the cash method for "farmers" while dealing with the abuses arising from its use by nonfarmers. This political problem appears insuperable at the moment.

In concluding this discussion, the denial of cash accounting and full capitalization of costs would eliminate a large part of the farm loss problem, *i.e.*, the deferral of taxes resulting from premature deduction, the complete exemption of farm profits from tax, and the negative income tax. While arguably ideal,[48] this solution does raise the

---

45 Treas. Reg. § 1.471-2(f)(4) (1958). "LIFO" is a shorthand designation for the Last-In-First-Out method of inventory valuation.

46 Senator Jack Miller of Iowa realizes that unit livestock valuations are unrealistic and would not close off the farm loss problem in the livestock area. TAX REFORM 1969, at 2001, 2003 (statement of Senator Miller).

47 *See* S. 1560, 91st Cong., 1st Sess. (1969); S. 500, 91st Cong., 1st Sess. (1969); H.R. 5250, 91st Cong., 1st Sess. (1969); H.R. 4257, 91st Cong., 1st Sess. (1969).

48 Even ideal solutions may not entirely handle the problem. Under a system requiring that all costs be capitalized, there would remain a problem of reporting gain on some assets as capital gain, even though the assets are held for sale to customers in the ordinary

previously discussed technical and practical problems. The problems are not sufficiently grave as to cast doubt on the correctness of this approach. Their superficial complexity lends support to the conclusion that whatever the Congressional mood, it is not to prescribe theoretically correct accounting rules applicable for all farmers. We turn, therefore, to other solutions.

VI. Other Solutions

Since elimination of the farmer's cash accounting may engender political opposition from quarters now espousing some change in the farm tax rules, those desiring improvement must move on to consider other approaches. Two are now pending before Congress. One is a modified version of the excess deductions account proposed by President Kennedy in 1963.[49] The other is now embodied in a bill authored by Senator Metcalf of Montana.[50] The excess deductions account may be described as a recapture proposal[51] while Senator Metcalf's Bill is a disallowance proposal.

A. Recapture

This discussion begins with the Treasury's proposals to Congress on April 21, 1969.[52] It consisted of an excess deductions account re-

---

course of business. For example, breeding livestock produce a crop each year. Some part of the crop may be retained for breeding purposes, and some part, usually the vast majority of it, will be sold in the ordinary course of business. At the birth of the animal, a taxpayer does not know into which category particular animals fall, and the purpose for which they are held is ambiguous. This ambiguity is resolved under present law by requiring that each animal be held at least twelve months for long-term capital gain treatment to be allowed. That period is unsatisfactory because the ambiguity of purpose is generally not resolved during the twelve months. Similarly, questions could arise concerning the cost of maintaining female animals during the period of gestation. These costs would seem to be capital costs of the young animals. But if the mother also had some other utility such as use as a dairy cow, the taxpayers would likely argue that the costs were deductible as costs of producing milk.

[49] 1963 Tax Message 144. The newer version was presented in Tax Reform 1969, at 5047 (the President's 1969 Tax Message).

[50] S. 500, 91st Cong., 1st Sess. (1969). Its genesis was S. 2613, 90th Cong., 1st Sess. (1967). The 1967 Bill was revised in accordance with a Treasury report on S. 2613, 114 Cong. Rec. 8782 (daily ed. July 17, 1968), and reintroduced, S. 4059, 90th Cong., 2d Sess. (1968). It was further revised before introduction in 1969.

[51] The theory undoubtedly is the same as that embodied in two other statutory recaptures, § 1245 and § 1250. There have been excessive deductions against ordinary income. When income is realized, it should be treated as the excessive deductions and taxed at ordinary income rates. This notion of merging two transactions is familiar to the case law. *Compare* Arrowsmith v. Commissioner, 344 U.S. 6 (1952), *with* William L. Mitchell, 52 T.C. No. 21 (Apr. 30, 1969). *See also* United States v. Skelly Oil Co., 394 U.S. 678 (1969).

[52] The House Committee on Ways and Means tentatively adopted the excess deductions account in roughly the form described in text. *See* House Comm. on Ways and Means, Press Release Announcing Tentative Decision on Tax Reform Subjects by Chairman Mills (May 27, 1969). Changes from the Treasury's proposals are for present purposes unimportant. The House also incorporated a version of it in H.R. 13270, 91st

ferred to as an EDA. In the case of corporations, any excess of ordinary farm deductions over ordinary farm income would be required to be entered into the EDA. All other taxpayers would add this excess only to the extent that it exceeded $5,000. The amount in the EDA is reduced in any subsequent year[53] by any net farm income in the subsequent year. The $5,000 floor has the purpose of exempting the small "legitimate" farmer from the operation of the EDA.[54] Apparently, it is not granted for a corporation in order to preclude a taxpayer separating his farming operation into several Subchapter S corporations and securing the benefit of several floors on the EDA.

Gain on the disposition of farm property that may now be reported as capital gain would be reported as ordinary income to the extent of any amount in the EDA, computed at the year's end after giving effect to operations for the year.[55] The amount in the account would be reduced by the amount of capital gain converted to ordinary income. Increases in land values would be exempted from this conversion of capital gain to ordinary income except to the extent there had been prior deduction of clear capital expenditures such as soil and water conservation expenses, fertilizer costs, and land clearing costs, under sections 175, 180, and 182, with respect to the parcel sold. No amount of farm loss is disallowed, and a taxpayer using a full cost absorption inventory method of accounting and capitalizing capital expenditures would not be required to keep the EDA.[56]

Cong., 1st Sess. (1969). The Treasury Department presented yet a third model when Assistant Secretary Cohen testified before the Senate Finance Committee on September 4, 1969. *See Hearings on Tax Reform Act of 1969 Before the Senate Comm. on Finance*, 91st Cong., 1st Sess. 39-42 (interim manuscript) (statement of Edwin S. Cohen on Sept. 4, 1969). This House version is discussed later in the text. There were also other parts to the Treasury farm proposals including a § 1245 recapture of excessive depreciation on livestock, an extension of lives for draft, breeding, and dairy animals and race horses to qualify under § 1231(b) and vast and complex changes to § 270. These appear mainly to have been designed to sew up the loose edges left after application of the excess deductions account. The need for these other provisions is discussed along with the proposals. TAX REFORM 1969, at 5414.

53 One difficulty with this approach arises when considerable farm income is realized before there is a loss. If the income followed the loss, it would reduce the amount in the EDA but apparently not if it precedes the loss, unless there is to be a negative EDA. As a result, timing of income will have a substantial impact.

54 TAX REFORM 1969, at 5495 (statement of Edwin S. Cohen, Assistant Secretary of the Treasury for Tax Policy).

55 TAX REFORM 1969, at 5178. As discussed later in the text, the gain mentioned by the Treasury's Technical Explanation probably includes the excess of fair market value over basis if the disposition is one that is not taxable under present law. If not, there is substantial room for avoidance by transferring § 1231 property to a related taxpayer who would have no EDA. As finally adopted by the House in H.R. 13270, 91st Cong., 1st Sess. (1969), the rules for transfers are complex. They do not close the possibility of tax avoidance through transfers but may represent a reasonable approach to a difficult problem inherent in the recapture concept.

56 Under the tentative decision of the Committee on Ways and Means, gain on

As already noted, the current proposal is similar to one proposed in 1963, but there are several differences. Under the 1963 EDA, additions to the account would be made only in years in which the taxpayer's nonfarm income exceeded $15,000. The purpose of this feature appears to be the same as the $5,000 floor in the current proposal. The 1963 proposal, however, focused more sharply on the use of farm losses to reduce taxes on nonfarm income. The 1963 proposal defined a farmer as one not having nonfarm income in excess of $15,000. The present proposal defines the farmer as one not having losses greater than $5,000. Both concede the propriety of deducting livestock losses against other farm income such as grain crops without penalty.

The 1963 recommendation also excluded certain expenses in computing the excess of income over deductions. These excluded expenses were taxes and interest and losses and expenses from casualties and drought. It did not, however, contain an exception for gains due to increases in land values.

The theory underlying the excess deductions account must be that the economic reality of the farm tax loss may not be determined when the loss is incurred. Since it may be an economic loss, it should be fully allowable against other income. The loss, however, arises in an industry in which the accounting rules and definition of capital assets are so loose that later capital gain must be presumed to have been created by the loss. Since the loss was an ordinary income deduction, the gain must be treated as ordinary income. Thus the EDA attacks the problem of converting ordinary income to capital gain. It does not, however, question the validity of the loss that permits an improper deferral of taxes if the loss is not an economic loss.

B. S. 500, Senator Metcalf's Bill

The initial analysis of the farm loss problem demonstrated that even the generous farm tax rules could not do more than exempt farm profits from tax, if the farmer had no outside income. This Bill apparently attempts to reach somewhat the same result by treating taxpayers having large nonfarm income as if their farm operations were carried on apart from their other activities. By eliminating or at least reducing the spillover of artificial "farm losses" against income pro-

buildings would be excepted. Gain on farm land would be subject to recapture only to the extent of § 175 and § 182 expenses (soil and water conservation expenses and land clearing expenses that would be capitalized absent these provisions but not including § 180 fertilizer costs, which would also be capitalized absent § 180) incurred within five years before the sale with respect to the property sold. *See* PRESS RELEASE BY CHAIRMAN MILLS, *supra* note 52.

duced by other activity, farmers having large nonfarm income would be brought nearly to a parity with farmers who do not have substantial nonfarm income.

On the other hand, tax losses resulting from true economic losses from farming are not to be treated less favorably than losses sustained in nonfarming businesses. An economic loss can be determined by proper accounting, and the limitations of the Bill would not apply if the taxpayer elected to forego the special farm accounting rules. Instead, if accounting rules applicable to business generally—and to farming itself apart from taxation—were adopted to insure that tax losses were real and not simply the result of accounting distortions, a taxpayer would be excepted from the Bill. To fall under the alternative, a taxpayer would have to elect to use inventories when they were a significant factor and also elect to capitalize all capital expenditures, including development costs incurred prior to the time when the productive stage is reached in farm operations.

Absent the election, a taxpayer could not deduct in any one year more than $15,000 of a farm loss against income from sources other than farming, and even the first $15,000 of deductible loss is decreased by one dollar for each dollar of nonfarm adjusted gross income in excess of $15,000. Thus at $30,000 of nonfarm adjusted gross income, no farm loss would be allowed. Apparently, the first $15,000 of loss is allowed to prevent application of the Bill to farmers who may have to supplement their income with part-time employment or with employment during the off season. The Bill assumes that if a taxpayer has no more than $15,000 of nonfarm income, he is the type of farmer for whom the special accounting rules were devised. As his nonfarm income progresses upward from this figure, he becomes less like such a farmer with each dollar of nonfarm income, until his income reaches $30,000 at which time he must choose between proper accounting and use of farm losses against other income.

A farm loss would be defined generally as the difference between the total of a taxpayer's farm expenses and his farm income. Farm income would include only the one-half of farm capital gains that is included in adjusted gross income. It could also include the income of an operation related to and conducted on an integrated basis with the farm operation. If the difference between expenses and income is more than $15,000, only the first $15,000 of the loss could be deducted. The disallowed portion would first be reduced by the excluded one-half of farm capital gains. Thereafter any balance could be carried forward

and backward as a deduction against net farm income of other years (including the taxable one-half of capital gains) to avoid imposing hardships when the taxpayer incurs a large isolated loss in one year.

Certain deductions are excluded from the farm loss computation. The result is that they are thereby allowed even though the loss may exceed the $15,000 limit. These deductions are (1) taxes and interest, (2) casualty, drought, and abandonment losses and expenses, and (3) losses on the sale of "farm assets,"[57] which as defined in the Bill includes any property used in the trade or business of farming under section 1231(b)(1), (3), or (4). The first category consists of items generally deductible whether or not they are attributable to the carrying on of a trade or business. The second consists of items not in the taxpayer's control, and disallowance of them might create an undue hardship to the taxpayer. Notably, these same expenses and losses are excluded from the operation of present section 270. The third category is losses incurred on the sale or other disposition of section 1231 assets or property used in the farming business. These losses generally represent real economic losses and not artificial "tax losses" created by the special farm tax accounting rules. It must be noted that the unlimited deduction of all the above items would be in lieu of the $15,000 limitation.

When the farming activity is carried on by a partnership or a Subchapter S corporation, the farm nature of the income and expense would be carried over to the individual partners or shareholders who would aggregate the income and expense with all of their other farm operations. The $15,000 limitation would then apply to any loss computed on this individual aggregate basis unless each of the entities from which the individual derived farm income or deductions had made the election described above.

The obvious design of this Bill is to treat farming as a special industry and confine the tax benefits of the farm tax rules to farm income. It is apparently premised on the notion that the farm accounting rules are so generous that farming is a special business, which should be isolated. The effect is to build a wall around farming and to allow all of the special rules to apply only within the walled territory. Only by foreswearing the special accounting rules and electing to apply nor-

[57] At the hearings on the farm loss problem, Representative Byrnes expressed concern about the effect of the Bill on a feed lot operation when there was a sudden drop in price. TAX REFORM 1969, at 2149. If the category of assets were expanded to include ordinary income assets, the change would handle the situation by allowing the loss. Another answer may be that feeder operations may not be farming. Moody-Warren Commercial Co., 29 B.T.A. 887 (1934).

mal accounting can a taxpayer destroy the wall insulating the tax aspects of his farm from his other income. This general theory is breached somewhat in allowing some loss, the first $15,000 if other adjusted gross income does not exceed $15,000, to be deducted. This allowance, however, arises only in an effort to define a farmer, and thus its benefits are limited to farmers.

By isolating farm income, the Bill is designed to preserve the capital gain treatment accorded farm assets and the farm accounting rules, while limiting their effect to farm income. It proceeds on the assumption that the use of the farm loss against other income is the practice to be curbed.

The question to which we now turn is whether this isolation is preferable to the continued allowance of losses but conversion of some capital gain to ordinary income as occurs under a recapture proposal such as the EDA.

VII. Evaluation of the EDA and the Metcalf Bill

The theoretical underpinnings of the EDA and the loss disallowance proposals are quite different. The first apparently concedes the propriety of the loss and argues that the resulting creation of capital gain is improper. The second proceeds from a belief that the abuse lies in the current use of the farm loss against other income but sanctifies capital gain treatment of certain assets. The question of which is better might be answered on just these theoretical distinctions. More appropriately, one may inquire into the practical differences in operation. This is done below first by analyzing the general theory of each and then by taking account of the special wrinkles each offers in its published form.

A. The Recurring Loss

Assume a hypothetical case, with a consistent pattern year to year, in which the net operating costs[58] each year of $100 produce animals that may be sold at $110. Since the animals do not qualify for capital gain treatment until they have been held more than twelve months, there are no sales the first year even though the cost is incurred. Thus costs in the first year of operations are $100, and the product would,

[58] In this context, we may assume that a part of each animal crop is sold and reported as ordinary income but that the proceeds of such sales are $100 less than the costs of the entire farm operation. In the following year, culls from the prior year's crop will be sold at $110.

under present law, become $110 of capital gains on sale in the second year.

The EDA would permit the $100 "loss" in the first year to be deducted against income from other activities. To a taxpayer having an effective marginal tax rate of 60 percent, the loss produces a tax savings of $60 on other income. These foregone taxes become an interest-free loan, which is not repaid for a substantial period. The loss, however, is added to the EDA, which is $100 when the second year starts. The second years also results in net costs of $100, which will produce a $110 gain in the third year. The loss of $100 in the second year is added to the EDA, and at year's end, it stands at $200. As a consequence, the entire sales proceeds of $110 in that year are converted to ordinary income, giving a net ordinary income of $10 when combined with the $100 "loss." The full amount of the sales proceeds would be subtracted from the EDA. The balance in the EDA is then only $90. This balance is increased by the third year costs of $100, and the account totals $190 at that year's end. In the third year, the entire sales proceeds of $110 are converted to ordinary income, and the same amount is subtracted from the excess deductions account. The amount in the EDA to be carried to the fourth year is then reduced to $80. The pattern is repeated until at the end of the eleventh year, the amount in the EDA account would be reduced to zero. Thereafter, the taxpayer would report a $100 loss each year, which would convert $100 of the sales proceeds into ordinary income, resulting in neither ordinary income nor loss. The additional sales proceeds of $10 would be reported as capital gain.

From this a rule may be derived—assuming an operation consistently producing the same amount of costs and sales proceeds. The rule is that the tax-free loan produced by the first year loss will be repaid in equal annual installments over a number of years, which is derived by dividing the profit margin into one. Thus, if the profit margin is only 2 percent, the period of the loan is 50 years; if 4 percent, the period is 25 years; if 10 percent, the period is 10 years.

In comparison, the Metcalf Bill would not allow any loss in the first year, but the taxpayer would have a farm loss carryover of $100 to be used against farm income of the second year. Under that Bill, the farm income of the second year would be only $55 (the taxed portion of the capital gain of $110), and the loss of the second year would entirely absorb this income. The excluded one-half of the capital gain, however, would absorb the balance of the second year's loss as well as

$10 of the carryover. The carryover to the third year would be only $90; to the fourth year, $80. By the end of the eleventh year, the carryover would have disappeared, but no tax liability would have been incurred in any of the years. Nor would operations thereafter incur any tax liability because the taxable one-half of capital gain would always be less than the deductions available to offset it. The carryover would disappear, and if the operation were terminated in the thirteenth year, there would be a capital gains tax on the full sales proceeds.

Again, a rule may be derived. The farm loss carryover disappears at the same time that the taxpayer has repaid the tax-free loan under the EDA. Even after the carryover disappears no amount of tax will be paid unless sales proceeds are more than twice costs. This is the very nature of capital gain income. But no loss has offset any income earned outside the farming operation.

The foregoing analysis assumes that the farming operation commences after the EDA or the Metcalf Bill is enacted into law. Their effect on existing operations would differ slightly. Under the EDA, sales in the year of enactment would be denied capital gains to the extent of current excess deductions. There would be no deferral of taxes on current expenses. But prior years' expenses would continue to be deferred, and assuming no change in operations, prior years' deferral would not be recaptured at capital gain rates until the operation terminated. If the operation were diminishing, the deferral of prior years' expenses would be returned at capital gain rates each year in an amount in proportion to the diminution. A diminishing operation, therefore, is just a termination occurring over a number of years. If the operation were expanded, however, the expenses of the expansion in that year would shelter an equal amount of outside income and permit the tax to be deferred on the sheltered income in the described pattern.

The ability to increase the amount on which taxes have been deferred merely by increasing the size of the operation may be the weakest point in the EDA. When this potential is combined with the continuance of special accounting rules, the estate planning possibilities begin to be apparent. Since losses are fully deductible with no penalty prior to transfer, the EDA will encourage the shifting and prepaying of expenses of the expanding operation with a minimum of sales. If this can be continued a sufficient number of years, the taxpayer may leave a very bountiful estate to his bereaved, and they will take it at a new basis without any excess deductions account.

Under Senator Metcalf's Bill, prior years' expenses are in essence merely forgotten. The chances are that they will never have any effect on future tax liability and, in distinction to the EDA, will never be recaptured at all. There is, however, no loss deduction against other income and hence no potential for an increasing deferral. Similarly, the Bill is neutral on decreasing operations. The Bill should not present an incentive either for expansion or for diminution of operations.

B. The One-Time Development Loss

Having analyzed an operation having a recurring pattern, we should now turn to an operation such as a citrus grove in which losses resulting from development costs are reported for a substantial period before sale at capital gains rates occurs. For example, assume that an orchard has a cost of $100 and a four year development period, during which the deductible expenses are $100 each year. At the start of the fifth year the grove is sold for an economic profit of $200 or at a $700 sales price.

Under the EDA, the annual loss of $100 could offset otherwise fully taxable income each year. A cumulative total of $400 in losses would be reported, and on the sale, $400 of ordinary income and $200 of capital gain would be realized. The result may be argued to be very close to a forced capitalization of costs except for the deferral of taxes on current income. If the ordinary income in the year of sale is viewed to just equalize the prior deductions, the EDA reaches the result on sale that would flow from proper capitalization of costs. But in the meantime, the cost has been currently deducted against other income with a consequent deferral of taxes on that other income.

Under Senator Metcalf's Bill, no losses would be allowed, but the $400 carryover would insulate the entire $600 gain from tax because it would exceed the one-half of the gain reported for tax purposes. There would then be a complete exemption of the gain from tax. Indeed, the farm loss carryover could exempt from tax another $200 of farm capital gain or $100 of ordinary farm income. This result follows from the language of the Bill in its present form, but as will be noted later, the Bill could be strengthened to avoid this result by causing the farm loss to be absorbed against the untaxed as well as the taxed portion of capital gains.

The immediate reaction to the foregoing is that the EDA is greatly superior to the Metcalf Bill because the latter continues to permit sub-

stantial income to be untaxed. This ready answer may not, however, withstand analysis and some effort to quantify the benefit of the deferral of taxes granted by the EDA. We turn now to that task.

If EDA is applied to the above example, a taxpayer in the 60 percent bracket would realize a tax savings of $60 in each of the four years in which $100 of costs were incurred. If his rate is the same in the year of sale, the only effect is to loan the taxpayer $60 for four years, an additional $60 for three years, an additional $60 for two years, and finally an additional $60 for one year. In the fifth year when the grove is sold, these loans are repaid by converting $400 of the gain to ordinary income. In addition, the taxpayer would pay a capital gains tax on the economic profit. If a taxpayer could borrow at rate of 7.5 percent[59] per annum, these loans would have had a value of $36 (that is, a savings in interest expense if the funds were borrowed) to the taxpayer. The capital gains tax he would incur would be $50. Therefore, there is a net tax detriment of $14 to the taxpayer. If either the interest rate or the period of deferral are increased, however, the odds in favor of the taxpayer increase. For example, if the borrowing rate is 10 percent, there is a virtual standoff, or if the development period is extended two years, the taxpayer's interest-free loan more than exceeds the value of the capital gains tax. On the other hand, if the profit margin is greater, the taxpayer will pay a greater tax.

This analysis suggests that the ability to defer taxes, which must ultimately be paid, even at ordinary rates, can be just as valuable as complete exemption from tax, particularly capital gains tax. The conclusion as to the efficacy of the EDA as compared to the Metcalf Bill then depends on a number of factors that may vary from taxpayer to taxpayer, from year to year, and from farm to farm. We shall return to this question later.

C. Lock In v. Force Out

The preceding discussion raises one other difference in the approaches; one would conclude that under the EDA the longer the period of deferral, the bigger the reward to the taxpayer. Since the deferral period exists until there are sales, the EDA might be said to discourage sales and thereby to "lock an investor in" to his farm investment. On the other hand, Mr. Metcalf grants a carryover, which

[59] Some might argue that the evil is the foregone revenue to the Government and that to measure the Bill's effectiveness from the Government's viewpoint, its borrowing rate should be used. While the choice may not be clear, the value to the taxpayer is our concern here, and that is at his borrowing rate.

expires at the end of five years. If his Bill is to be utilized to its optimum, the taxpayer must sell sufficiently often to absorb the carryover. The Bill then may be argued to "force out" a taxpayer at least once every six years.

An argument can be made that this difference would not exist in practice because lengthy deferral under the EDA could lead to a serious bunching of income. Bunching would present a problem by raising the marginal tax rate in a year of sale sufficiently to eliminate the deferral benefit. Thus the argument runs that bunching would tend to force sales to smooth out the income pattern. To the extent the realization pattern has large bulges, they may be somewhat ameliorated by the averaging provisions of the Code.[60] Certainly, this is no time or place to delve into the mysteries of averaging, but if it operates perfectly, it can tend to cause a realization of income at least once every five years to gain the full benefit of averaging. The bunching and the spread out obtained under averaging may be argued to undo the "lock in" effect and create its own "force out."[61] But all of this assumes that the increase in tax rates resulting from the bulge in income cannot be handled in any other way and also that the benefit of averaging is substantially reduced by exceeding the five year period. There is doubt that either of these assumptions would be true in the majority of cases. There would then be little reason to bring the deferral period to an end.

D. The Preferred Status of Other Farm Income

Both approaches grant a preferred status to ordinary farm income. While farm losses may be currently used to shelter any other income under the EDA, a farm loss may ultimately result in farm capital gain being converted to ordinary income. If the farm loss in one endeavor can be used against other ordinary farm income, there will be no EDA to convert later farm capital gains into ordinary income. For example, if other farm income can be found to equal excess livestock deductions, full capital gain treatment will be preserved on the livestock sales.

The Metcalf Bill might give an even greater impetus to diversify farm operations because the farm loss cannot be used against any other

---

60 INT. REV. CODE of 1954, §§ 1301-04.

61 On this analysis, a four-year development followed by sale in the fifth year would achieve the greatest tax savings, all other factors remaining the same. There would be four years of deferral, but income would be spread over five years. As suggested in the text, however, the benefits of averaging may not be significantly reduced by running beyond the five-year averaging period.

income. It therefore has no value whatsoever unless there is other farm income, while the EDA still permits use of the loss against other income. If a taxpayer could produce other ordinary farm income equal to livestock deductions, the livestock deductions could entirely exempt this other farm income from tax under the Metcalf Bill while the livestock gain would be subjected only to capital gain rates.

E. A Quirk in the Metcalf Bill

One further aspect of ordinary farm income under the Metcalf Bill should be noted. If we return to a simple case in which $100 of costs in the first year produces $110 of capital gain in the following year, the carryover rules have a strange effect. After deducting one-half of the capital gain in the second year, the farm income is $55. Under the Bill, the farm loss carryover of $100 from the first year would, in the second year, shelter an additional $45 of ordinary farm income from tax.

If the sales of livestock had been spread over the two years, the results would differ, however. If the taxpayer had realized $20 of ordinary farm income and $80 of livestock capital gains in the first year, the farm income would have been $60 ($20 of ordinary income plus $40, the included one-half of the livestock capital gains), and none of it would have been taxable because the farm loss of $100 would offset the farm income. There would be no farm loss carryover to the second year, however, because the farm loss ($40, which results from $100 of costs reduced by $60 of farm income) available for a carryover would be reduced by the one-half of the livestock capital gains deducted under section 1202. This amount is just equal to the farm loss, and there would be no carryover. The capital gains in the second year would be $30 ($110 less the $80 of sales in the first year), which would be reduced to $15 of taxable income by the section 1202 deduction. There would not be any farm loss carryover to reduce the taxable income further. The result is that the farm loss would have offset only the $20 of ordinary income realized in the first year and none of the capital gain or ordinary income in the second year. The explanation for this result is that the farm loss is not reduced by the amount deducted for capital gains under section 1202 for the purposes of determining how much farm income it can offset in the year of the gain, but is so reduced for the purpose of determining how much is available to carry over to later years. In this case, that amount eliminated the carryover.

While this result may appear strange, it is consistent with the Code's present treatment of net operating loss carryovers, which must be reduced by the section 1202 deduction in the year the loss is incurred. The moral would appear to be to avoid capital gains in years of ordinary losses. The result is one that puts the taxpayer who is unable to avoid capital gains in loss years at a disadvantage, unless he can also realize other ordinary farm income. It is, however, consistent with the view that only economic losses should be the subject of carryovers. To fail to make this adjustment would put farm losses on a higher level than other carryovers—certainly not an aim of this Bill—because they could be carried over for use against other farm income in greater amounts than other loss carryovers. This result then treats farm loss carryovers like other carryovers except in so far as it limits their use to farm income and is consistent with the theory of isolating and segregating farm operations from other operations unless proper accounting rules are followed.

F. The Small Farmer Exception

The Treasury EDA is not increased in any year in which the loss does not exceed $5,000. If operations are fairly consistent, this provision, in effect, would permit an annual loss deduction of $5,000 offset by capital gains of $5,000, which would not be converted to ordinary income. It could be exploited to the extent of $2,250 in tax savings each year.[62] This is the maximum benefit that may be derived from this exception.

The EDA floor might, however, be objectionable to some farmers who apparently are the type of taxpayers intended to benefit from simplified accounting. The $5,000 figure is relatively low and is not softened by excluding any deductions from the EDA. As a consequence the so-called "legitimate" farmers could lose some of the benefit of capital gain treatment.

The Metcalf Bill instead would allow a farm loss in the amount of $15,000 each year. This annual loss allowance may be the most serious defect of the Bill, although as later explained it may to some extent be remedied by other features of the Bill. The problem may perhaps best be shown by taking a citrus grove as an example. Assume

---

[62] This is $5,000 multiplied by the difference between the top tax bracket of 70% and the top capital gain rate of 25%. This benefit would be less under H.R. 13270, 91st Cong., 1st Sess. (1969), which would reduce the top ordinary rate to 65% and eliminate the alternative tax so that the top capital gain rate would be 32.5%. Under that Bill, the $2,250 would be reduced to $1,625.

69-133 O - 73 - pt. 5B - 6

that the land and planting cost is $10,000; that cultural practice expenditures of $15,000 are incurred annually; that the grove reaches the productive stage in the seventh year of its life; and that it is then sold for $135,000, an economic profit of $20,000.

Under the excess deductions account, the taxpayer would claim his $15,000 loss each year and add $10,000 to the EDA. The account would total $70,000 at the end of the seventh year, and the balance would convert $70,000 of the sale proceeds to ordinary income. In addition, there would be a capital gain of $55,000, which would reduce to $27,500 of taxable income. This has two effects: (1) There has been a deferral of taxes on $15,000 of income each year for six years to total $90,000. (2) There is a bunching of ordinary income in the year of sale. While this aspect may appear to create a serious problem, the penalty arising from bunching undoubtedly would be greatly eased by income averaging under sections 1301-04. In addition, there has been a gross mismatching of income and expense.

On the other hand, the Metcalf Bill permits $15,000 loss to be deducted annually if the taxpayer has no more than $15,000 nonfarm adjusted gross income. Thus there is deferral of taxes on the income sheltered by the loss. The taxpayer in this example would have sheltered $90,000 of nonfarm income from tax over the first six years. Upon sale, there would be a capital gain of $125,000 (sales price of $135,000 less land and planting costs of $10,000). After the section 1202 deduction, this would be reduced to $62,500, which would become $47,500 of taxable income after reduction by the $15,000 of cultural practices expenditures in the year of sale. Thus the annual loss allowance, which was designed to define a farmer, has the effect of allowing uneconomic losses to offset other income and defer taxes on other income to the extent of $15,000 per year. When this loss is recaptured on sale, it is taxed at no more than capital gain rates. The continuance of this potential to shelter other income might induce investors to seek investments that limit the loss to $15,000 per year were there not other features of the Bill that should prevent much exploitation of the annual loss allowance.

While the Bill thus appears to have these drawbacks, it also reduces the annual loss allowance by one dollar for each dollar of nonfarm adjusted gross income in excess of $15,000. At $30,000 of nonfarm adjusted gross income the annual allowance disappears. In the majority of cases, it is doubtful that one having nonfarm adjusted gross income at this level will have funds to invest to produce a $15,000 annual

loss. Also the tax rate on a joint return at those income levels is less than 40 percent, and the tax savings, arising by permitting capital gain treatment on the sale, is not great because the difference in the ordinary income rate and the rate that would apply to bunched capital gains may not be great. Even so, a taxpayer having nonfarm adjusted gross income of less than $30,000 has some opportunity (but one, which declines as income increases) to exploit a farm loss and need only answer the question whether the play in tax rates is worth the risks and investment inconvenience. Even with this criticism, the Bill significantly reduces the tax benefits of farm losses. *This problem does point out that without the phaseout, the Bill would be a far less effective tool.*

G. The Integrated and Related Exception

The Metcalf Bill also provides that if a taxpayer is engaged in farming and one or more businesses, which are directly related to his farming and conducted on an integrated basis with his farming, the taxpayer may elect to treat all these businesses as a single business engaged in farming. The obvious purpose is to permit a taxpayer to treat a nonfarm business, producing net income, as a part of his farming operation, to reduce the farm loss and thereby reduce the amount to which the Bill applies.

The provision also raises a definitional problem in determining whether the two operations are related on an integrated basis. This problem could be cured by providing that a business would not be considered as related and conducted on an integrated basis with the farming operation, unless it consisted of the processing of a product raised in the farming operation. Such an exception should apply only if the sale of such processed produce produces a substantial portion of the total receipts of the overall operation.

Even with this modification, the provision raises the spectre that the Bill might fail to achieve its goal by permitting the offsetting of some "farm losses," arising from the farm tax accounting rules, against income earned in other business. For example, a taxpayer might be engaged in processing frozen orange concentrate from an orange grove on which large expenditures and consequent "farm losses" were incurred because a part of the grove had not yet reached full production. The grove, as a whole, presumably would be related to and conducted on an integrated basis with the concentrating business, and the special benefit of deducting "farm losses" against income from the concen-

trating business would be continued. Primarily, this provision would benefit those taxpayers who have the capital and resources to engage in a business related and integrated with their farming operations. With respect to these taxpayers the Bill would not accomplish its basic objectives, even though these taxpayers would not appear to be the type of taxpayer for whom the special farm accounting rules were devised.

Thus, even if modified as suggested, the Bill might not accomplish its basic purpose. The treating of separate businesses as a single operation departs from the usual practice in administering the tax law and may raise problems neither foreseen nor foreseeable at this time. There is little to be said for the provision, and it should be eliminated.

The EDA has a similar exception, which is not explicitly stated. Since the EDA converts capital gain to ordinary income only on a sale, it would never be actuated in many industries. For example, the frozen orange juice concentrator just mentioned might never sell the grove. If he did not, the EDA would have nothing on which to operate. The EDA would thus continue to permit the offsetting of farm losses against income from other sources for which the taxpayer would pay no penalty.[63]

H. Specially Treated Deductions Exception

The Metcalf Bill permits a taxpayer to choose between the $15,000 annual loss allowance and the total of certain so-called specially treated deductions. These deductions are taxes and interest, losses and expenses arising from abandonment, casualty, or drought, and recognized losses under section 1231. The theory seems to be that these losses are indeed economic losses and should not be subject to the disallowance rule. There is considerable appeal to this position, and it probably reaches a proper result.

In contrast, the Treasury's EDA makes no exception for such expenses. It should be noted that the EDA never disallows a loss. Rather, it is the measure of later capital gain that will be converted to ordinary income. A failure to exempt these expenses from the EDA must rest on the premise that either (1) the $5,000 annual exception will

63 Interestingly, the racing industry is not satisfied even with this unstated exception. Under the tentative decisions of the House Committee on Ways and Means, horseracing and horse breeding would be treated as a combined operation. *See* PRESS RELEASE BY CHAIRMAN MILLS, *supra* note 52. Section 211 of H.R. 13270, 91st Cong., 1st Sess. (1969), also embodied this concept. This will permit tax losses from breeding operations to be offset against racetrack winnings.

account for them, or (2) the capital gain provisions are so generous that any loss, whether economic or not, should be used as a means of recapturing ordinary income deductions. In either case, the reasoning seems to be a little thin, and it seems likely that exclusions of some sort will be made.

I. Both Approaches Involve Certain Assumptions Regarding Causes and Effects of Losses

Both the EDA and the Metcalf Bill may be characterized as being arbitrary. The EDA operates on the premise that a farm loss creates capital gain. Perhaps a fairly valid assumption, but it may not be true when the loss results from casualty.

Similarly, the Metcalf Bill's denial of a loss is not explicitly limited to artificial losses created by the special farm accounting rules. The specially treated deductions exception may have virtually that effect, particularly if modified as hereinafter suggested. Its assumption that any remaining loss is created by the special farm accounting rules is on balance probably a fairer assumption than the asumption underlying the EDA.

Criticism of either proposal on this ground is not serious, and both underlying assumptions could be argued to be valid in a sufficiently large majority of cases to provide a basis for legislative action.

J. A Final Note on the Metcalf Bill

As previously noted, limiting the amount of a farm loss deductible against the amount of other farm income will ordinarily remove the so-called negative income tax effect. When farm income is only the included one-half of capital gains on which the tax rate is limited to 25 percent, however, deduction against ordinary income by a taxpayer having a tax rate in excess of 50 percent will continue to result in the negative tax effect. That is, one having a tax bracket greater than 50 percent will be able to achieve an effective tax of less than 0 percent on his overall farm profits because the tax saving from the loss deduction, although the deductible loss is limited to the taxable portion of capital, is greater than the tax on the capital gain.

The fact that the negative income tax effect is not entirely removed is not attributable, however, to either the cash method or the deduction of one-half of capital gains. Rather, it is solely attributable to the alternative 25 percent tax on capital gains. If rates on capital gains were not so limited but allowed to progress up to one-half of

the ordinary rate, the negative tax on farm profits would be fully remedied by this proposal.[64] The EDA does not suffer from this disability.

K. A Final Note on the EDA

As presented in 1963 and as under the current proposal, the EDA is a matter personal to the taxpayer. Apparently, the 1963 proposal would have applied upon any disposition of property while the current Technical Explanation deals only with "sales." Presumably, sales will be transformed into dispositions when the statutory language is drafted. If it is not, a number of transfers could permit the taxpayer to have had the advantage of the deduction while shifting the capital gain asset to another taxpayer. These transfers would include gifts, charitable contributions,[65] transfers to corporations under section 351, reorganization transfers, transfers to partnerships under section 721, transfers to trusts, corporate liquidations, transfers to or distributions by an estate or trust, and like exchanges and involuntary conversions.

The difficulty with imposing a tax on these transfers is that the taxpayer has not received any cash providing the wherewithal for paying the tax. In addition, the recapture provisions under section 1245 and section 1250 provide special treatment for these transfers (other than taxable corporate liquidations and distributions by estates and trusts), and the Treasury may be hard pressed to make a case for taxing transfers under the EDA, which are not now taxed under these recapture provisions. It is submitted that such a case can be made, however.

Except for a few industries such as the leasing of automobiles, most depreciable property subject to section 1245 does not by its very operation constantly produce merchandise for transfer, even though the merchandise so produced has also been used in the trade or business. The process of culling the livestock crop does produce this merchandise. The very nature of the business makes it inevitable that there will be substantial property that must be transferred. In most section 1245 cases, the property is either abandoned or transferred at nominal value. It may be argued that recapture is satisfactory in these

---

[64] If the minimum tax discussed in TREASURY STUDIES, *supra* note 18, at 132 were adopted, the rates on capital gain would be fully progressive when it applied. *See* note 21 *supra*, which points out that H.R. 13270 would similarly eliminate the alternative tax.

[65] Under the Administration's program presented on April 21, 1969, a charitable contributions deduction would be denied to the extent of unrealized gain on any property, which if sold would yield ordinary income. TAX REFORM 1969, at 5152, 5492. *See also* TREASURY STUDIES, *supra* note 18, at 178.

cases but that it is unsatisfactory when transfers are inevitable and each transfer presents a substantial tax avoidance opportunity. Thus the abuse possibilities are worse in this case, and recapture just is not adequate to handle the problem.

If the tax is not imposed at the time of disposition, a substantial avoidance problem can arise, although it might be possible to have the EDA carryover to the transferee.[66] Even with a carryover, there would still be the possibility of shifting substantial amounts of income from a high bracket taxpayer to a low bracket taxpayer.

L. Making the Choice

Since the foregoing may not have made the choice between the Treasury's proposal and the Metcalf Bill clear, perhaps we should return to our early discussion in which the benefits of expensing capital expenditures while reporting sales proceeds as capital gain were first specified as (a) a deferral of taxes on an amount of other income equal to the prematurely deducted capital expenditures, (b) the complete exemption of profitable operations from any tax until the ratio of sales proceeds to costs exceeds the ratio of the ordinary tax rate to the capital gain rate, and (c) the negative tax effect that results, even though the operation is profitable, if the deferred taxes under (a) are greater than the taxes paid on sale. Since none of these advantages generally is available to other businesses, we should test any solution in light of the extent to which these benefits would be eliminated. In view of this criterion and based on the assumption that profit margins in farming are low,[67] there would seem to be little doubt but that the Metcalf Bill is superior to the EDA in the prime areas of abuse; (a) development costs of plants, and (b) livestock. In addition, as later explained, the Metcalf Bill may reach some of the other areas of abuse.[68]

First, as to the matter of deferral, the Metcalf Bill begins to cut off this benefit when the taxpayer's nonfarm income exceeds $15,000, and at $30,000, the interest-free loan from the Government is no longer

---

[66] If the EDA is carried over to the transferee, it presumably would reduce the EDA in the hands of the transferor. Thus a transfer to a lower bracket taxpayer may present an opportunity to reduce the ordinary income potential to the transferor.

[67] *See* 1963 TAX MESSAGE 1541, in which returns of two or three percent of livestock are estimated. There is little reason to think that returns have improved. *See Hearings on Tax Reform Act of 1969 Before the Senate Comm. on Finance*, 91st Cong., 1st Sess. 32 (interim manuscript) (statement of Claude M. Maer, Jr. on behalf of the National Livestock Tax Comm. on Sept. 22, 1969).

[68] *See* note 27 *supra*.

available. In comparison, the EDA does not disallow any loss. It has no effect on the deferral feature of deducting capital expenditures.

Second, the EDA seems to eliminate the prospect that a profitable operation will be completely exempt from tax. As we have seen, the Metcalf Bill permits this exemption to continue. This aspect of the Metcalf Bill could be remedied, however, by requiring that the full amount of farm capital gains be reduced by the "farm loss" before reducing the farm capital gains by the deduction under section 1202. The farm loss carryback or carryforward would be similarly limited. As a result, net farm gains would be taxed at least at capital gains rates.

But even without this change, it appears that the choice between the EDA and the Metcalf Bill remains the same because when profit margins are low, the deferral is much more advantageous than exemption from tax. This results because deferral is an interest-free loan on the marginal tax rate multiplied by the entire cost while exemption is an exemption from a capital gains tax on profit, which is low in relation to the cost. Thus, under the EDA, the interest-free loan from the Government is repaid rather slowly. For example, if costs consistently run $100 while sales are at a 5 percent profit margin or $5, the EDA permits a taxpayer to make no sales until the second year and to obtain the benefit of having deferred the tax on $100 over the following 20 years. If we assume a 70 percent taxpayer having in today's market a 7 percent borrowing rate, the annual benefit realized by the deferral is $4.90. In return for this benefit, he pays $1.25 of tax each year as the cattle are sold. The net benefit thus is $3.65, which reduces by 5 percent each year.

This savings may be compared to the exemption from tax of the net annual capital gain of $5, which is $1.25. This exemption would be achieved under the Metcalf Bill, but it has less value than deferral when profit margins are low.

When an asset such as a citrus grove is developed, the deferral aspect of the EDA may have substantially more benefit than exemption from tax. For example, if a $1,000 loss is incurred each year for a five-year period, a 70 percent taxpayer having a borrowing rate of 7 percent will be able to reduce his overall capital cost by 17.5 percent of the total cost just by the benefit of the deferred taxes. To obtain the same benefit in exemption from capital gains tax, the grove would have to be sold at an economic profit of 70 percent. If the grove is sold, the EDA will result in a bunching of ordinary income in the year of sale when the EDA is actuated and recaptures the prior deduc-

tions. While bunching might offset some of the benefit of deferral, if the taxpayer is not consistently in the top bracket, the averaging provisions of the Code may spread the bunched income over the deferral period thus lessening the bunching, but the benefit of deferral would remain.

In addition to the value of deferral resulting from the Government's loan for the amount of the deductions multiplied by the taxpayer's marginal tax rate, it also cuts the federal government in on the loss side of the transaction well before either the taxpayer or the Government can know whether the venture will ultimately be a success. The value of this risk shifting is probably far more than the interest-free loan.

This brings us to the third standard: to what extent is the negative tax eliminated? Under the EDA, the negative tax may occur if the sales proceeds are recaptured at a lower tax rate than the rate in effect when the expenses were deducted. Thus, if the taxpayer can await retirement, a lower income, death, or achieve a transfer to a lower bracket taxpayer,[69] the taxpayer not only has the benefit of deferring taxes on other income by currently deducting his farm costs, but a negative tax can be effected.

The Metcalf Bill does not completely foreclose the possibility of a negative tax subsidy. This potential is, however, preserved only (a) when the abuse may at least be said not to be great (taxpayers who have less than $30,000 of nonfarm adjusted gross income),[70] and (b) to those

---

[69] Nontaxable transfers of capital gain property may offer substantial opportunity to avoid the EDA. There would appear to be some roadblocks to the transferee's achieving a capital gain rate. First, in the case of livestock, it must be either draft, breeding, or dairy livestock in the hands of the transferee. The fact that the livestock had such character in the hands of the transferor would not establish the same character for the transferee. Second, an immediate sale by the transferee might be viewed as a sham with the sale proceeds being attributed to the transferor. Third, the transferee may himself have an EDA, especially if he retains the transferred property any substantial time in an effort to overcome the first two problems. In these cases, both the transferor and the transferee would incur raising costs, and in effect, the EDA would be divided between two taxpayers while only the transferee would make sales subject to the EDA. This technique could lessen the amount recaptured at ordinary rates. Even if the transferee lost the capital gain treatment on sales proceeds, however, if his tax rate is less than the transferor's the negative tax effect is achieved.

[70] If the farming operation is diversified and if these operations consist of a grain operation producing large ordinary income and a livestock operation producing large ordinary deductions and cattle capital gains, the Metcalf Bill arguably can produce a negative tax by insulating the grain ordinary income from tax while subjecting the livestock profits only to capital gains. This result can be argued to be exactly the same as using excess livestock deductions to offset salary income while reporting livestock capital gains. While the force of this argument cannot be denied, there are at least two pertinent comments. First, even this result does nothing more than exempt farm profits from tax. There is no spillover of benefits into endeavors other than farming. Second, those taxpayers, investing in farm assets solely for tax purposes, seem likely not to have diversified

taxpayers who have a marginal tax rate in excess of 50 percent. For example, in the latter case if a taxpayer in the 70 percent bracket has a $50 farm loss and $100 of farm capital gains, the farm income under the Bill just equals the farm loss that remains fully deductible against other ordinary income. The loss would produce a tax saving of $35, while the farm capital gains are subjected to only a $25 alternative tax for capital gains. This latter undesirable effect results from the alternative tax on capital gains, but it could be prevented by a slight modification in the Bill. If farm losses were required to offset farm capital gains *before* application of the alternative tax rate, there would have been no farm loss to use against ordinary income. In the example, the farm loss would have reduced the farm capital gain to $50 on which a tax of $12.50 would have been paid. Thus the Bill may be structured to handle this problem.

In addition to these fundamental questions, the Metcalf Bill also reaches the so-called do-it-yourself averager who, under the Bill, would not obtain any benefits by maximizing his loss in one year since it could not be used to insulate any income outside the farm assets. The EDA would have no effect on this device.

Also, the Metcalf Bill may have some salutary effect on the true hobby farmer who could deduct no loss unless he adopted a proper accounting method. If he did so, he could continue to deduct his hobby loss so long as he could prove it was more than a mere hobby. Adoption of proper accounting would seemingly reduce the amount of the annual loss, although it might not remove it. On the other hand, if there are few sales from the hobby operation, the EDA would have little impact.

To sum up, the EDA fails to close the door on deferral, does not eliminate the possibility of exempting farm profits from tax unless the amount subject to recapture is taxed at the same rates as the amounts deducted, and also opens wide the door of avoidance by transfers that will result in the negative tax effect. Neither does it reach the do-it-yourself averager. Its effect on the "hobby farmer" is unpredictable. On the other hand, the Metcalf Bill phases out deferral commencing at $15,000 of nonfarm adjusted gross income and completing the job at the $30,000 level. It does permit however, an exemption of some farm profits from tax, a matter to be discussed in the next section. It eliminates the negative tax for all but a few, but im-

---

farm operations. Whether enactment of the Bill would encourage diversification by "tax farmers" would depend on a number of considerations such as profit margins, interest rates, risks, alternative investments, and similar factors.

provements to be discussed will do away with this problem. It also reaches the do-it-yourself averager. It might also have some effect on the "hobby farmer." On most counts the Metcalf Bill is superior to the EDA. This conclusion suggests that recapture of any sort is a most ineffective tool.

M. Improvement in the Metcalf Bill

Having decided that the Metcalf Bill addresses the problem more directly, we should note that a number of changes could be made to the Bill that would improve it substantially. The following might be considered:

(1) Losses on ordinary assets (as distinguished from section 1231 assets) might be included in the category of specially treated deductions. These losses are true economic losses, and there is no reason to disallow them. The failure to include them would appear to be mere inadvertence. These losses probably would not occur in many cases, for most of the farm assets producing ordinary income either have no basis or are held in an inventory. In the former case, a loss could not be realized on the sale, and in the latter case, the taxpayer probably would not be subject to the Bill in any event because he would qualify under the provision excepting taxpayers using inventories and capitalizing capital expenditures.

(2) The Bill now allows an annual allowance of $15,000 if the taxpayer's nonfarm income does not exceed $15,000. For each dollar above $15,000 of nonfarm income, the loss allowance is decreased by one dollar. The obvious purpose is to exempt the so-called legitimate farmer who may have a small outside income. Without this very important feature of the Bill, it would be far less effective. The $15,000 figure may, however, be too high, and the Bill's author might consider adding an alternative phaseout so that two dollars of loss would be disallowed for each dollar of unearned investment nonfarm income of more than $5,000. The present phaseout should remain, and the one permitting the smallest loss would govern if there were any conflict between them.

(3) As previously noted, a number of taxpayers may purchase breeding herds, depreciate them for a short period, sell the herd, and realize substantial capital gains on the excessive depreciation. While this practice appears improper, there may be an enforcement problem arising from the inability of the Internal Revenue Service to audit

all taxpayers. The enforcement problem could be solved automatically by including livestock in the recapture provisions under section 1245. Logically, there is no reason to exempt livestock, and it would prohibit finagling with depreciation, even though the taxpayer elected accrual accounting in order to avoid application of the Bill.

(4) Under the Bill, the farm loss would be permitted to offset other farm income, and it may also be carried over to other years. In neither case does farm income include the untaxed portion of capital gains. A loss of $50 may thus continue to offset $100 of capital gain income in either the year of loss or when used as a carryover. This difficulty could be removed by requiring the loss first to be applied against ordinary income, and any balance then could be applied against capital gain income before the section 1202 deduction or before application of the alternative capital gain rate. The same treatment would be prescribed for carryovers. Thus, in the case in which the farm capital gain in the current year is $100 and the farm loss is $50, the capital gain would be reduced to $50 on which a tax would be paid. If there were also ordinary farm income of $20, the farm loss would be reduced to $30, and the farm capital gain would be $70. Exactly the same treatment would be accorded carryovers. For example, if the current loss is $50 with no capital gain until the following year, when $100 of farm capital gains are realized, the $50 loss carryover would reduce the capital gain to $50 on which a tax would be paid.

An alternative to the suggested treatment would be to require that the farm loss to be an adjustment to the basis of assets. This would necessitate deciding whether to adjust the basis of ordinary income or capital gain assets. It could also raise administrative problems if depreciable property were involved by presenting a new depreciation base each year. If, however, the alternative of a basis adjustment were chosen, presumably the adjustment would not be permitted to create losses but only to reduce gains to zero.

VIII. In Defense of the Faith

We have spent much time discussing the present farm tax rules and considering solutions. While all of this should make the need for a remedy clear, we would be remiss if we did not grant the opposition an opportunity to be heard. We now turn to it.

The House Committee on Ways and Means has twice held hearings on the farm tax loss problem.[71] The interesting aspect of these

[71] 1963 Tax Message 1537-97; Tax Reform 1969, at 2001-183. Since writing the text,

hearings is that even those opposed to any proposed changes in the law note that there are abuses of the present scheme. The definition of abuse,[72] however, appears to depend on the speaker. Some speakers defend the subsidy to certain agricultural activity, even though it benefits a taxpayer whose major distinguishing feature is a source of large income from nonagricultural income. The defenses offered by these speakers are to be discussed.

A. The Proposed Solutions Discriminate Against Farming[73]

One of the more frequent complaints is that directed toward the excess deductions account in 1963. The argument was made that it offered a special set of rules for farming. Similarly, the same argument was made at the hearings last March.

Undoubtedly, this argument states a truism. There is, however, a reason for this discriminatory treatment. Farming is an industry having a special dispensation from tax accounting provisions otherwise having general application. This dispensation is the use of cash accounting and the expensing of capital expenditures when these procedures do not properly reflect income. It seems proper that losses created by special rules should be treated specially. Under either the Treasury's EDA or the Metcalf Bill, the special treatment of losses may be avoided by giving up the benefit of the special accounting rules. The special treatment ends when the benefit of special accounting rules end. Real economic losses, determined under accounting practices generally applicable to industries other than farming, then would be treated exactly as real economic losses in other industries. They would be fully deductible.

B. Present Law Is Adequate To Handle the Job[74]

Opponents of change sometimes argue that section 270 of the Internal Revenue Code (which disallows business losses when they exceed

the Senate Committee on Finance on September 22, 1969, has received testimony on farm losses.

72 *See* 1963 TAX MESSAGE 144-45; 1963 TAX MESSAGE 1546 (statement of Stephen H. Hart); TREASURY STUDIES 16, all of which assert that the abuse lies in rewarding uneconomic, *i.e.* unprofitable, farm operations by granting tax profits. *See also* 1963 TAX MESSAGE 1581 (statement of Arthur Levitt), which focuses on the sale of livestock to investors at prices greater than fair market value.

73 *See* 1963 TAX MESSAGE 1574 (statement of Jacquin D. Bierman); 1963 TAX MESSAGE 1540 (statement of Stephen H. Hart); 1963 TAX MESSAGE 1559 (statement of Floyd L. Madden); 1963 TAX MESSAGE 1569 (statement of James Trimble); TAX REFORM 1969, at 2155 (statement of Herrick K. Lidstone); TAX REFORM 1969, at 2035 (statement of Claude Maer); TAX REFORM 1969, at 2152 (statement of George D. Webster).

74 1963 TAX MESSAGE 1574 (statement of Jacquin D. Bierman); TAX REFORM 1969, at 2035 (statement of Claude Maer); TAX REFORM 1969, at 2107 (statement of R.H. Matthiessen, Jr.).

$50,000, for 5 consecutive years) along with the hobby cases are adequate to deal with the "farm loss" problem.

The second of these assertions is obviously not true. Indeed the hobby loss was specifically excepted when we started our inquiry. We are dealing with cases in which there is a desire to make a profit, and a profit may well be made. Even so, there is a tax loss that results in a negative income tax result.

As to the other assertion, section 270 is not adequate for many reasons. First, even though not included in taxable income, the deducted one-half of capital gains may be added to farm income to determine whether the loss exceeds $50,000. Perhaps of even greater significance, however, is the exclusion of certain expenses from the expense side (thereby lessening the loss), for the purpose of ascertaining whether section 270 applies but not for the purpose of the tax computation. Any expense that a taxpayer has an option either to capitalize or to expense is excluded. Therefore, the very expenses that create the tax loss[75] do not enter into the computation, which determines whether the section will be applied.

While these liberalities would prevent application of the section to most taxpayers, a final escape hatch is offered by the cash accounting method, which to some extent permits the deferral of both income and expense while also offering the opportunity to anticipate both income and expenses. The combination of these deficiencies permits all but the hopelessly incompetent or blissfully unaware to avoid the application of section 270.

C. *Outside Capital Necessary to Agriculture*[76]

Another reason strongly stressed for no change in the present tax law is the need for "outside" capital in agriculture. History is cited to support this conclusion. The argument hinges on the plea that, without the tax benefits offered farming (notably livestock), the outside capital would not be attracted and presumably something disastrous to agriculture and to the American consumer would result.[77]

---

[75] *See* Sonabend v. Commissioner, 377 F.2d 42 (1st Cir. 1967).

[76] *See* 1963 TAX MESSAGE 1587 (statement of Jay B. Dillingham); 1963 TAX MESSAGE 1566 (statement of William Greenough); 1963 TAX MESSAGE 1567 (statement of B. Earl Puckett). *See also* TAX REFORM 1969, at 2129 (statement of John Asay); TAX REFORM 1969, at 2125 (statement of George Hellyer); TAX REFORM 1969, at 2035 (statement of Claude Maer).

[77] *See* 1963 TAX MESSAGE 1588 (statement of Harold W. Humphreys), in which he claims that without the subsidy to livestock "the very necessary proteins would have been priced beyond the reach of millions of our consuming public." For an opposing view, expressed by one of the strongest advocates of the present tax subsidy, see Oppenheimer,

Because this author is not an economist, this article is certainly not a forum in which to argue the economic effect of our many tax provisions. Let me comment briefly, however, on the several facets of this argument as follows:

(1) As noted by one witness in 1963,[78] outside capital has been necessary to agriculture since as early as the Civil War. There was no income tax system then and no tax subsidy. Yet agriculture managed to attract the necessary capital.

(2) Demand for agricultural products, *i.e.*, the ability to sell, not a tax benefit, creates the need for farm capital. If that need continues and if farm prices are inadequate absent the tax subsidy, farm prices will increase to provide an adequate attraction.

(3) By eliminating the "tax farmers" who can survive with a lesser profit than one who does not have outside income, those who are largely devoted to farming may be attracted to stay rather than to be driven out.

(4) There is not likely to be any effect on prices.[79]

(5) If special incentives are needed, certainly Congress can work out a system that avoids the negative income tax and benefits all participants evenly across the board or in a more rational manner than the present scheme, which confers the greatest benefits on those having the greatest amounts of outside income.

D. The Rules Encourage Research Development[80]

Often the claim is made that development of purebred seedstock is dependent upon the present tax rules permitting deduction of those costs.

This claim seems to say that there must be a profligate waste of funds in order to secure some very remote benefits resulting from loss operations. If subsidies are needed for research, they can easily be provided without wasting funds on those merely in the business of producing meat. The question is whether we should continue to subsidize the many to benefit a few.

In addition, if these expenses are true research and development

---

The Case For the Urban Investor, 24 FARM Q. 80 (1969); 115 CONG. REC. 2033 (daily ed. Feb. 25, 1969) (reprint of speech given by Brig. Gen. H.L. Oppenheimer at the National Farm Institute, Des Moines, Iowa, Feb. 14, 1969).

78 *See* 1963 TAX MESSAGE 1566 (statement of William Greenough).

79 *See* note 77 *supra*.

80 *See* TAX REFORM 1969, at 2035 (statement of Claude Maer); TAX REFORM 1969, at 2107 (statement of R.H. Matthiessen, Jr.); TAX REFORM 1969, at 1567 (statement of B. Earl Puckett).

expenses, they may be deducted under section 177 merely by electing accrual accounting under the Metcalf Bill. A similar election will avoid the EDA.

This argument also presumes that the losses under discussion are true economic losses. That is highly doubtful. First, if the taxpayer has no other farm operation, he is not likely to be engaged in a consistently profitless research program. It undoubtedly would be structured to turn a profit some day. Under the Metcalf Bill, his losses may be carried forward to that day to offset against the gains. If he wants to use them today, he may elect accrual accounting. Under the EDA, the taxpayer's present use of the loss at ordinary income rates is recaptured at the same rate.

Finally, the claim that this is just like the research division of a corporation overlooks the fact that those divisions usually are a part of an integrated operation that produces profits. This differs from the cattle situation in which the tax losses are suffered by an operation not related to another division. In the cattle case, only the tax losses are reported. There are no ordinary income profits. This, of course, indicates that the losses are not economic losses.

E. The Present Scheme Does Not Produce a Revenue Loss[81]

The claim is often made that the negative tax effect costs the Treasury nothing. This claim must have either one of two meanings.

First, the economic activity supported by the subsidy increases the federal government's revenue because the subsidy dollars are spent with suppliers of agricultural goods who pay tax on their receipts. Under this view, most expenditure programs would have no cost to the Government. Obviously, it cannot be used as a measure of the revenue loss.

Second, the charge may be that cattle operators pay taxes. Indeed, one witness at the recent reform hearings pointed out[82] that in 1968 his clients had ordinary income of $15,000,000 and capital gains of $4,000,000. Also, his clients' inventories increased by $3,000,000.

One should not, however, conclude that these taxpayers paid any tax on their cattle operations because the witness also pointed out that

---

[81] *See* 1963 TAX MESSAGE 1581 (statement of Arthur Levitt); Oppenheimer, *supra* note 77.

[82] TAX REFORM 1969, at 2132 (supplementary statement by Brig. Gen. H.L. Oppenheimer).

they spent $20,000,000.[83] An analysis of this example, however, again illustrates the problem in the farm area. Take the witness's figures:

Net expenditures	$20,000,000
Less ordinary income	15,000,000
Difference	$ 5,000,000
Less taxable one-half of capital gains	2,000,000
Net tax loss	$ 3,000,000

The farm loss of $3,000,000 applied against other income would certainly produce some tax savings. Thus there was a cost to the Treasury.

The comparison to other businesses is interesting. First, the $3,000,000 loss would be reduced by $3,000,000, which went into the inventory or products to be sold in the future. This would reduce the loss to zero. If the $4,000,000 reported as capital gain were fully taxable, however, as it would be in most other industries, there would be *net profits* of $2,000,000. Instead, the taxpayers in the cattle operations reported a *net loss* of $3,000,000.

F. Any Change Would Force Many Farmers Onto Accrual Accounting, Which Is Just Not Possible[84]

This claim is really two contentions. Both appear equally erroneous.

First, not many farmers would be affected by the Metcalf Bill. In 1966 there were 3,000,000 families living on the farm. Less than 4 percent of those families had $15,000 of *gross income from all sources.*[85] The Treasury Staff Studies[86] estimated that 14,000 taxpayers would be affected by its proposal. The Metcalf proposal would reach a larger group because of his phaseout of any deduction at the $30,000 nonfarm adjusted gross income level. In no event, however, could it reach more than 120,000 farmers (4 percent of 3,000,000 families). Thus certainly not a large part of the farm population would be affected. The EDA recommended by the Treasury in 1969 would reach no more than 80,000 farmers.[87]

---

[83] The fair assumption is that all of this amount is deductible. The witness claimed that there was no revenue effect of the deduction because the payees would take the amounts into income.

[84] *See* TAX REFORM 1969, at 2035 (statement of Claude Maer); TAX REFORM 1969, at 2001 (statement of Jack Miller).

[85] U.S. DEP'T OF COMMERCE, CURRENT POPULATION REPORTS, CONSUMER INCOME, ser. P-60, No. 15, at 23 (Dec. 28, 1967).

[86] TREASURY STUDIES, *supra* note 18, at 158.

[87] U.S. TREASURY DEPARTMENT (unpublished tabulation of statistics of income).

The second claim that accrual accounting is just not possible also seems refutable. It is now used by some taxpayers. There are inventories that permit an approximation of the cost of raising animals. While they may have their problems, they at least may be employed and would more accurately reflect income than the present scheme, particularly if the changes discussed above were adopted.

G. *The Present Scheme Is a Deliberate Subsidy Carefully Designed by Congress*[88]

Many proclaim that the interplay of current deduction and capital gains is a well thought out subsidy. While there may be some superficial appeal to this argument, it will not withstand analysis.

The farm problem under discussion arises out of (1) deducting capital costs and (2) conferring capital gains on certain assets. As was traced in some detail above, the first aspect of this combination developed very early in the administration of the income tax law. It was also developed by an administrative agency, which had no authority to conceive and implement plans for the distribution of federal money. It does not seem likely that this portion of the present law had any deliberate conception as a subsidy.

The capital gain portion of the combination seems equally as accidental. The 1942 amendment, which first brought cattle into the capital gain arena, certainly makes no reference to the subsidy impact.

After doubt and controversy arose in the 1940's, the farm interests succeeded in getting legislation in 1951. But neither in 1950 nor 1951 was there any discussion of the subsidy effect of conferring capital gains on livestock. The plea rather seemed to rest on clearing up confusion and giving the treatment to farm assets that was accorded other businesses.

Not until 1952 was there any discussion of the tax policy effect of these provisions.[89] While the Treasury's presentation of the excess deductions account in 1963 and in 1969 focused on the two aspects at the heart of the farm loss problem, they do not put the problem in its proper posture. These aspects are (a) the use of farm losses to offset other income and (b) the production of a tax profit when there is an economic loss.

---

88 *See* 1963 TAX MESSAGE 1574 (statement of Jacquin Bierman); TAX REFORM 1969, at 2124 (statement of Jay B. Dillingham); TAX REFORM 1969, at 2107 (statement of R.H. Matthiessen, Jr.); TAX REFORM 1969, at 2120 (statement of Brig. Gen. H.L. Oppenheimer). *See also* Oppenheimer, *supra* note 77.

89 *See* Letter from Secretary Snyder, *supra* note 16.

The second aspect was universally denounced by the witnesses who appeared before the Ways and Means Committee in 1963 and in 1969. It hardly seems likely that failure to take action condones a system achieving that result. Rather, in the words of Representative Watts,[90] there was difficulty in separating the sheep from the goats.

As to the first point, the Treasury seems content to show that the losses, artificially produced, are used to offset income of another endeavor. While that statement is accurate, it does not demonstrate that in fact a profitable operation is not only paying no tax but is indeed receiving a subsidy from the Treasury in the form of reduced taxes on other income. Certainly, the latter statement of the problem is hard to defend and truly illustrates what is happening. Short of a presentation in this fashion, it is doubtful that one can say that Congress has condoned it.

In 1952 only the Senate Finance Committee considered the matter, and in 1963 only the House Ways and Means Committee considered it. The failure of these committees to act on the basis of the not well directed testimony of the Treasury should hardly be construed as congressional approval of a subsidy system, particularly when that subsidy is not available to the individual engaged only in the activity, which, if the argument were accepted, Congress intended to subsidize. In 1969, the House took action by incorporating the EDA into H.R. 13270. While, as later discussed, the provision adopted would likely be largely ineffective, it does manifest a notion that this subsidy has difficulties, which require pruning, if not elimination.

IX. Conclusion

Our existing farm tax laws permit taxpayers having income from other sources to invest in farm assets to a large extent at the expense of the public fisc. While it has been argued to be a deliberate subsidy to farmers, this seems doubtful on the record. It also seems implausible that Congress intended a subsidy that has little or no value to one having only the kind of income that it intended to benefit. The argument would mean that one hand giveth while the other taketh, by inducing unfair competition from the "tax farmer" who because he has sources of other income can subsist on little or no economic profit. Thus, even if Congress did intend the present scheme as a subsidy, it should be recast in a more rational form.

---

[90] 1963 Tax Message 1558.

This subsidy is a negative income tax because the tax savings resulting from the premature deduction of capital costs against ordinary income is greater than the capital gain tax incurred on the sale of the property. There are now pending several proposals that measurably improve the tax law. None of them attacks the problem directly. Rather, they attempt to preserve some part or all of the tax benefits for selected taxpayers. As a consequence, they are complex. Since the complexity arises from an effort to maintain simplicity for the vast majority of farm taxpayers, the burden of complexity will fall only on those who want to retain whatever benefits remain after enactment of the remedial legislation.

Of the proposals pending, the Metcalf Bill offers the best designed solution. It is directed to the current offsetting of artificial farm tax losses against nonfarm income. It does not concede the propriety of this offset and consequently need not seek to impose a penalty at some later date, when the capital nature of the earlier losses is finally revealed. It is well designed to limit its application to artificial losses. It does not present the estate planning possibilities of some of the other solutions, and it does seek to exempt many farmers.

Since the Metcalf Bill appears to offer a better solution, it is lamentable that the Treasury's 1969 proposals did not endorse it, as did the previous Administration. Rather, the Treasury opted to present a solution which *may* accomplish many of the objectives. But by rejecting the Metcalf Bill proposal and advancing its own, the Treasury will find that effort, which could have been expended on passage of a solution, will be directed to demonstrating the superiority of its solution. This may prove a difficult, if not impossible task, that will undoubtedly annoy many of the proponents of the Metcalf Bill. Therefore, the fight may degenerate to one between those who want some action rather than between that group and those who have prospered from and are interested in maintaining the *status quo*. One doubts that the principles, which led to rejecting the Metcalf Bill, could be worth the loss in solidarity. Indeed, the principles, which militated so strongly against the Metcalf Bill, are not clear.

Be that as it may, the House Committee on Ways and Means at one time tentatively adopted the EDA substantially as recommended by the Treasury.[91] While it might have achieved some needed reform, it undoubtedly would have presented the opportunity for the artful tax lawyer to plan around the EDA. But the Bill reported out by this Committee and passed by the House appears to be about as an ineffec-

[91] *See* PRESS RELEASE BY CHAIRMAN MILLS, *supra* note 52.

tive version of the Treasury's suggestions as could be envisioned. As passed by the House, taxpayers having nonfarm adjusted gross income of less than $50,000 would not be required to keep an EDA. Furthermore, farm losses would be entered into the account only to the extent that they exceeded $25,000.

In 1964 there were about 18,000 tax returns showing nonfarm adjusted gross income in excess of $50,000. About 3,000 of these taxpayers turned a farm profit with the balance reporting losses. Thus only about 15,000 farm returns showing farm losses meet the outside income test. Yet in the same year, there were about 1,109,000 farm returns (out of 3,000,000) showing a farm loss. As a consequence, the Bill would affect less than 0.5 percent of all farm returns and less than 1.5 percent of farm returns showing a tax loss.[92] This relatively insignificant impact will be even further reduced by the exception of any loss, or part thereof, that does not exceed $25,000. The fairest guess seems to be that the proposal might have some impact on as many as 4,000 or 5,000 tax returns.[93] The revenue estimate for the long run is $20 million.[94] This compares with a revenue estimate of $50 million for the Treasury's recommended EDA[95] and $205 million if the Metcalf Bill were enacted.[96] The Treasury's proposal might have reached as many as 75,000 returns in any year,[97] while the Metcalf Bill would have reached around 14,000 taxpayers,[98] about the number of returns which meet the nonfarm adjusted gross income test under the Bill, but with an impact over ten times as great when revenue estimates are considered. These comparisons strongly suggest that H.R. 13270 would reach only the visible portion of the iceberg.[99]

---

92 *See* TAX REFORM 1969, at 5428, 5430 (Office of Secretary of the Treasury, Office of Tax Analysis, General Explanation of Farm Proposals, Tables 1 and 3).

93 U.S. TREASURY DEPARTMENT (unpublished tabulation of statistics on income).

94 H.R. REP. No. 91-413 (Part I), 91st Cong., 1st Sess. 16 (1969).

95 TAX REFORM 1969, at 5058.

96 115 CONG. REC. 9898 (daily ed. Aug. 13, 1969) (remarks of statistics of Senator Metcalf).

97 U.S. TREASURY DEPARTMENT (unpublished tabulation of statistics of income).

98 TREASURY STUDIES 158. The proposal put forth by the Treasury Department in this document should reach about the same number of taxpayers as the Metcalf Bill. The estimate is 14,000 returns.

99 The Treasury Department has estimated that the special accounting rules cost about $800 million annually. *Hearings on the 1969 Economic Report of the President Before the Joint Economic Comm.*, 91st Cong., 1st Sess. 36 (1969) (supplementary statement of Joseph W. Barr). If the revenue raised under these alternatives then is an index of effectiveness, the House Bill would be 2.5% effective; the Treasury's EDA would be 6.25% effective; and the Metcalf Bill would be just over 25% effective.

Several averages may be derived from 1964 figures published as Table 3 to the General Explanation of the Treasury's Farm Proposal. TAX REFORM 1969, at 5430. The raw data presented there are:

(a) All tax returns showing more than $50,000 nonfarm adjusted gross income with a farm loss numbered 14,325 with aggregate farm losses of $369,605,000, an average of $25,800. If we assume a 50% marginal tax bracket, the average farm loss has an average value of

The amount of revenue raised and the number of taxpayers affected are not, of course, the important criteria by which to measure a provision dealing with the farm loss problem. The question is whether the proposal will significantly reduce the federal subsidy going to taxpayers having both (a) certain kinds of farm investments and (b) substantial nonfarm income while providing relatively insignificant benefits to those who do not have the nonfarm income. The overall purpose thus is to discourage some investments in farm assets by improving the equity of the tax structure. On this ground, the Bill passed by the House seems destined to fail. It will permit all comers to incur tax losses up to $25,000 each year. An investment of this size may have substantial capital gain possibility.

Finally, the purpose of restricting the operation of the Bill to those taxpayers having a coincidence of $50,000 in nonfarm adjusted gross income and a farm loss in excess of $25,000 is not clear. It seems unlikely that a "legitimate farmer" cannot be more precisely defined. Thus the high dollar limits seem not to have a definitional purpose. Nor is the abuse limited to taxpayers having this happy combination of circumstances. But even if it were, under the Bill, they are permitted to exclude from the EDA the first $25,000 of farm loss each year. Since the justification for these limits is not immediately apparent and since the Bill does not appear altogether effective, it seems likely that Senator Metcalf will continue to press his solution, and the issue will be joined in the Senate.[100]

$12,900. If ultimately there are capital gain sales equal to the average farm loss, the taxes paid would be $6,650 under the Bill while under present law the taxes would be $6,450. Thus the Bill on the average would remove but $200 of the tax subsidy. This amount of reduction would hardly discourage anyone because the tax subsidy is over thirty times the recaptured tax.

(b) The above figures could be broken down into nonfarm adjusted gross income categories as follows:

$50,000 to $100,000 nonfarm adjusted gross income:

10,036 returns showing an average loss of $16,487. On the *average* the Bill would have no effect.

$100,000 to $1,000,000 nonfarm adjusted gross income:

4,204 returns showing an average loss of $46,908. If we assume a 65% tax rate (maximum under the Bill), the loss would have a current value of $30,490 on the average. If there were ultimately capital gains equal to the loss, the taxes incurred giving effect to EDA would be $22,365 leaving a negative tax benefit of $8,125. Again this is hardly sufficient deterrent to be effective.

Over $1,000,000 nonfarm adjusted gross income:

85 returns showing an average loss of $81,576. Again assuming a maximum rate of 65%, the loss would have a current value of about $53,000. Ultimately taxes of nearly $45,000 would be paid if EDA were fully effective. Again there is something less than full recovery of the tax subsidy, and the deferral benefit remains.

100 115 CONG. REC. 4354 (daily ed. May, 1969) (remarks of Senator Metcalf). In a press release, dated October 17, 1969, the Senate Finance Committee announced that it

Regardless of the outcome, there would appear to be some learning here that may be applicable beyond the farm field. We noted at the beginning that other industries such as oil and gas, real estate, and timber may offer much the same opportunity for tax avoidance as does investment in some farm assets. The benefits in these areas are also predicated upon premature and excessive deductions, and repair of the tax law in these areas is badly needed.

The foregoing analysis is helpful in suggesting guidelines and means of testing those solutions that may be put forward for these other areas. The problem must be precisely identified to expose the source of the difficulty. At that juncture, two paths will be offered. The problem may be attacked frontally as, for example, proper cost capitalization attacks the farm loss problem. If that route is not chosen and if excessive deductions are the problem, there are two means of dealing with them. First, the deductions may be blessed when claimed with a recapture of them at a later time. The other is to operate directly on the deduction by limiting its benefit either to a specified group or in a specified amount. Either means is complex, but there would seem to be no question but that the former, a recapture of prior excessive deductions, is a most inappropriate way of dealing with excessive deductions. Thus, unless all other techniques are exhausted and rejected on some more fundamental ground, the concept of recapture should not be raised as a solution.

---

had decided to disallow one-half of the farm loss in excess of $25,000 in those cases in which the nonfarm adjusted gross income exceeded $50,000, and the farm loss exceeded $25,000. This approach is at best a very poor substitute for Senator Metcalf's Bill. While the press release is not entirely clear, apparently there is no effort to confine the disallowance to losses created by the special accounting rules. The income and loss limits are still excessive. It does, however, take a step in the right direction by disallowing losses. At this writing, estimates of revenue and the number of taxpayers affected are not available.

Farm Losses Under the Tax Reform Act of 1969: Keepin' 'em Happy Down on the Farm

By
CHARLES DAVENPORT

Reprinted from
BOSTON COLLEGE INDUSTRIAL AND COMMERCIAL LAW REVIEW
Vol. XII, No. 3, February, 1971

© Copyright 1971 Boston College Law School

FARM LOSSES UNDER THE TAX REFORM ACT OF 1969: KEEPIN' 'EM HAPPY DOWN ON THE FARM

CHARLES DAVENPORT*

When neither the Treasury Department nor the American farming industry was highly sophisticated, the Treasury Department made a number of decisions which continue to plague us today, and which have led to certain well-publicized abuses in the farm tax area. During the last session of Congress, there appeared, for the first time, some hope that Congress would take positive action to correct these abuses. In view of the 1969 legislation, however, one has the feeling that the farm tax loss problem is somewhat like the problem of the poor: it may be with us always. The purpose of this article is to analyze the Tax Reform Act of 1969[1] as it affects farm losses, and to demonstrate that it provides little overall reform in the farm tax loss area.

I. THE PROBLEM

The tax problem in the farm industry is the result of early administrative decisions which prescribed different accounting principles for farming and nonfarming operations. Farmers are permitted to expense items which are capital items under commercial accounting principles, most notably, items such as the cost of raising livestock[2] and costs involved in the pre-operation stage of orchards and ranches.[3] In addition, farmers may use the cash method of accounting and ignore year-end inventories as well as payables and receivables,[4] although one could hardly convince an accountant that these techniques lead to a clear reflection of income. In either case there is a deduction of costs before the income produced by them is realized. If there is other income to absorb these premature deductions, the resulting tax savings return a large part of the taxpayer's cost to him before he makes a sale of the goods produced. He is thus treated more favorably than other taxpayers who must await a disposition of property before deducting costs. This favorable treatment is aggravated by

* A.B., Chico State College, 1954; J.D., Harvard University, 1957; Acting Professor of Law, University of California at Davis.

[1] P.L. 91-172, 91st Cong., 1st Sess. (1969) [hereinafter cited as the Act or, the 1969 Act].

[2] T.D. 2153, 17 Treas. Dec. Int. Rev. 101 (1915), as amended by T.D. 2665, 20 Treas. Dec. Int. Rev. 45 (1918).

[3] Treas. Regs. 45, art. 110 (1917). Treas. Regs. 33, art. 4 (1917), required these costs to be capitalized.

[4] Treas. Reg. § 1.61-4 (1957); § 1.471-6 (1958).

permitting the proceeds from the sale of many farm assets to be reported as capital gain, most notably proceeds from sales of livestock culled from breeding herds, and orchards.[5] These problems have been extensively discussed elsewhere,[6] and it seems unnecessary at this juncture to do more than note their operations under pre-1969 rules. The effect of the 1969 Act is considered later.

The pre-1969 rules conferred substantial tax benefits upon certain farm investments. In some cases, the tax benefits exceeded economic losses and, thus, made profitable those operations which, absent the tax savings, were economically unsound.[7] In other cases, depending in large measure upon the amount of income earned in other endeavors, the rules conferred a substantial subsidy upon economically profitable operations. For example, a taxpayer using the cash method of accounting might have incurred expenses of $200,000 in raising a breeding herd. If he were in the 70 percent tax bracket, the current deduction of these expenses would have produced a tax savings of $140,000. The herd, of course, would have a zero basis because the cost of raising had been entirely deducted, and upon its sale, the entire sale price, including the recovery of the expenses of raising the herd, would be taxed only at capital gains rates. If the taxpayer had sufficient income to qualify for the alternative tax under Section 1201 of the Code, prior to amendment by the 1969 Act, the resulting tax rate would have been 25 percent, giving a tax of $55,000, or less than one-half of the $140,000 tax savings realized from the deduction of the raising costs. Thus, the taxpayer who realized an economic profit of $20,000 would also have a net benefit from the government in the form of a reduction on taxes on other income in the net amount of $85,000. Obviously, a taxpayer who enjoyed this kind of largess would be likely to begin the cycle anew by starting a new breeding herd which would later be sold at capital gains rates.

Similar advantages were available to developers of citrus groves, and are still available to those who develop fruit orchards and vine-

---

[5] Int. Rev. Code of 1954, § 1231, and Albright v. United States, 173 F.2d 339 (8th Cir. 1949). References to section numbers are to the Internal Revenue Code of 1954 unless otherwise noted.

[6] Hawkinson, Farm Expenses and General Accounting Principles, 22 Tax L. Rev. 237 (1967); Hjorth, Cattle, Congress, and the Code: The Dangers of Tax Incentives, 1968 Wis. L. Rev. 641 (1968); Allington, Farming as a Tax Shelter, 14 So. D. L. Rev. 181 (1969); Davenport, A Bountiful Tax Harvest, 48 Texas L. Rev. 1 (1969); House Comm. on Ways and Means and Senate Comm. on Finance, Tax Reform Studies and Proposals of the U.S. Treasury Dep't, 91st Cong., 1st Sess. 151 (1969) [hereinafter cited as Treasury Studies]; Hearings on Tax Reform Before the House Comm. on Ways and Means, 91st Cong., 1st Sess. 5047 (1969) [hereinafter cited as Tax Reform 1969]; and Pitcarin and Chandler, Tax Advantages of Cattle Operations, 1 P.H. Tax Ideas ¶ 17,013 (1968).

[7] See Treasury Studies, supra note 6, at 154.

yards.[8] The assets involved require several years to mature and, during the pre-operation period, the development costs such as water, fertilizer, cultivation, pruning and spraying may be deducted as ordinary expenses of the business.[9] When the operation reaches the stage where it is ready to begin producing a profitable crop, the asset may be sold in a transaction which qualifies for the lower capital gains tax rates.

In recent years, these attractive tax features have been literally packaged and sold.[10] Whatever may have been the purpose of these rules in the beginning, it would seem obvious that they were not intended to permit the widespread sale and syndication of tax benefits arising from farm tax accounting rules. This belief apparently was shared by both the House Ways and Means Committee and the Senate Committee on Finance when the 1969 Tax Reform Act was under consideration. Yet, it is doubtful that the provisions of the Act which deal with the farm loss problem will constitute more than a half-step in the direction of correcting abuses in some few instances.

II. Possible Solutions[11]

A. *A Change in Accounting Rules*

The solution which would have been most effective but which had no active sponsor, other than in academic circles,[12] was the revocation

---

[8] The Act added § 278 to the Code providing that certain development costs with relation to citrus groves must be capitalized. The section does not extend to non-citrus orchards or vineyards.

[9] In An Analysis of Orchard Development Costs, (University of California Agricultural Extension Mimeo, 1968), Mr. A. Doyle Reed estimates the development cost (exclusive of land, tree, and planting costs) at $1,255 per acre for almonds; $1,745 for apples; $1,233 for apricots; $2,401 for pears; $4,395 for avocados; and various other prices for other plants. These amounts apparently would have been deductible before the Tax Reform Act of 1969.

[10] See, e.g., an advertisement by Citrus Investments, Inc. in the February, 1968 issue of Air Line Pilot reprinted at 114 Cong. Rec. 29594 (1968) at the request of Senator Metcalf. See also the offering brochures of Ceres Land Co., Black Watch Farms, Inc., Eight Bells Angus, Inc., Chateaubriand, Inc., Oppenheimer Indus., Inc., and others.

[11] From time to time a number of solutions to the farm loss problem have been suggested, but at this point only three of them merit discussion. Without attempting to be exhaustive, some of the other proposals might be noted. There was a bill introduced by Senator Miller of Iowa, S. 1560, 91st Cong., 1st Sess. (1969), reprinted at 115 Cong. Rec. 6395 (1969). This bill would have limited the farm deductions of nonfarmers to farm income except in the case of an individual whose principal residence is on a farm. In such case, the limit on farm deductions would have been the total of (a) farm income, (b) wages and salaries, (c) timber income, and (d) royalties derived from farm property. A farmer would have been entitled to claim all of his farm deductions. A farmer was defined as a taxpayer whose net income from farming for the three preceding years equalled two-thirds of his total net income for such years. For this purpose, net farm income included the full amount of gain on the sale or exchange of assets. Total income, however, excluded all such gains except those incurred on farm assets. Certain deductions were not disallowed even though attributable to the farm. These included deductions

of the right of farmers to use the cash accounting method and to deduct capital expenditures. This course might also have included the denial of capital gain on the sale of certain farm assets. This solution was never proposed as a bill. With the exception of the capital gain

---

arising from (a) casualty and weather conditions, (b) experimental farming, and (c) egg or broiler operation. Also, farms acquired from decedents, or by foreclosure, or operated by an estate would have been excepted for limited periods. Provisions were made to consolidate sole proprietorships with partnerships and subchapter S farm income and losses.

The bill had many weaknesses. First, it raised difficult definitional problems. What is a principal residence? What is a farm on which the principal residence must be located? This differs radically from the problem of defining farm income and expense—a feature common to many proposals. Second, a farmer could continue to offset nonfarm income, e.g., wages, by farm losses. A nonfarmer could also do so if he lived on a farm. There would appear to be no policy supporting this exception. Third, the sponsor conceded that the definition of "net farm income" and "total income" are designed to prevent, at least to some extent, application of the bill to livestock—probably the worst abuse. See Tax Reform 1969 at 2003-004, (remarks of Senator Miller). Fourth, the definition of a farmer depended on a new concept of farm income which is not the same as that set out for the filing of a declaration of estimated tax. Thus, a new category of farmers would have been created. Fifth, this approach was not directed toward either one of the causes of the farm loss problem, i.e., capital gain and simplified accounting rules. Its effect thus would be difficult to predict.

For another approach to the problem, see Sweeney, The Farm Loss Deduction, 53 A.B.A.J. 447 (1967). Sweeney advocated amending § 165 to disallow farm losses unless there was a reasonable expectation of profit. Five consecutive loss years would be considered proof that the expectation was not reasonable, in absence of clear and convincing evidence to the contrary.

This solution is technically deficient since there is no statutory definition of a farm "loss," and the "loss" arises usually because § 162 deductions (not § 165) exceed ordinary income. It is also premised on the belief that the farm loss problem may be one of "hobby losses." The suggestion is rejected in a reply article: Dickinson, The Farm Loss Deduction: A Reply, 53 A.B.A.J. 1111 (1967). See also Hjorth, supra note 6, at 644, 670, where the author proposed a § 1245 recapture and denial of § 1231 treatment in the absence of a failure to capitalize growing costs. This proposal does not reach citrus groves, although it could be so broadened. It also raises accounting problems and presents problems similar to those which are presented by the excess deduction account, the approach taken in the 1969 Act.

See also the letter from the National Livestock Committee, Tax Reform 1969, Hearings Before the House Comm. on Ways and Means, 91st Cong., 1st Sess. at 2056, 2059-060 which suggests a § 1245 recapture and lengthening of lives for an asset to qualify under § 1231. As is demonstrated in attachments to the letter suggesting this approach, considerable tax subsidy remains. This proposal must, therefore, be adjudged largely ineffective.

It has been suggested that all livestock sales be reported as ordinary income. While that approach would be helpful, it would not handle the overall farm loss problem. First, such treatment would not reach citrus groves, the do-it-yourself averager, the special deductions under §§ 175, 180, and 182, nor the "hobby" farmer in many cases. Second, from a conceptual viewpoint, without considering the deferral benefit, EDA is the equivalent of a forced capitalization of costs which permits only the actual economic profits to be reported as capital gain. Thus, treating all livestock sales proceeds as ordinary income would be going just one step further and requiring the economic profit to be taxed as ordinary income. This approach might be a step in the right direction, but it does nothing to reduce the benefit of the deferral although it would obviously reduce the net difference between the benefit of deferral and the detriment of the tax.

[12] See Hawkinson, Hjorth, Allington, and Davenport, supra note 6.

aspect, it apparently could have been promulgated by the Treasury Department in response to a suggestion by the Supreme Court.[13] The Treasury Department, however, had apparently rejected this answer in 1969, and had begun a search for other solutions.

Failure to take this step appears to be based upon both political reasons and alleged practical problems.[14] Since the practical problems are not insuperable,[15] the justifications offered for not proposing revised accounting rules appear to be mere rationalizations rather than valid reasons supporting inaction. Although this solution to the farm loss problem was not chosen, it remains available as the preferable alternative to other possible methods, including, in particular, the method actually chosen in the 1969 Act.

B. *The Denial of the Right to Deduct Farm Losses*

The first indication that the Treasury Department had seriously considered legislative solutions to the farm tax loss problem appeared in a letter to the Chairman of the Senate Finance Committee on July 11, 1968.[16] Senator Metcalf of Montana had introduced a bill in the 90th Congress which would have denied some taxpayers the right to deduct farm losses.[17] In commenting upon the bill, the Treasury Department suggested that it be modified so as to place a limitation upon the amount of farm loss that any nonfarmer could claim, so long as he did not affirmatively elect specified accounting procedures which would have eliminated most farm loss problems. This suggestion was reflected in another bill[18] introduced by the Senator in late 1968 which was carried over to the 91st Congress as S. 500.[19] Essentially, the bill provided that a taxpayer having more than $15,000 of nonfarm income would be denied the benefit of deducting his farm loss from other income unless he chose to compute the farm loss under accounting methods which require capitalization of costs.

The theory of the Senator's bill seems to have been that the simplified accounting rules should be preserved for the "real" farmers, and that such a farmer could be defined by his lack of income from nonfarm sources. If nonfarm income was above a substantial level,[20] there was reason to believe that the particular farming operation was engaged in for the purpose of offsetting nonfarm income with the farm

---

[13] United States v. Catto, 384 U.S. 102 (1966).

[14] Id. at 110-11 and n.15; see also Allington, supra note 6, at 203-04.

[15] See Davenport, supra note 6, at 14-19.

[16] Reprinted at 114 Cong. Rec. 21705 (1968).

[17] S. 2613, 90th Cong., 1st Sess. (1967).

[18] S. 4059, 90th Cong., 2nd Sess. (1968), reprinted at 114 Cong. Rec. 27562 (1968).

[19] S. 500, 91st Cong., 1st Sess. (1969).

[20] The bill chose $15,000 as the level at which to commence the disallowance of farm losses. 114 Cong. Rec. 27562 (1968).

loss. Or. even if the farm operation were not engaged in merely for balancing purposes, the tax benefits of farm losses created by the farm tax accounting rules were so great at high income levels that these benefits should be denied. The first conclusion was amply supported by data which demonstrated that as income from nonfarm sources grew, taxpayers had a remarkable propensity to run farm operations at a loss despite the fact that they ran their other businesses at a profit. It seemed unlikely that such individuals engaged in farming and actually lost money through mismanagement or bad investment decisions. Rather, in view of the extensive literature explaining the tax benefits to be reaped from the farm accounting rules, it seemed more likely that wealthy taxpayers were investing in farm assets because of the tax savings available. It thus seemed correct to limit the loss such taxpayers could claim.[21]

A similar approach was suggested by the Treasury Department itself in *Treasury Studies*, published shortly after the Johnson Administration departed Washington.[22] By that time, Senator Metcalf had obtained the support of numerous Senators and Congressmen,[23] in addition to that of the National Farmers Union, the National Grange, and the American Farm Bureau Federation.[24] The opponents of Senator Metcalf appeared mainly to be those having a vested interest in the payment and receipt of the federal subsidy provided by the farm tax accounting rules.

C. *The Excess Deductions Account*

For reasons which have never been completely articulated, the newly-arrived Nixon Administration endorsed neither the approach of the *Treasury Studies* nor that put forth by Senator Metcalf. Instead, it offered the excess deductions account (EDA), a new version of the 1963 proposal of the Kennedy Administration.[25] In general, the proposal might be called a recapture proposal. Recapture proposals do not disallow deductions; rather excessive deductions are allowed, and sales proceeds are then treated as ordinary income to the extent of the "recapture." The Administration proposal thus made no suggestion that deductions be curbed. Instead, it would have required some proceeds realized on the sale of some farm assets to be returned as ordinary income, even though the gain otherwise qualified for capital gains

---

21 See data presented in Treasury Studies, supra note 6, at 154.

22 Treasury Studies, supra note 6.

23 See 114 Cong. Rec. 28790 (1968).

24 See their statements before the House Comm. on Ways and Means, Tax Reform 1969, at 2007, 2016, and 2168, respectively. Many other farm organizations also supported Senator Metcalf's Bill.

25 The President's 1963 Tax Message, 88th Cong., 1st Sess. 144-45 (1963) [hereinafter cited as the President's 1963 Tax Message].

treatment under section 1231.[26] This proposal seems to have been founded on the philosophy behind sections 1245 and 1250[27] that since a deduction has been taken against ordinary income, gain thereafter realized is more than likely produced by that deduction, and simple equity requires that it be reported as ordinary income rather than capital gain.[28]

While recapture thus has a simplistic appeal to the emotions, it overlooks the value of being able to defer the payment of taxes through improper current deductions.[29] Furthermore, the appeal of recapture also lays bare its major weakness: it is accepted as being fair because a mistake has been made. The taxpayer has taken a deduction to which, in all fairness, he is not entitled. If the mistake is one of accident, recapture perhaps can be justified as a proper remedy. However, if the deduction is one which is clearly improper when taken, as is often the case in the farm area, the cure is not to recapture the prior deduction, but rather, to eliminate those provisions which allow the deduction.

Despite this logic, and in face of the substantial support that Senator Metcalf's bill received, the new Administration opted to propose EDA. Although this decision probably was based, at least in part, upon political considerations,[30] from time to time other explanations of the scuttling of the Metcalf Bill have been offered. The bill was labeled discriminatory because it allowed a taxpayer having more than one farm operation to offset profits from one against losses from the other It was thus said to prefer farm income over nonfarm income. EDA, however, offers no improvement in this regard, because the same offsetting of gains from one farm operation against losses from another

---

[26] Under § 1231, gains from property used in the trade or business, as defined in § 1231(b), which is held more than six months may be reported as capital gain if there is a net gain on all transactions as a whole described in that section. If there is a net loss, the losses are treated as ordinary losses.

[27] Sections 1245 and 1250 apply to some dispositions of depreciable property and contain formulae under which gain, which absent these sections would fall under § 1231 and be reported as capital gain, must be reported as ordinary income.

[28] See S. Rep. No. 1881, 87th Cong., 2nd Sess., reprinted in Internal Revenue Acts Amendatory of the 1954 Internal Revenue Code Beginning 1961 at 812.

[29] The value of mere deferral of taxes is indicated by transactions such as large prepayments of interest. Seemingly, the most abusive features of this practice were curbed by Rev. Rul. 68-643, 1968-2 Cum. Bull. 76 (1968).

[30] Even though his support was bipartisan, Senator Metcalf's approach had become somewhat "Democratic" when the Johnson Administration's Treasury Studies had suggested a very similar technique. Furthermore, the vast bulk of President Nixon's tax program was merely a re-write, sometimes with a new wrinkle or two, of parts of the Treasury Studies, and undoubtedly there was some desire to differentiate at least part of the President's proposals from those appearing in Treasury Studies. Here was a highly visible area where a change could be made. Also, the Metcalf plan had aroused considerable opposition, and by not supporting it, the Treasury could appear somewhat responsive to the concerns of those opposed to Senator Metcalf's Bill.

farm operation occurs under it.[31] A further argument was made that the Metcalf approach might arbitrarily deny deduction of economic losses. EDA was regarded as being better because it waited until there was gain to have any effect at all. This claim is somewhat misleading because an economic loss was deductible under the Metcalf Bill if the farmer used the accounting method prescribed in the bill, that is, that applicable under accepted accounting principles.[32] Thus, an economic loss would have been denied deduction only if the taxpayer ascertained that retention of the cash basis method of accounting was worth more than the deduction. Certainly a taxpayer who foregoes his loss to retain the benefit of cash accounting merely supplies the linchpin for the assertion that cash accounting is much too generous. At the very least, one cannot waste many tears on his plight.

The excess deductions account thus became the major plank in the farm aspects of the tax program. As originally proposed, it would have required all farm losses to be entered into the EDA account to the extent they exceeded $5,000 in any one year. It emerged from the House Committee on Ways and Means, however, in quite different form.[33] There was to be no addition to the EDA account except to the extent that the farm loss exceeded $25,000, and this addition was made only if the taxpayer had nonfarm adjusted gross income in excess of $50,000. Thus, by the time the proposal was in bill form it had been so seriously weakened as to be rendered wholly ineffective. It was enacted by the House in this form.[34]

---

[31] See Davenport, supra note 6, at 29.

[32] S. 500, 91st Cong., 1st Sess. (1969).

[33] H.R. Rep. No. 91-413, 91st Cong., 1st Sess., pt. 1, at 66-68 (1969).

[34] See 115 Cong. Rec. H7151 (daily ed. Aug. 7, 1969). Responsibility for the emasculation of EDA is difficult to assign. First, however, we should note that in its original form, it had only one proponent, the Treasury Department. Those who desired some change had generally endorsed Senator Metcalf's proposal. Thus, EDA had few defenders, and quite clearly there was considerable opposition to any change in the tax law. The injection of EDA made it much more difficult, probably fatally difficult, for those desiring effective action to close ranks and concentrate on the opposition to reform. EDA made it a three-way contest, and thereby handed the advantage over to the opponents of any reform. This opposition did not immediately show itself. At the time of the hearings before the Ways and Means Committee on March 10, 1969, the opposition appeared to be much the same as that which had blocked any action in 1963, i.e., representatives of cattle raisers, includings some who syndicated breeding herds. On April 22, 1969, the President's proposals, including EDA, were made public. In August, the House passed H.R. 13270 containing the EDA proposal, and at the time of the hearings before the Senate Finance Committee on September 22 and 29, 1969, these opposition forces had been considerably augmented by representatives of horse breeders—including one governor, two former senators, one former governor, a college president, one commonwealth, and others.

Although representatives of the horse industry had not appeared at the hearing before the Ways and Means Committee in March, its representatives apparently had made their case effectively because the provision which requires horse racing to be treated as a part of horse raising if the taxpayer engaged in both was contained in the bill as

In the Senate, the horse raisers joined forces with the cattle industry to forecast financial chaos if the farm tax laws were changed. After hearings, however, the Finance Committee rejected EDA and inserted a provision which would have limited the deductibility of farm losses.[35] While this was also overly liberal, it at least was a step in the right direction. In conference, however, the House Conferees prevailed, and EDA became part of the 1969 Tax Reform Act.

III. The Provisions of the Act

Subtitle B of Title II of the Tax Reform Act of 1969 is devoted to farm losses, etc. The *et cetera* is far broader than one would expect, and there are six provisions which deal with varying aspects of the farm loss and other problems. This welter of legislation might lead one to conclude that the problem to be handled was complex. But, as outlined above, the problem is simple: *the tax law permits premature deduction of capital costs and confers capital gain on some of the income so produced.* This simplicity somehow gets lost in the maze of provisions which Congress enacted. Indeed, the major difficulty in discussing "farm tax reform" enacted by Congress is that one must not permit the complexity and diversity to obscure the central thrust of the reform. With this goal in mind, the discussion below is separated into two parts, one discussing all of the provisions except the excess deductions account, and one devoted solely to the excess deductions account.

A. *Thrashing About the Problem: Miscellaneous Provisions*

1. *The Depreciation Recapture Provision*

When Section 1245 was added to the Internal Revenue Code in 1962, livestock was specifically excluded from the definition of Section

---

it came from Ways and Means. This is a favorable provision because many large racing stables have racing winnings, but at the same time, due to the farm accounting rules, show tax losses, but not true economic losses, from the breeding operation. Thus, the breeding loss will be diminished by the racing winnings, and only the balance will be available to enter into EDA. Although many racing stables appear to operate at a true loss, the pattern described above is applicable to most large racing stables that are also engaged in breeding. See note 66 infra. Since the horse breeders were able to gain this concession, it seems likely they also had some influence in shaping EDA within the committee. It also seems likely that Congressman John Watts of Kentucky, the third ranking Democrat on the Committee, was in a position to be a strong advocate of their position. In any event when EDA as proposed by the President was considered by Ways and Means, it was first amended to be applicable only to so much of the farm loss as exceeded $25,000 and then only if the nonfarm income was in excess of $50,000. One can only surmise that an amendment of this nature was strongly supported by both the horse raising and the cattle raising industries. Following this amendment, on a motion made by Representative Watts, even this weakened version of EDA was rejected by Ways and Means. Subsequently, with the switch of a single vote, EDA was reconsidered and made a part of the bill.

[35] S. Rep. No. 552, 91st Cong., 1st Sess. 97 (1969).

69-133 O - 73 - pt. 5B - 8

1245 property.[36] At the same time, the investment credit was denied for the purchase price of livestock.[37] Section 212 of the Act corrects this omission by including livestock under Section 1245 of the Code.[38]

Since most livestock is not depreciated,[39] this amendment will not have widespread application. Despite the narrowness of impact, it seems generally correct to bring livestock to a parity with other personal property. Furthermore, despite the doubtful legality of the practice,[40] there were some syndications of breeding herds which relied in large part on unrealistic depreciation deductions followed by a realization of capital gains.[41]

2. *Holding Period*

Section 212(b)(1) of the Act amends Section 1231(b)(3) of the Code. Under prior law, draft, breeding, and dairy livestock could qualify as property used in the trade or business only if held by the taxpayer for 12 months or more. As amended, cattle and horses will qualify only if held 24 months or more from date of acquisition. All other livestock would continue to qualify as property used in the trade or business if held for draft, breeding, dairy or sporting purposes for more than 12 months from the date of acquisition. As with the present law, livestock does not include poultry.

The purpose of this provision is to deny capital gains treatment to a substantial amount of the sales proceeds of cattle and race horses which formerly received capital gains treatment. The return of these proceeds as capital gain is part of, but not the major aspect of, the farm loss problem. Furthermore, it is not clear that this provision will prove effective.[42] Thus, while this amendment is a definite improve-

---

[36] Int. Rev. Code of 1954, § 1245(a)(3).

[37] Int. Rev. Code of 1954, § 48 (a)(5).

[38] The exact trade-off in the 1962 legislation is not clear. However, most livestock is raised, not purchased. Thus, the investment credit would have meant little to the industry. Similarly, § 1245 recapture, apparently affecting the same taxpayers and animals as would the credit, would have had little effect on the industry. If the industry forewent the credit to avoid recapture, elimination of the credit removed the consideration for its side of the bargain and argued strongly for the application of recapture. On the other hand, if the industry was denied the credit and then exacted lack of recapture as a recompense, simple equity would require the inclusion of livestock under § 1245 once the credit was eliminated. But does not this type of consideration suggest that § 167(f) should also apply to livestock?

[39] Most livestock has no basis because it has been raised by the taxpayer and the costs of raising were deducted. In cases where livestock has been purchased or the raising costs have been capitalized, there is a basis which may be depreciated.

[40] See Davenport, supra note 6, at 10 n. 27(d).

[41] See, e.g., the offering brochures of Black Watch Farms, Inc., Wappinger Falls, New York, discussed in the Wall Street Journal, March 21, 1969, at 2.

[42] For example, it seems likely that a good part of the sales of raised horses under two years of age is now reported as ordinary income. Note also that Treas. Reg. § 1.1012-1(c)(1) (1969) requires that shares of stock not otherwise identifiable be costed out on

ment, it does not in any way handle the farm loss problem. The truth of this assertion is explored later.

3. *Like-Kind Exchanges*

Section 1031 was amended to provide that livestock of different sexes is not property of a like kind.[43] Although such a provision was not in the House bill, the problem presented was discussed at length in the House Report.[44] The committee said:

> The importance of [the exchange] arises from the fact that ordinarily the ratio of males to females in a calf crop is approximately 50-50. Since few males are normally retained in a typical cattle operation, the remaining male calves are castrated and sold as steers at ordinary income rates. If a tax-free trade of male calves for female calves were allowed, a breeding herd of females could be built up more quickly without tax consequences.[45]

While the trading practice undoubtedly existed and was one of the selling points in some cattle operations, the amount of income deferred by this technique would not seem so great as to warrant the statutory amendment. Certainly, the committee believed that the law did not exempt the transaction, and even fairly reckless tax lawyers (never mind very cautious ones) probably would not have advised to the contrary. Thus, the statement in the report seemingly would have sufficed even though the Internal Revenue Service had not published a ruling to that effect.[46]

---

a first-in-first-out rule. If the same rule were applied to cattle which may not be identified (and the livestock interests may claim that for animals two years of age or older identification is impossible), there would be little if any improvement in the reporting of sales proceeds as capital gains. (See Treas. Reg. § 1.1223-1(i) (1957) stating that the basis regulations of § 1.1012 apply in determining the holding period in this case.) Indeed, this may be a backward step because animals up to two years old may be identified, at least by age group. Hence, the holding period could at least be determined on a group basis. If animals two years of age or older may not be identified, will not the first-in-first-out argument be difficult to resist?

43 Section 212(c) of the Act.

44 H.R. Rep. No. 91-413, 91st Cong., 1st Sess., pt. 1, at 66 (1969).

45 Id.

46 Griffith and Joy, What the Act Does to the Farmer: Farm Parity or Class Discrimination?, 23 The Tax Lawyer 495 (1970), appear to criticize this provision because it taxes an exchange of a bull for a cow while continuing to permit deferral under § 1031 of an exchange of a farm for an oil well. This criticism may merely be one directed at overly broad drafting, or it may be one directed at allowing the farm to be exchanged for the oil well without tax consequences. This author thinks the first was intended. While the provision is perhaps broader than the problem, it is likely that the greatest number of exchanges affected will be those which Congress intended to reach, i.e., the exchange of a female calf for a male calf.

4. *Crop Insurance Proceeds*

Section 215 of the Act permits a cash basis taxpayer who receives insurance proceeds as a result of the destruction of a crop to include such proceeds in income for the taxable year following the year of destruction or damage, if he can establish that under his usual accounting method he would have reported the income from the crop in the later year. This amendment apparently will not affect many taxpayers even though it departs widely from the concept that the tax should be levied on money in hand when the money is received. Presumably, its purpose is to prevent the telescoping of two years of income into the year in which a crop is damaged, and in which proceeds from the prior years were also received. One need only note that the taxpayer does have the money in hand, and that the telescoping of the income is not all that serious under the averaging provisions of the Code,[47] particularly as liberalized by the Act.[48] Section 215 appears merely to be an unwarranted departure from the annual accounting concept, and as such is difficult to justify.

5. *Repeal of Section 270—The Hobby Loss Provision*

Section 270, prior to amendment by the 1969 Act, was a poorly designed section. It required a recomputation of income if a trade or business operated by an individual showed a $50,000 loss in each of five consecutive years. For this purpose, the size of the loss was computed without regard to certain "specially treated" deductions.[49] In the recomputation, $50,000 of the loss so computed was allowed, but all of the specially treated deductions remained fully deductible.

The Treasury offered some changes to section 270 which would have tightened it considerably.[50] Its operation even after those amendments would have continued to be erratic, however, and would have continued to apply regardless of the economic loss. The House Ways and Means Committee, apparently recognizing these weaknesses, rejected the Treasury's proposals and instead would have eliminated prior section 270 and replaced it with a new concept. Under the rule adopted by the House,[51] a taxpayer would not have been allowed to deduct losses or deductions attributable to or arising

---

[47] Int. Rev. Code of 1954, §§ 1301-1304.

[48] See § 311 of the Act.

[49] Int. Rev. Code of 1954, § 270(b).

[50] Tax Reform 1969, at 5183-186, 5425-426.

[51] H.R. Rep. No. 91-413, 91st Cong., 1st Sess., pt. 1, at 71 (1969).

[52] This apparently would have settled the dispute whether the taxpayer needed to be a reasonable person in expecting a profit in order to prove a business motive. The Ninth Circuit had stated, if not held, he need not be, in Mercer v. Commissioner, 376 F.2d 708, 710-11 (9th Cir. 1967).

from an activity carried on by him if the activity was not operated with a *reasonable*[52] expectation of realizing a profit. Whether there was a *reasonable* expectation of realizing a profit was a determination to be made on the basis of all of the facts and circumstances, but the Treasury Department in every case was to be assisted by a presumption. If the activity was carried on at a loss in excess of $25,000 in three out of five years, then, unless the taxpayer could prove to the contrary, the activity would be deemed to be carried on without a *reasonable* expectation of realizing a profit, and thus would be subject to the limitation.[53] While such a presumption could be criticized as unwise because it could penalize a number of businesses where true economic losses resulted, it at least could not be criticized on the grounds that it was creating a haven for a taxpayer's hobby operations. Before Congress was through, however, this latter criticism was also valid.

In apparent solicitude for taxpayers who suffered an unusual number of tax losses, the Senate reversed the presumption, and the Senate version of the bill prevailed in conference. The Act added a new Section 183 to the Code. It provides that deductions attributable to any activity not engaged in for profit, whether or not it involves farming, are allowable only to the extent of (1) deductions allowable without regard to profit motive, plus (2) the amount remaining after gross income derived from such activity has been reduced by the deductions allowed under (1). The category of deductions allowable without regard to profit motive presumably includes such deductions as taxes, interest, casualty losses and bad debts. If there is doubt about the profit-seeking motives, the *taxpayer* is aided by a presumption. If in any two or more taxable years in a period of five consecutive years the gross income from the activity exceeds the deductions attributable to such activity, then unless the *government* can show to the contrary, there is a presumption of profit seeking. For businesses consisting in major part of breeding, training, showing or racing of horses, the five-year period is extended to seven years. This liberality presents discrimination in favor of an industry which is allegedly particularly hazardous, but which would not appear to have either a high social or economic claim for special treatment.

While the Treasury previously had been largely unsuccessful in winning the hobby loss cases, this new tool will impose an even heavier burden upon it. Few taxpayers, whether in the farming business or any other, will fail to show at least one dollar of net income in 40 percent of their years. Furthermore, so long as the cash method of accounting is permitted for farm income and expenses, the tax-

[53] S. Rep. No. 552, 91st Cong., 1st Sess. 104-05 (1969).

payer can defer either the expenses or the income of one year to a later year and get a doubling-up effect. On the other hand, the taxpayer can anticipate expenses or income. If necessary, he can combine into a single year the deferred income of prior years, the current income, and anticipated future income while deferring all current expenses. Similar liberalities are available for expenses. It is thus nearly inconceivable that a farmer using the cash method of accounting cannot show at least one dollar profit in some two out of five consecutive taxable years. Thus, so long as the liberal cash accounting rules are permitted, each farm hobby loss controversy may be brought into the area covered by this proposal. Perhaps, on the whole, this effect will be beneficial. Efforts which are today devoted to auditing true hobby farmers are usually followed by losses in court. With an even greater burden imposed on the government, the Internal Revenue Service is likely to forego further hobby audits, and the effort thus conserved will be more productively spent in other endeavors. The necessity of finding such a justification for the hobby loss provision is, however, a very sad commentary on a tax reform act.[54]

6. *Gain from Disposition of Farm Land*

If the excess deductions account hereinafter described does not apply to the disposition of farm land, if the taxpayer has enjoyed deductions under sections 175 and 182[55] with respect to farm land, and if sale occurs before the taxpayer has held the land ten years, a percentage of these deductions is to be recaptured upon any disposition of the farm land.[56] Through the first five years, 100 percent of any deductions is to be recaptured. The percentage declines at the rate of 20 percent per year thereafter until such time as the land has been held ten years or more, when none of the deductions is to be recaptured. The ten-year period is measured by the holding period

[54] Neither is the hobby loss provision a model of clarity. Does "profit" mean a tax profit or an economic profit? Is the deduction for capital gains attributable to the activity? McDonald v. Commissioner, 214 F.2d 341 (2nd Cir. 1954), on remand, 23 T.C. 1091 (1955), acq., 1956-1 Cum. Bull. 4, holds that it is not, and the deduction would be allowable while including the whole gain in gross income for determining whether there is a profit. What is an activity? What is a "major part" of an activity for determining whether the five-year period applies? How is intent to be determined? Are years subsequent to the year in question to be counted? If there is a profit? If there is a loss? How does the presumption apply to years before 1970? Some of these questions are discussed in Diamond and Horne, Hobby Losses; Miscellaneous Individual and Corporate Problems, 23 The Tax Lawyer 609, 610-13 (1970).

[55] Section 175 allows a deduction for certain soil and water conservation expenses which are capital expenditures, and which would not be depreciable or otherwise deductible but for this section. Section 182 allows a very limited deduction for certain land clearing expenses.

[56] See § 214 of the Act which adds § 1252 to the Code, and in particular § 1252(a)(3).

of the land, not the period following the incurring of the expenditure under sections 175 or 182. For example, if land has been held for four years and ten months and if section 175 expenses were incurred at acquisition or soon thereafter, such expenses will be recaptured as ordinary income to the extent there is gain on sale of the land. On the other hand, if land has been held ten years, and if large section 175 expenses are incurred in anticipation of sale, the expenses are not recaptured on the sale of the land.

Little can be said in favor of this provision. It is another example of permitting the evil in the first place, and subsequently attempting to correct it by a recapture proposal. If the activity to be encouraged from the allowance of the deductions under sections 175 and 182 is actually beneficial, it is difficult to understand the theory behind recapturing these deductions if the land thus benefitted is sold within ten years of acquisition without reference to when the "evil" expenses were incurred. Provisions such as this, however, do serve one purpose. They reveal the fragile ground on which the entire notion of recapture is built.

7. *Capitalization of Certain Costs*

Although the farming industry in general will be largely unaffected by the new Act, the citrus industry appears to have had a partially correct, but highly discriminatory, rule prescribed for it. Section 216 of the Act adds a new Section 278 to the Internal Revenue Code. The section requires that all expenses incurred in connection with a citrus grove prior to the close of the fourth taxable year, beginning with the year in which the grove was planted, be charged to capital account. Plantings resulting from trees lost or damaged by reason of freeze, drought, disease, pest or casualty, or which were planted or replanted prior to the enactment of the section, are excepted from the capitalization rules.[57]

A bill containing somewhat similar provisions[58] was introduced as early as the 89th Congress, apparently through the efforts of the established Florida citrus growers, to deny new growers the advantage of writing off capital costs, a benefit of which the established growers presumably had availed themselves.

Since capitalization of development costs is a proper rule, one might think that the provision should be beyond reproach. Unfor-

---

[57] This may result in a double deduction in the year in which the loss occurs. The capitalized cost of a grove damaged by freeze, etc. will presumably be allowable. In addition, development costs after the new planting (but not planting costs) will be deductible. See Griffith and Joy, supra note 46.

[58] H.R. 9454, 89th Cong., 1st Sess. (1965), introduced by Representative Haley of Florida.

tunately, for several reasons it is not. First, it is not altogether clear what is encompassed within the meaning of citrus.[59] Also, since the preproduction cycle of all citrus is not uniform,[60] some citrus growers will be allowed to continue deducting the portion of the preproduction costs which extend beyond the fourth taxable year, including the year of planting. In addition to discriminating among various kinds of citrus, the blatant discrimination against citrus as compared to other kinds of groves, orchards and vineyards is indefensible. There is no reason why the grower of peach trees, English walnut trees or grapes should be preferred over the grower of citrus. In addition, there is no reason to treat the citrus farmer more harshly than the cattle farmer. One can only hope that the principle embodied in this provision will ultimately become the touchstone of farm tax accounting, and that proper capitalization will be required in all areas of the farming industry.

This brings us to the major provision in the farm loss area.

B. *Perpetuation of the Problem: The Excess Deductions Account*

The excess deductions account, the major provision of the 1969 Act, was first proposed in 1963,[61] but never emerged from any of the tax writing committees. In the form finally adopted in 1969, it is complex, almost beyond comprehension. In addition, it is a wholly ineffective measure which, unfortunately, does not even lay a foundation for further reform. Despite these objections, however, Congress adopted it.

Section 211 of the Act adds a new Section 1251 to the Code. It provides for the inclusion in gross income, as ordinary income, of gain[62] from the disposition of farm recapture property disposed of during taxable years beginning after December 31, 1969. The provision applies only if, and to the extent that there is either (a) "farm net loss" for the year, or (b) a balance in the excess deductions account

[59] For example, are kumquats within the citrus family? The Encyclopedia Brittanica, vol. 13, at 508 (1966 ed.) states kumquats are of the Fortunella genus and were formerly placed under citrus japonica. Does this mean that kumquats are no longer citrus but something else? One might note that it is a strange provision of the tax law which drives one to the encyclopedia to determine whether an expenditure is deductible. But see proposed regulations which define citrus as belonging to the rue family. See proposed regs. § 1.278-1(a)(2)(ii) promulgated Nov. 11, 1970.

[60] See Reed, An Analysis of Orchard Development Costs, (University of California Agricultural Extension Mimeo, 1968) at 1, where it is estimated five to seven years depending on the kind of citrus involved.

[61] See The President's 1963 Tax Message, supra note 25, at 144-45.

[62] In the case of sales, exchanges, and involuntary conversions, gain is proper terminology. Gain may not, of course, be recognized (arguably not realized) on other dispositions. In those cases, the amount treated as ordinary income is the excess of fair market value over adjusted basis. The section thus is patterned on §§ 1245 and 1250, and the dispositions excepted from the recognition rule in those sections are also dealt with in § 1251.

at the end of the taxable year after reducing the amount in the account at the beginning of the year for any "farm net income" for the year.[63]

A "farm net loss"[64] is the amount by which current deductions directions directly connected with the carrying on of the trade or business of farming exceed the gross income currently derived from the trade or business of farming for the year. Gains and losses from the disposition of farm property defined in section 1231 are not taken into account for the purpose of computing the farm net loss. Similarly, "farm net income"[65] is defined as the amount by which current gross income attributable to farming exceeds the current deductions attributable to farming.[66]

---

[63] The operations of EDA may perhaps be better understood by the use of an example. The one which follows is Example 1 of the Treasury's proposals (See Tax Reform 1969, at 5179-180) adapted to reflect the differences between the Act and the Treasury proposal.

The taxpayer, a corporate executive, earns a salary of $75,000 each year, and owns a farm with respect to which, in 1970, ordinary deductions exceed ordinary income by $40,000. In 1971, the farm produces net ordinary income of $5,000 and, in addition, a prize bull, which has a zero basis, is sold for $1,500 in a sale which would qualify for capital gains treatment unless EDA changes that result. In 1972, the farm shows a net loss of $3,500. In 1973, his ordinary farm income just equals farm expense, but he sells breeding livestock which he held more than two years, valued at $12,500 but without any basis.

The taxpayer's EDA would be computed as follows:

EDA

Year	Additions	Subtractions	Balance
1970	$15,000		$15,000
1971	0	$6,500	8,500
1972	0	0	
1973		8,500	0

This chart summarizes the following transactions: In 1970, the taxpayer enters $15,000 in the excess deductions account (the excess of the $40,000 loss over the $25,000 floor). In 1971, the EDA is reduced by the net ordinary income from farming ($5,000). Since the amount in the EDA is larger than the capital gain on the sale of the bull, the $1,500 income on the sale of the bull is treated as ordinary income. The EDA accordingly is also reduced by the amount of capital gains treated as ordinary income ($1,500). At the end of 1971, the EDA is $8,500. The loss in 1972 does not add to the account, however, because the loss is less than $25,000. Thus, the account remains at $8,500. When the livestock is sold in 1973, only $8,500 of the $12,500 gain is treated as ordinary income, and the balance of the gain is treated as capital gain.

It is interesting to note that if farm income is realized before there is a loss, the previous farm income does not prevent later losses from being entered in EDA. However, net farm income realized after a loss will insulate the effect of that loss by eliminating an equal amount in the EDA. Such differing tax treatment, depending wholly on timing of income and expense, is at least questionable policy.

[64] Section 211(a) of the Act.

[65] Id.

[66] In both cases, the business of farming includes the racing of horses if the taxpayer is also engaged in the raising of horses. This would appear to be another unwise concession to the horse racing industry. Has this favoritism converted the "Sport of Kings"

An addition to an individual taxpayer's excess deductions account is made only in years in which the taxpayer has *nonfarm adjusted gross income* in excess of $50,000.[67] The amount added to the account in those years is only that portion of the net farm loss which exceeds $25,000.[68] The amount of the EDA at a given moment is the cumulative amount of the net farm losses of other years to the extent they exceeded $25,000 in any year in which the taxpayer had $50,000 of nonfarm adjusted gross income. Any balance in the account must be reduced by three amounts. It is first reduced by the amount of net farm income for the year. Second, there appears to be a statutory adoption of the so-called tax benefit rule.[69] The balance in the EDA is reduced by any deduction which did not yield a tax benefit (i.e., a reduction in tax) in the current or preceding tax year. Finally, the amount in the account is reduced by the amount of any gain for the taxable year which is converted from capital gain to ordinary income by reason of the EDA. This last reduction requires further explanation, that is, when does a conversion from capital gain to ordinary income occur?

Gain which may be converted is gain realized on "farm recapture property." Farm recapture property is property defined in section 1231(b)(1), (3) or (4), which is or has been used in the trade or business of farming by the taxpayer, or by the transferor to the taxpayer in a transaction under which some part of the excess deductions account is transferred to the transferee. Property is also included as

---

into the "King of Sports"—at least taxwise? Some may argue that the aggregating of racing and raising of horses will not always work in favor of taxpayers because racing very often results in large losses which will increase the farm net loss. Obviously, this result may occur in a particular case. The overall pattern appears to the contrary, however. In most cases, racing is profitable to most taxpayers who are also heavily engaged in raising. In the majority of unprofitable racing cases, the horses appear to have been purchased horses. The consequence is that tax losses from raising horses will be offset against racing earnings and will not be available to convert gains realized on the sale of horses to ordinary income. This comment is not meant to imply that horse raising tax losses are in the usual case economic losses.

[67] Nonfarm adjusted gross income is adjusted gross income computed without regard to income or deductions attributable to farming.

[68] In the case of a husband and wife who file separate returns, each of these figures is reduced by one-half respectively. All corporate taxpayers (with the exception of a subchapter S corporation which has no shareholder who has a farm loss of his own) enter the entire amount of the loss into the excess deductions account even if there is no other income. If no shareholder of a subchapter S corporation has a farm loss of his own, the corporation is allowed the benefit of the individual taxpayer rules, i.e., additions are made to EDA only if nonfarm income is $50,000, and only to the extent the loss exceeds $25,000. See § 211 of the Act.

[69] See Dobson v. Commissioner, 320 U.S. 489 (1943). Under the "tax benefit" rule, later recovery of an item previously deducted is included in income only if the deduction resulted in lowering the tax base, thereby lowering the amount of tax, and thereby yielding a tax benefit.

farm recapture property if its basis is determined by reference to the basis of farm recapture property. For example, if farm recapture property is exchanged tax free for other property under section 1031,[70] the property received in the exchange has a basis determined by reference to the basis of the farm recapture property given up, and the property received thus is farm recapture property.

1. *Special Transfers*

As with sections 1245 and 1250,[71] section 1251 is generally activated by any disposition of property. As with those sections, however, certain dispositions are excepted from this general rule. Excepted transfers present a problem because each exception provides an opportunity to separate the farm recapture property from the amount in the EDA attributable to that property. If such separation occurs, subsequent sale of the property will frustrate the purpose of the statute because absent an EDA, the transferee probably will report the sales proceeds as capital gain. For example, if a farmer raised a cow to maturity, incurring $250 of costs which he added to EDA, his sale of the cow at, say $300, would yield $250 of ordinary income and possibly $50 of capital gain. If, however, he gives the cow to his son, we can assume that the sale proceeds will be treated as $300 of capital gain unless the statute has a special provision transferring some of the father's EDA to the son. The gift then would permit the $250 of costs, deducted by the father, to be converted to capital gain in the son's hands.

The same problem was faced when section 1245 and section 1250 were drafted. In certain selected transfers under those sections, gain is not recognized, but the potential recapture (i.e., the amount which would be treated as ordinary income if sold) carries over to the transferee. Since EDA was also a "recapture" provision, logic seemed to dictate the same treatment for farm recapture property as is prescribed for sections 1245 and 1250. This logic is deceptive, however. First, the possibility of abuse resulting from the deduction of farm losses is greater than the abuse in many depreciation cases.[72] Second,

---

[70] Whether or not such an exchange is tax free is discussed below.

[71] Section 1245 "recaptures" excessive depreciation on most personal property. Section 1250 does the same to a lesser extent for depreciation on real estate.

[72] See Davenport, A Bountiful Tax Harvest, 48 Texas L. Rev. 1 (1969) at 36-37:

> Except for a few industries such as the leasing of automobiles, most depreciable property subject to section 1245 does not by its very operation constantly produce merchandise for transfer, even though the merchandise so produced has also been used in the trade or business. The process of culling the livestock crop does produce this merchandise. The very nature of the business makes it inevitable that there will be substantial property that must be transferred. In most section 1245 cases, the property is either abandoned or transferred at nominal value. It may be argued that recapture is satisfactory in these cases but that it is

in the case of depreciable property, whether personal or real, the regulations[73] provide a means by which the potential recapture amount (i.e., the reserve for depreciation) attributable to each item of property may be computed. Although this computation is sometimes complex in the extreme, such as when the item has been removed from a classified or composite account, the amount of prior deductions taken with respect to any item of property and the amount of potential ordinary income inhering in it can be precisely computed whether the property is in the hands of the original owner or a transferee. In the case of farm recapture properties, such as a herd of cattle, the amount of the potential recapture may be impossible to establish because there is no means (given the bookkeeping practices tolerated for farmers) by which to determine the amount of deductions which has previously been taken with respect to a particular animal. Thus, the amount of potential recapture with respect to farm property cannot be satisfactorily computed in some cases. Despite these differences, a decision was made to except from recapture under section 1251 the same transfers that were excepted from sections 1245 and 1250. These differences, however, were such that they had to be recognized. The consequence is that the rules for excepted transfers of farm property differ substantially from the rules devised to cover the exceptions to sections 1245 and 1250.

With respect to each of the excepted transfers discussed below, two problems arise. The first is whether any gain should be recognized. Obviously, if gain is to be recognized, it will be ordinary income if the property transferred is "farm recapture property," and if the transferor has a balance in his EDA. The second problem arises only if some of the gain is not recognized. If gain is not recognized, there is the possibility of frustrating the statute unless the ordinary income potential also carries over to the transferee so that his gain will not be reported as capital gain. These problems were handled in the variety of ways discussed below.

a. *Gifts.*[74] Ordinary income is not recognized on the disposition of farm recapture property by gift. A part or all of the transferor's EDA may be transferred to the donee, however. If in any one year (i.e., any 12 months—not necessarily a taxable year) the transferor makes gifts of farm recapture properties which carry at least 25 percent of his total "potential gain" on farm recapture property held by the donor immediately prior to the first of such gifts, then a pro-rata

unsatisfactory when transfers are inevitable and each transfer presents a substantial tax avoidance opportunity. Thus the abuse possibilities are worse in this case, and recapture just is not adequate to handle the problem.

[73] See Treas. Reg. §§ 1.167(a)-7, -8 (1956).

[74] Section 211(a)(5)(B) of the Act.

part of the excess deductions account shall be transferred to the donee of such farm recapture property. "Potential gain" is the amount by which the fair market value of any farm recapture property exceeds its adjusted basis. In the case of land, in order to preserve the special rules relating to the recapture of only the section 175 and 182 deductions on land,[75] potential gain includes only those deductions which have been taken in the current taxable year and the preceding four taxable years.

b. *Transfers at Death.*[76] Except to the extent that income in respect to a decedent is realized upon a transfer at death, there is no realization of ordinary income upon the transfer by decedent to his estate. Apparently, there is no transfer of EDA either. Thus, death seems to offer one means of avoiding EDA. In view, however, of the general ineffectiveness of EDA and of the other routes available to escape EDA, this author does not recommend death as an avoidance technique.

c. *Corporate Transactions.*[77] The relevant transfers here consist of (1) transfers to corporations, (2) transfers by corporations in liquidations or redemptions, and (3) reorganization transfers, including those falling under sections 371(a) and 374 (a).

If farm recapture property is transferred to a corporation in a transfer under section 351 and has a carryover basis in the hands of the corporation, the EDA provision of the 1969 Act does not require gain to be recognized on the transfer. If, however, gain is recognized apart from EDA, it is treated as ordinary income to the extent of the balance in the transferor's EDA. Generally speaking then, tax free incorporations are expected from the recapture provisions.

Since the section 351 transfer does not result in ordinary income, the transferor's EDA will be unchanged by reason of the transfer. Also there is a tax avoidance possibility, as pointed out above, because the transferee may have no EDA. This possibility could have been eliminated by transferring a pro-rata part of the EDA to the corporation. The decision was otherwise, however, and the transferor's EDA is not diminished by the transfer. Rather the stock and securities received by the transferor become farm recapture property to the extent attributable to the fair market value of farm recapture property[78]

---

[75] See note 55 supra.

[76] Section 211(a) of the Act.

[77] Id.

[78] Id. In the case of land, if the total of the adjusted basis of the land and the "potential gain" on the land is less than the fair market value, the stock and securities are so treated only to the extent of the total of these two items. At first blush, one might think that in such case only the potential gain should be treated as property. The statute prescribes a proper rule, however. Suppose a case of property having a basis of $10 and

contributed to the corporation by the transferor. The purpose is to require recognition of ordinary income upon disposition of the stock or securities by the transferor, just as a disposition of the farm recapture property transferred to the corporation would have required recognition of ordinary income.[79]

Since the EDA does not carry over to the transferee corporation in such cases, the corporation may be able to sell the transferred property at capital gains rates after the transfer.[80] If a subchapter S election were in effect, presumably the capital gains so realized would be taxed as capital gains to the shareholder.[81]

Transfers in liquidation take a carryover basis under section 332. If the liquidation falls under section 332, the transferor will be treated as having ordinary income only if gain is recognized apart from section 1251, and then only to the extent of the lower of the recognized gain or the EDA balance.

The rules for reorganizations are similar to those for liquidations under section 332. Ordinary income is imputed only to the extent of the lower of gain recognized apart from section 1251 or the balance in the transferor's EDA. Reorganizations falling under section 381[82] result in a carryover of the transferor's EDA to the transferee. There is no carryover for devisive transfers which do not come under section 381 but the stock and securities become farm recapture property. The consequence is that in corporate reorganizations where nearly all the property is transferred, the EDA balance carries over to the transferee.[83] But in other reorganizations, there is no shift of any EDA.

d. *Like-Kind Exchanges and Involuntary Conversions.*[84] The amount which a transferor must treat as ordinary income may not exceed the balance in his EDA account or the amount of gain realized. Subject to this qualification, ordinary income is the amount of gain recognized, apart from section 1251, plus the fair market value of

---

a potential gain of $15. If the stock received is then sold for $35, the receipts will be treated as from farm recapture property to the extent of $25. Presumably, basis will absorb $10, ordinary income will consist of $15 (the amount of potential gain), and there will be capital gain of $10. Failure to treat basis as farm recapture property would present difficulty in allocating receipts to various portions of the property.

79 Obviously in some cases there will be an overlap between this provision and the collapsible corporation provision of § 341 of the Code.

80 It is not clear that capital gain would be realized on that sale. See Davenport, supra note 72, at 39 n. 69.

81 See § 1378 for provisions by which a subchapter S corporation is required to pay a tax on capital gains realized by it.

82 See also §§ 371(a) and 374(a).

83 Only those transactions involving all or nearly all of the transferor's assets fall under § 381.

84 Section 211(a) of the Act.

property (as to which gain is not recognized) which is not farm recapture property.[85]

e. *Partnerships.*[86] Farm recapture property raises problems with respect to partnerships (1) when the partnership disposes of such property, (2) when the partnership distributes such property to a partner, and (3) when a partner contributes farm recapture property to the partnership.

As to the first of these transactions, under section 1251 each partner takes into account separately his distributive share of the farm net losses, gains[87] from the disposition of farm recapture property, and other items.[88] Thus, the partnership is treated as a mere conduit for the purpose of adding farm losses to EDA, reducing the balance in an EDA by the amount of farm income for the year, and for realizing gains on the disposition of farm recapture property.

As to the second problem, distributions from partnerships are not dealt with directly. However, section 751(c), defining unrealized receivables, is amended to include farm recapture property and farm land subject to recapture of section 175 and 182 deductions.

As to the third problem, contributions to partnerships, the difficulties presented are those discussed at the beginning of this section on excepted transfers. First, is the contribution of farm recapture property a taxable transaction? If not, does the balance, or some part thereof, in the transferor's EDA carry over to the partnership? The second of these questions is answered negatively. The answer to the first depends on something more. Ordinarily a contribution to a partnership is a nonrecognition transaction by virtue of section 721. In a general way, this rule is continued for contributions of farm recapture property, but there is an exception. If the fair market value of the farm recapture property, contributed to the partnership, exceeds the fair market value of the partnership interest *attributable* to the farm recapture property, gain is recognized to the extent of such excess value.[89]

The apparent intent of this rule may be illustrated by an example.

---

[85] For example, suppose a taxpayer exchanges farm land for an office building. This is a tax free exchange under § 1031. The office building is not farm recapture property. Thus, if the taxpayer had a balance in his EDA, and if the taxpayer had incurred within the current or four preceding taxable years allowable deductions under § 175 or § 182 with respect to the farm land, the taxpayer would recognize ordinary income in the lower of (a) gain realized, (b) the amount in his EDA, (c) the deductions under § 175 and § 182, or (d) the fair market value of the office building. But even if § 1251 does not apply, § 1252, discussed below, may apply.

[86] Section 211(a) of the Act.

[87] One might question the effect of a disposition which does not result in gain to the partnership, e.g., a charitable contribution. Presumably, the nature of the disposition flows through to the partner.

[88] Other items seemingly would include "farm net income."

[89] Section 211(a) of the Act.

Assume a case where *A* transferred cattle (farm recapture property) having a $100 value but a zero basis to a partnership in which *B* transferred cash of $100 to be an equal partner. The value of *A*'s interest would be $100, and this value apparently would be attributed $50 to the cattle and $50 to cash. *A* then would realize $50 of ordinary income on the contribution because the fair market value of the farm recapture property transferred was $100 and exceeded by $50 the value of *A*'s interest in the partnership which is attributable to the cattle.[90] The cattle would have a zero basis to the partnership, and if it sold them for $100, the partnership would realize a gain of $100. Half of this gain would be passed through to *A* as a gain on farm recapture property since he accounts for these items separately. Assuming he had a balance in his EDA, this gain would be treated as ordinary income. When this $50 gain is added to the $50 gain realized at the time of contribution, *A* will have realized $100 of ordinary income with respect to the cattle. This is a proper result because the amount is equal to what *A* would have realized had he sold the cattle and contributed cash.

The foregoing may be modified by the partnership agreement. If the partnership agreement provides for an allocation to the contributing partner of gain on the contributed farm recapture property, the partnership interest shall be deemed attributable to the contributed farm recapture property. Thus, in the above example, if the partnership agreement allocated the entire gain on the cattle to *A*, the entire value of his partnership interest would have been attributable to the cattle. Since that value and the value of the cattle were equal, he would have no ordinary income on the contribution. When the cattle were sold by the partnership, the entire gain of $100 would be allocated to *A* in accordance with the partnership agreement, and he would realize the entire gain as ordinary income, assuming he had a balance in his EDA.

The obvious purpose of this provision is to require ordinary income to be recaptured at the time of contribution unless the transferring partner agrees to take the gain on the transferred farm recapture property into account when disposed of by the partnership. In short, if the transferring partner agrees to have the gain on the assets contributed by him allocated to him and taxed to him as ordinary income if and when disposed of by the partnership, then there is no gain on the transfer to the partnership. If the partnership agreement does not

[90] Under a different construction of this section one could argue that *A*'s entire interest in the partnership is attributable to the cattle because it was received in exchange for the cattle. This construction would permit the statute to be circumvented. Also, the value of *A*'s interest in the partnership is attributable to all the assets held by the partnership. Thus, the value of *A*'s interest depends in part on the cash.

so provide, the draftsmen apparently intended that the contribution itself be a disposition requiring recognition of ordinary income. Hopefully that intent will be realized.

2. *Subchapter S Corporations*[91]

Under the Act, a corporation's entire farm loss (not just the portion exceeding $25,000) is entered into the corporation's EDA even if the corporation had no nonfarm income. Thus, corporations are treated differently than individuals who enter into EDA only if that portion of the farm loss that exceeds $25,000 and only if nonfarm income exceeds $50,000. Subchapter S corporations are excepted from the general rule for corporations and instead fall under the rules for individuals, unless a shareholder has a net farm loss for the year. If a shareholder does have a net farm loss, then the general corporate rules apply.

These provisions seem to open up a wide avenue of abuse. If a cattle operation were incorporated, any losses would be incurred at the corporate level. The loss, however, would apparently be deducted under section 1374 by the shareholders as a net operating loss deduction of the corporation, not a farm net loss. The shareholder apparently would not enter any amount into his own EDA, or for that matter be treated as incurring a "farm net loss." As a result, the $25,000 loss floor and the $50,000 nonfarm floor at the corporate level would be operative, and the corporation would not enter any amount in its EDA. Once the corporation is sufficiently aged so as to avoid the collapsible provisions of section 341,[92] the taxpayer would be in a position to sell his stock in the corporation and realize capital gain upon it. The buyer, of course, could get a step up in basis by liquidating under section 334(b)(2), and the corporation apparently would not have any income on the liquidation.[93]

Another way to use this loophole would be to hold the corporate farm loss to less than $25,000 each year. Thus, if the taxpayer decided to invest $200,000 in cattle in any one year, he could do it through eight different subchapter S corporations. The extent to which the multiple corporations doctrine would curb this practice is not predictable, but it has not been a highly successful remedy for other abuses in the past.[94]

---

[91] Section 531 of the Act.

[92] Aging, of course, is not the only means of avoiding § 341. The term "aging" does not imply that a mere passage of time following incorporation will be satisfactory. Rather the 70% rule of § 341(d)(2) appears to be the surest and easiest means of aging.

[93] Cf. Commissioner v. South Lake Farms, Inc., 324 F.2d 837 (9th Cir. 1963).

[94] Compare Aldon Homes, Inc., 33 T.C. 582 (1959) and Shaw Constr. Co. v. Commissioner, 323 F.2d 316 (9th Cir. 1963) with cases such as Hiawatha Home Builders,

69-133 O - 73 - pt. 5B - 9

3. *Exception for Special Accounting Methods*

Finally, one need not keep an EDA in any year in which he elects to use inventories and capitalize all capital costs.[95]

IV. Appraisal

Despite the analysis and tears already spilled over the "farm loss" problem, the 1969 Act does not handle it. One reaches this conclusion even though an act with six provisions for a problem simple in its most egregious examples would seemingly have something for everyone. In a sense, it does, even including several special provisions for horse racing. It seems appropriate now to say a few words of evaluation.

Livestock

One cannot argue with the soundness of extending the section 1245 recapture provision to livestock. Nor can one fault the extension of lives for qualification of livestock under section 1231, unless perhaps to argue that livestock should never be defined as property used in the trade or business—at least where raising costs are entirely deducted. Further discussion of this aspect is deferred for the moment.

Inc., 36 T.C. 491 (1961); Cronstroms Mfg. Co., 36 T.C. 500 (1961); Pre-Mixed Concrete, Inc., ¶ 63,301 P-H Memo T.C. (1963); and Sno-Frost, Inc., 31 T.C. 1058 (1959).

[95] But even statutorily imposed adoption of proper accounting methods would not solve all the problems in the farm area. There would continue to be a need for administrative action. Commissioner v. South Lake Farms, Inc., 324 F.2d 837 (9th Cir. 1963) demonstrates one such problem. The taxpayer was an accrual basis taxpayer who shrewdly observed that under Treas. Reg. § 1.61-4(b) expenditures which would be carried as inventory costs in most businesses continue to be deducted by even accrual basis farmers. There is an income offset to the deduction only if the expenditures create an item which must be included in inventory. Growing crops probably are most nearly like goods in process inventory. As such, these costs should inventory. The law and custom has long been to the contrary. They may not be valued and included in inventory. I.T. 1368, I-1 Cum. Bull. 72 (1922); Internal Revenue Service Publication No. 225, Farmer's Tax Guide 17 (1969 ed.); Amling-De Vor Nurseries, Inc. v. United States, 139 F. Supp. 303 (N.D. Cal. 1956). Thus, if the tax year can be ended while the crops are growing, the expenses thereof may be deducted, and there will be no offsetting inventory value. A loss thus can be planned. A mere change in rulings and regulations could handle this problem. Note also that the Farmer's Tax Guide applies "the growing crops cannot be inventoried" rule only to crops which are not purchased. This limitation is not supported by the regulations or I.T. 1368, supra. However, case law seems to reach that result without specifically so stating, but relying on other provisions of the regulations. See, e.g., W. Cleve Stokes, 22 T.C. 415 (1954), acq. 1954-2 Cum. Bull. 5. Except for alleged ease of determining proper inventory values, there is little reason to distinguish between purchased and planted growing crops. It is believed that a similar distinction is made in cases of chicken. It appears that Internal Revenue Service practice requires a purchase of fertilized eggs, even up to the instant before birth, to be treated as a raising cost which may be currently deducted. If, however, the chick cracks the shell and sticks his head out before purchase, the cost must be capitalized as a cost of purchased animals.

FARM LOSSES

Hobby Losses

The new "hobby loss" provisions are a distinct step to the rear. A showing of one dollar of income in any two of a five-year period places on the government the burden of proving that the taxpayer did not expect to realize a profit from his activities which are alleged to be a business. Since most of the facts which would prove such an intention are within the control of the taxpayer, he should not be relieved of his burden of proof. Furthermore, the existence of so little a profit really has no probative value in demonstrating the taxpayer's intent. Thus, the presumption is both unduly generous and logically unsound. Furthermore, the provision is not limited solely to farming, but rather applies to all activities engaged in by a taxpayer. Such broad sweep legislation should not have been considered nor enacted as part of a package supposedly directed toward the much narrower "farm loss" problem. Finally, the provision is far from free of ambiguity.[96] It thus appears unwise when viewed from almost any stance.

Farm Land Recapture

The provision recapturing section 175 and 182 expenses again indicates the ambivalence with which Congress apparently views its own solemn acts. It gives the subsidy by permitting capital costs to be deducted. The subsidy, however, is removed if the taxpayer sells the land within ten years of purchase. Thus, Congress seems to be saying that the activity encouraged by the current deduction of costs is good only if the taxpayer incurring such costs has had the land a long time, or is willing to keep the land for a long time (ten years) after purchase. The period of retention is not related to the "good" done and may reward the owner who had the land long enough to let it run down under his use. Also the provision is a "recapture" proposal, and as discussed below, the wisdom of recapture is certainly questionable. If there is a problem it should be dealt with directly rather than through recapture.

---

[96] For example, does gross income from an activity include the deducted one-half of capital gains which are not taxed? James McDonald, 23 T.C. 1052 (1955), would include deducted capital gains on gross income. See also Tax Reform 1969, 5184 and Rev. Rul. 56-191, 1956-1 Cum. Bull. 636 modifying Rev. Rul. 219, 1953-2 Cum. Bull. 181, as modified by Rev. Rul. 57-727, 1957-2 Cum. Bull. 222. The same group of authorities also hold that the capital gains deduction is not a deduction attributable to the activity which produced the capital gain. If these authorities remain, one need not even show a taxable profit to raise the presumption in his defense. Thus, if gross income consists of capital gain of $100, the income is in excess of deductions in such year if all deductions attributable to the gains other than the § 1202 deduction are not more than $99.99. This would result in a one cent excess of gross income over deductions even though reported as a $49.99 loss for tax purposes. Two such years in any five-year period raises the favorable presumption. Could Congress have so intended? See also note 39 supra.

Crop Insurance Proceeds

The provision giving relief under certain circumstances where a crop is damaged or destroyed has little to recommend it. It is limited to cash basis taxpayers and is, therefore, discriminatory. It erodes the concept that the tax should be paid at least as early as the end of the year in which the cash is received in hand. Its avowed purpose is, of course, to alleviate the full impact of the progressive tax rate schedule on the inclusion of two years income in one year, but this impact is already substantially lessened by averaging. Thus, the justification for this provision hangs by a thin thread. On balance, one may be inclined to withhold criticism because the provision will affect so few taxpayers, but surely this is a less than persuasive argument for supporting it.

Citrus

The rule adopted for citrus is highly discriminatory, leading one to inquire, "Why pick on citrus groves?" Perhaps syndication of citrus groves did represent a growing abuse. But by discriminating against citrus, the abuse will merely shift to another crop. Even if the discrimination against citrus could be justified, the rule does not operate uniformly even as to all citrus. In sum, the concept that capital costs should not be deducted is a good one, but it should be more rationally structured and should extend to all farm investments.

EDA

This is the heart of the farm tax program. And the heart is so weak as to suggest that the body would not remain alive for long except for the nostrums which can be administered by Congress from time to time.

One assertion appears to be true: the farm loss problem will continue to exist. While there has been much expression of concern by nearly all members of the tax writing committees,[97] in light of the legislation produced by the hearings, and the mountain of evidence available to demonstrate its ineffectiveness, one is uncertain whether all of these good intentions should be taken seriously. As noted by Mr. Stephen Hart in 1963, the excess deductions account approach which was taken in the Act is the most modest approach which has been suggested.[98] The Chairman of the Senate Finance Committee is hopeful that some other approach may soon be taken.[99] This is an expression of hope in which many would join.

---

[97] Tax Reform 1969, 2001-184 and Hearings Before the Senate Finance Comm. on the Tax Reform Act of 1969, 91st Cong., 1st Sess., 2710-922, 3491-552, [hereinafter cited as "Tax Reform Act"] are replete with concern over the farm tax loss problem.

[98] See "Tax Reform Act" at 2710 (remarks of Senator Metcalf, September 22, 1969).

[99] 115 Cong. Rec. S17554 (daily ed., December 22, 1969).

FARM LOSSES

Before dismissing this provision out of hand, however, let us once more return to the basis of the farm loss problem—the premature deduction of capital costs. The major problem with the excess deductions account is that it simply is not an effective tool because it fails to recognize the major difficulty in the farm tax area, that is, the ability to deduct currently against nonfarm income expenses which are capital expenditures. While this aspect of the problem may be lessened by the extension of lives for livestock, thereby denying capital gain to more of the sales proceeds, even complete denial of capital gain treatment would not reach the major abuse.

To demonstrate, let us assume a case where net livestock costs (all expenses less sales returned as ordinary income) are just $100 in year *1*.[100] If the livestock is sold in year *2* for $110, there is a net economic profit of $10. The deduction of the net livestock costs of $100 in year *1* yields a tax benefit which, assuming equal tax rates in both years, is just equal to the tax detriment under EDA incurred in year *2* when $100 of the $110 sales price becomes ordinary income. Thus, without considering the benefit of deferral resulting from deducting costs in year *1* while reporting sales in year *2*, the tax cost of year *2* offsets the tax benefit of year *1*, and, just as if costs had been capitalized, EDA permits only the net $10 economic profit to be reported as capital gain. Under the Act, the maximum capital gain rate will become 35 percent.[101] The net tax at capital gains rates would be $3.50 when applied to the economic profits in this case. If capital gain were entirely eliminated, the entire $110 would be reported as ordinary income. The maximum ordinary income tax on the economic profits would be 70 percent or $7 in this case. The maximum benefit then from the rate differential on economic profits will be 35 percent of economic profit or $3.50 in this case.

The example ignores the benefit of deducting $100 in year *1* and reducing taxes on other income. To a 70 percent taxpayer, the deduction against other income results in a tax savings of $70 which is an interest free loan of $70 for one year until the tax is incurred in year *2*.[102] If the taxpayer has an 8 percent discount rate (can earn 8 percent

[100] For the purpose of this discussion the $25,000 farm loss and the $50,000 nonfarm income floors under § 211 of the Act are ignored.

[101] See H.R. Rep. No. 782 91st Cong., 1st Sess. 317 (1969).

[102] Note that the estimated tax does not require an installment repayment of this loan because, ignoring surcharge years, there is no penalty for underestimation of the estimate for year *2* if it were based on year *1* income. Year *1* income was, of course, reduced by the $100 deduction. Thus, there is no sanction for his failing to repay the loan by way of estimated tax. Note also that even if the penalty for underestimation applied, it would be computed at 6% simple interest. This averages out about 3% on the total underestimation. In the usual case, a taxpayer will be able to earn more than the 6% after tax. If the penalty were assessable, which it would not be in this case, the penalty is, of course, not deductible.

after tax), this loan has a value of $5.60 (8% × $70). This benefit is greater than the detriment arising from the conversion of capital gain to ordinary income.

While this demonstrates the nature of the problem, the benefit rises sharply if the profit margin is significantly lower. Witnesses before the Ways and Means and Finance Committees suggest that profit margins are around 1 percent to 5 percent.[103] Whether this is a *percentage of the cost of sales* or a *return on capital investment* is not clear. In many of the syndicated operations, cost of sales and capital investment may be nearly equal. The return on the interplay of the tax rules (deduction of raising costs leading to deferral of taxes in that year) is much greater than the tax on the economic profit (whether taxed as ordinary income or capital gains), and the relative value of the tax interplay return increases as the margin of profit declines because the tax payable on the profit declines.

Taxing all livestock gains as ordinary income might be a step in the right direction, but it does nothing to reduce the net difference between the benefit of deferral and the detriment of the tax. But note that if, in the above example, the net profit were $1 (instead of $10), even ordinary income treatment would result in a tax detriment of $.70, which is much less than the $5.60 benefit of the interest free loan. Also, deferral permits the taxpayer to choose to some extent when the income will be realized. A taxpayer having a choice will, of course, attempt to structure realization so as to incur the least tax. Anything short of removal of the deferral benefit will be ineffective, and certainly EDA does nothing to impinge on the sanctity of current deduction.

The Act also fails in another significant respect: it is limited to taxpayers who have a combination consisting of (a) farm losses of $25,000, and (b) nonfarm income of $50,000. The impact will thus be on just a few taxpayers. As has previously been noted,[104] in 1964 there were about 3,000,000 farm tax returns filed by individual taxpayers. Over 1,100,000 of these returns showed farm losses. The EDA in the Act, however, apparently would affect only about 4,000 or 5,000 returns, and even this impact will be significantly reduced since only the loss over $25,000 will go into the excess deductions account. The long range estimate in gross revenue is about $20 million. Thus, the number of taxpayers affected will be small, and the amount of revenue miniscule in comparison with the amount funnelled into some farm investments to take advantage of tax law.

The amount of revenue raised and the number of taxpayers af-

---

[103] See 1963 Tax Message 1541; Tax Reform 1969, 2035 (remarks of Claude Maer, Jr. on behalf of National Livestock Tax Committee).

[104] See Davenport, supra note 72, at 51-52 for the figures discussed in text.

fected are not, of course, the only criteria by which to measure a provision dealing with the farm loss problem. More importantly, one must ask if the Act will significantly reduce the federal subsidy going to taxpayers having both (a) certain kinds of farm investments and (b) substantial nonfarm income, so as to put them on an equal competitive basis with those farmers who do not have the nonfarm income. The overall purpose thus should be to discourage some investments in farm assets by improving the equity of the tax structure. On this ground, EDA fails. It will permit all comers to incur tax losses up to $25,000 each year. Thus, it seems to fail in reaching a significant number of taxpayers in a meaningful way.

EDA may also be criticized on three other grounds. First, it is so complex as to be almost incomprehensible. Perhaps that degree of complexity could be justified or tolerated if some public purpose were served by it, but none appears. Instead the complexity arises from the application of a poor idea (recapture) to a simple problem (premature deduction of costs). In the area of application, the extent to which recapture should apply is impossible to determine because taxpayers are permitted the use of overly liberal accounting rules. The result is a congery of problems and rules. The problems defy rational solution in light of the accounting rules which farmers are allowed to use. The rules devised are not justifiable, although they are perhaps as rational as one could hope.

The tax writing committees undoubtedly would justify the complexity on the ground that simplicity is thereby preserved for "legitimate" interests.[105] Consequently, those who must deal with complexity are only "illegitimate" interests. In the abstract, this may appear reasonable. But the line between the two kinds of interests is arbitrary and cannot be explained on any rational grounds. Furthermore, many taxpayers who ultimately will prove to be "legitimate," in the sense that they are not subject to EDA, will incur the cost and bother of so ascertaining and, perhaps on audit, so demonstrating. Thus, the complexity has a broader sweep than the "illegitimate" farmer.

Second, as with all recapture provisions, a penalty is exacted only when there is a disposition of property. Thus, one who disposes of property is put at a disadvantage to those who retain property. Similarly, one who sells early is harmed more by recapture than one who sells later. There does not appear to be any reason for so distinguishing between taxpayers. If the tax benefits of premature deduction are intended as a highly inequitable and costly subsidy which prefers

---

[105] See Griffith and Joy, What the Act Does to the Farmer: Farm Parity or Class Discrimination, 23 The Tax Lawyer, 495 (1970).

high income taxpayers over others,[106] there is little reason to recapture the benefit when sale occurs. If the farm accounting rules which offer these benefits are not intended as a tax subsidy, then they should be repealed, not made more aberrational by recapture.

Third, EDA may be accepted as reform, thereby lessening the demand for some effective change in this area. While this consequence may follow for some short period, we can hope that it is not an enduring result and that those who grew to know and question the farm loss loophole will soon realize that it still exists, almost without any change at all.

V. Conclusion

This discussion closes by recapitulation. There are two forward, but not very significant, steps: the application of section 1245 to livestock and the extension of livestock lives for section 1231 qualification. There are also two backward steps one of which is serious. The hobby loss provision is unwise and seemingly without any justification whatsoever. The special treatment accorded crop insurance proceeds is unwise also, but seemingly is a very minor provision possibly based on the hardship of requiring two years' income to be reported in one and offset by only one year's expenses.

The other provisions are more difficult to evaluate. We could say that the citrus provision is definitely a significant step forward in one area of substantial abuse, but it is much too narrow to be strongly praised; that the recapture of section 175 and 182 expenditures is so small an improvement as to be at best an oblique step turned sharply to the side; and that EDA is at best oblique, and may be wholly to the side—nay, even obliquely backwards—because it seems to be structured so as to remove the matador from the path of the charging reformers, without goring the ox of those who have a somewhat greater than normal vested interest in the present farm tax accounting rules. In general, therefore, the best one can do is to claim a stand-off. An objective evaluation may result in the discovery of more minuses than pluses. But assuming a stand-off, is that really good enough for the much heralded tax reform? One would suppose not.

---

[106] See Surrey, Tax Incentives as a Device for Implementing Government Policy: A Comparison with Direct Government Expenditures, 83 Harv. L. Rev. 705, 720-25 (1970).

DAMMING THE WEST

The Nader Task Force Report on the Bureau of Reclamation

FOREWORD BY RALPH NADER

BY:
RICHARD L. BERKMAN
KIP VISCUSI

Copyright November 1971 by Center for Study of Responsive Law
Washington, D.C. ©

FOREWORD

by

Ralph Nader

To most Americans, the Bureau of Reclamation is less familiar than the moon. To others, Bureau of Reclamation is an agency that specializes in getting water to land near and far. To a number of special economic interests, however, the Bureau is a determined sugar daddy with powerful Congressional allies. To all those who are not profiteering or being graphically bilked by Bureau's policies and discriminations, the agency, lodged in the Department of the Interior, is Dullsville incarnate. But dull subjects tend to be important subjects with their aura of ennui to the outsider serving a shielding function which dissuades inquiry and scrutiny.

As this Report shows in detail, the Bureau of Reclamation has an impact on the West and on Indians, farmers, taxpayers and recreational users that is anything but dull, once those impacts are reduced from high level abstractions and slogans and brought down to earth in terms of Bureau generated resource use and cost, direct and indirect. As the editors and co-authors, Richard Berkman and Kip Viscusi, analyze the Bureau's benefit-cost calculations, its cost overruns, its tunnel-vision inattention to devastating ecological consequences of its works and the need of impoverished Indians for water, they conclude that many of

Bureau's activities should be stopped, curtailed or redirected. Whatever usefulness attached to the Bureau's projects earlier in the century, before surpluses glutted the warehouses and the massive farm subsidies began, in recent decades the economics and equities argue for a serious and immediate reassessment of the Bureau's various functions. Berkman and Viscusi conclude that "BuRec irrigation facilities not only cost billions of dollars to build and operate, but also drive thousands of other farmers out of their jobs, and increase the amount of money that the U.S. Department of Agriculture must send to curtail surplus crop production and to support agricultural prices. Thus, taxpayers are hit coming and going."

The Report does more than critique prevailing Bureau projects and policies; it strives to provide supported recommendations for changes in priorities and procedures in deciding upon what courses of action the agency is to take. As a government agency with specific and relatively finite missions, Bureau looks for new waters to conquer on more and more insupportable economic foundations and environmental neglect. An intriguing inquiry which will not be answered until more official monitoring of Bureau by the Congress occurs is: how could the economists and other professional employees and consultants to the Bureau have countenanced such dubious, if not specious rationale and projects? What kind of professional independence has been repressed by the pressures of a single-minded bureaucracy? These are questions of critical pertinence because they relate to one of the

principal internal checks on run-away government policies, waste and unchallenged special interest pressure groups. Indeed, in a number of contexts this Report raises these questions and until they are answered the necessary impetus to reshape the Bureau will be delayed.

It is hoped that the graduates and students who worked to produce this Report will receive from the Bureau, not the customary self-serving responses or glib waivers, but a considered treatment of the matters discussed and the proposals put forth.

* * *

THE TASK FORCE

RICHARD LYLE BERKMAN — Editor and Co-Author

A.B. Harvard College; Planning Review Staff, Office of Emergency Preparedness, 1970; Second Year Law Student, Harvard Law School.

KIP VISCUSI — Editor and Co-Author

A.B. Harvard College; Graduate Economics Student in Public Policy Program, John F. Kennedy School of Government, Harvard University

* * *

J. LAWRENCE SCHULTZ — Project Research Director

A.B. Yale College; J.D. Harvard Law School; Clerk for Judge Irving Kaufman, 2nd Circuit, U.S. Court of Appeals, 1970-1971

DANIEL R. BARNEY — Assistant Editor and Writer

Senior at Harvard College — CAP Political and Bureaucratic Analysis

JAMIE O. HARRIS — Investigator and Writer

A.B. Yale College; First Year Law Student, Yale Law School — Colorado River Problems and Weather Modification

BURT SOLOMON — Investigator and Writer

A.B. Harvard College; Graduate Student in American Studies, University of Texas — Indians

* * *

Researchers

PETER ADAMS: A.B.; First Year Public Policy Student, University of California at Los Angeles

ANDREW GELMAN: A.B., University of Pennsylvania; J.D. University of Virginia Law School

GEORGE LOCKER: A.B. Stonybrook College, State University of New York

ANDRA OAKES: A.B., Bryn Mawr; J.D. University of Chicago Law School

Staff

CONNIE JO SMITH

TEDDI FINE — TERI LOFTUS

SHERRY LEIBOWITZ — LYN SCHULTZ

DAMMING THE WEST

Table of Contents

Foreword by Ralph Nader 1

Introduction

CHAPTER 1--WATER OVER THE DAM 1

Part I: The Analytic Deception--Reclamation's Benefit-Cost Analysis

CHAPTER 2--IRRIGATION--TOO MUCH OF A GOOD THING 10

CHAPTER 3--IGNORING ENVIRONMENTAL IMPACTS
- I. The Killing of the Snake River--A Study in General Water Quality Problems 30
- II. Salinity Problems on the Colorado River 36
- III. Sedimentation Buildups from Dams 47
- IV. Recreation, Fish and Wildlife 54
- V. Weather Modification 68
- VI. General Conclusions about Reclamation's Impact on Ecology 83

CHAPTER 4--DISTORTED TECHNICAL CRITERIA
- I. Faulty Data 90
- II. Discount Rate Problems 96
- III. Overestimating Electric Power and Municipal and Industrial Water Benefits 104
- IV. Should Secondary Benefits Be Counted? 110
- V. Distributional Considerations of Bureau Projects 118

Part II: Profiteers and the Damned

CHAPTER 5--POLITICIANS AND BUREAUCRATS--A CASE STUDY OF THE CENTRAL ARIZONA PROJECT 123

CHAPTER 6--HIDDEN SUBSIDIZATION OF PROFITEERS
- I. Tricky Accounting 155
- II. 160-Acre Limitation and Excess Land Law 165

CHAPTER 7--INDIANS SOLD DOWN THE RIVER
- I. Water Law and Indians' Water Rights 181
- II. Pyramid Lake: Down the Drain 191
- III. Kennewick Extension: Misrepresenting the Facts and the Indians 194
- IV. Yellowtail Dam: A Snow Job? 200
- V. Navajo Indian Irrigation Project: A Wait of Many Moons 223
- VI. Some General Observations and Recommendations 232

DAMMING THE WEST

Part III: Challenging Prospective Bureau Policies

CHAPTER 8--A LOOK AT PROSPECTIVE CHANGES 242

CHAPTER 9--SUMMARY OF MAJOR CONCLUSIONS AND RECOMMENDATIONS 254

Part IV: Tables and Footnotes

TABLES

FOOTNOTES

ACKNOWLEDGEMENTS

In June 1970, a Task Force of lawyers, graduate students, and undergraduates began an intensive study of the activities of the Bureau of Reclamation. These Task Force members collected volumes of raw data and interviewed hundreds of Bureau of Reclamation officials and other individuals, both inside and outside the Federal Government. At the end of the summer, they left Washington, taking with them the material they had gathered. During the year, some of them spent hundreds of unsalaried hours distilling their results. This summer the two of us returned to Washington to fill in the gaps in the previous year's research and to draft a final report.

Almost everyone we contacted was generous with their time and cooperative in providing what information they had. We would especially like to thank Professors Richard J. Zeckhauser, Robert Edelstein, and Stephen Marglin, as well as the economists at Resources for the Future, who shared their expertise with the Task Force. In the area of water law and Indian water rights, we wish to thank William Veeder of the Bureau of Indian Affairs for the special interest and help he gave us. At the Department of the Interior, James J. Flannery, Daniel V. McCarthy, and Donald D. Anderson helped us open up the Bureau of Reclamation and the federal bureaucracy in general, so that we could make a more informed analysis. None of these individuals, of course, bears responsibility for the contents of this report.

We also want to acknowledge the special contribution of certain individual Task Force members. Jamie Harris provided a rough draft of some of the case study material used in Chapter 3; Burt Solomon did the primary research and writing of the section of the Indians; and the chapter on the Central Arizona Project is almost exclusively Dan Barney's contribution. Dan Barney also provided numerous editorial suggestions. Special thanks to Judy Berkman for helping to keep our writing intelligible, and to Teri Loftus, who was a great help typing.

In the final analysis, however, we take full responsibility for the information, analysis and opinions expressed in this report. We address it to well-intentioned civil servants and administrators, to responsive legislators and to the general American public, with the hope that it will provide a constructive, new perspective on the goals and operation of the Bureau of Reclamation.

Kip Viscusi
Richard L. Berkman

November, 1971

69-133 O - 73 - pt. 5B - 10

INTRODUCTION

CHAPTER 1.

WATER OVER THE DAM

Background on Bureau of Reclamation Activities

Who gives a damn about the Bureau of Reclamation? Those beneficiaries of over $1 billion[1] which have since 1902 been poured into Reclamation projects in the 17 Westernmost states* and Hawaii know about it (see map on facing page). So should citizens who bear the real cost of the Bureau's continued activities.

In 1902 Congress enacted the Federal Reclamation Act[2] to promote the economic development and settlement of the West under the homestead acts. As a part of this act, Congress also created the Reclamation Service, which became the Bureau of Reclamation in 1923. During its first decade, the Bureau devoted 97% of its efforts to irrigation.[3]

Two of the most notable projects in Reclamation history are Hoover Dam on the Colorado River between Arizona and Nevada and the Grand Coulee Dam on the Columbia River in Washington. Acclaimed by the American Society of Civil Engineers as engineering marvels, these and other early Reclamation projects have also contributed significantly to the development of the West. Bureau water has converted what was once arid wasteland into

---

*Washington, Oregon, Idaho, Montana, North Dakota, South Dakota, Wyoming, Nebraska, Kansas, Oklahoma, Texas, New Mexico, Colorado, Utah, Arizona, Nevada and California.

fertile fields; Bureau hydroelectric power has contributed to the growth of western cities; and Bureau dams have helped prevent many potential floods and created vast lakes for recreation. "I give them high marks, " Rep. Morris K. Udall (D-Ariz.) has said. "The history of the Bureau of Reclamation for its first fifty years is tremendous, visionary."[4]

The Past and Current Scope of Bureau of Reclamation Activities

As a testament to their accomplishments, the Bureau of Reclamation has compiled an impressive statistical record:

1) 153 projects authorized as of January 2, 1971, and ranging in size from a small single pumping plant to a multi-unit Missouri Basin Project spread over ten states and costing over $1 billion;

2) Nearly $11.5 billion as the total estimated cost when completed of all the projects already authorized;

3) $6,156,000,000 already expended as of June 30, 1970;

4) About a $5.5 billion backlog of authorized but incompleted work;

5) A potential storage capacity of 134,471,000 acre-feet* of water--or enough to cover the entire six states of New England to a depth of more than three feet;

6) Over ten million acres of irrigated land--or the equivalent of irrigating an area larger than twice the size of New Jersey;

7) Over 600 billion gallons, or nearly two million acre-feet delivered in 1969 to about 14.5 million people for municipal and industrial uses;

---

*An acre-foot is the amount of water needed to cover one acre of land to the depth of one foot--or about 326,000 gallons.

8) Forty-nine hydroelectric power plants generating 48 billion kilowatt hours of electricity in FY '70 and 16,000 miles of transmission lines--or enough operating and transmission capacity to light New York City.

9) Other general Reclamation statistics as indicated in Table 1-A from which most of the above figures were drawn.

These figures indicate that the Bureau of Reclamation is involved in more than merely reclaiming land. Through numerous amendatory and supplementary acts to the original Reclamation statute, Congress has expanded the responsibilities and, therefore, the pork barrel potential of the Bureau of Reclamation.

Now, in addition to irrigating more farmland, BuRec* is responsible for developing adequate water supplies for municipal and industrial uses, hydroelectric power, flood control, navigation, river regulation, water quality control, recreation, and fish and wildlife. It has even extended its bureaucratic tentacles into the research and development of weather modification techniques.

The following capsulized summary of the Bureau's FY '71 budget gives a good picture of the scope of current Reclamation activities:

1) About 9,500 full-time employees;

2) Over $319 million appropriated and spent in FY '71--or more than the combined budgets of Phoenix, Arizona ; Oklahoma City, Oklahoma; Portland, Oregon; and Seattle, Washington;

---

*BuRec is an abbreviation used by other government agencies to refer to the Bureau of Reclamation.

3) More than $20 million spent in FY '71 on general investigations, including 26 reconnaissance studies, 10 basin surveys and 39 feasibility investigations;

4) Over $215 million of the FY '71 budget spent on construction and rehabilitation of authorized projects, including funds for the Upper Colorado River Storage Project and the Colorado River Basin Project;

5) About $70 million appropriated in FY '71 just to operate and maintain existing projects;

6) More than $14 million on general administration;

7) Over $5 million for the Small Reclamation Project Loan Program;

8) Requesting over $360 million for FY '72 appropriations;

9) Other budgetary figures are indicated in Table 1-B from which most of the above figures were drawn.

Procedures for Promoting and Justifying Bureau Activities

When a project is requested, the Bureau may, on its own authority, launch a reconnaissance study,which takes six to eleven years and costs from $75,000 to $3 million. About 60% of these are followed by more extensive, elaborate, and expensive "feasibility" investigations. Authorized by Congress, these more detailed studies require 11 to 21 more years to complete and range in cost from about $275,000 to $7 million.

These feasibility reports serve as the basis for winning Congressional authorization and appropriations for project construction. BuRec submits 80 to 90% of their feasibility reports to Congress, which eventually approves almost all of those submitted.[5]

One reason BuRec projects are received so warmly on Capitol Hill is that the Congressmen responsible for making the cricial decisions concerning them hail from the very states which get the projects. All but two of the 16 members of the

Senate Interior and Insular Affairs Committee of the current 92nd Congress are from Reclamation states; and 24 of the 38 members of the House Interior and Insular Affairs Committee are from Reclamation states.

The key part of the feasibility reports, which the Bureau of Reclamation relies on to secure Congressional approval, is the benefit-cost evaluation. Long before the computer replaced the slide rule and the adding machine, and even before Robert McNamara introduced benefit-cost analysis into defense planning and decision-making, the Bureau of Reclamation had its own project evaluation procedures. In the mid-1940's the Bureau of Reclamation adopted the economic technique known as benefit-cost analysis* as a method of justifying its projects.

Through a variety of methods, the Bureau attaches dollar values to those future benefits and costs it predicts for its projects. These values are then adjusted or "discounted" to recognize the fact that a dollar of income today is worth more than a dollar of income some time in the distant future. If a project's total discounted benefits exceed total discounted costs, then the Bureau labels the project economically feasible. Each project must pass this economic feasibility test before it can be authorized.

---

*Often called cost-benefit analysis.

A simple shorthand has also arisen. If a project is economically feasible (benefits exceeding costs) then the ratio of discounted benefits to discounted costs is greater than 1.0. Congressmen often rely on the so-called benefit-cost ratio as a statistical summary of a project's relative desirability.

This Congressional display of blind faith is far from commendable in view of the biases and distortions the Bureau incorporates in its benefit-cost studies. Daniel A. Dreyfus, staff member of the Senate Committee on Interior and Insular Affairs, admitted that BuRec's benefit-cost analyses are "worthless and phony."[6] Even a high-ranking Bureau of Reclamation economist confessed that "Congressmen unfortunately take the benefit-cost ratios seriously. Really they are not too meaningful."[7] Since these "phony" economic feasibility figures serve as the main justification for the Bureau of Reclamation's continued existence, they merit fuller examination.*

The Thrust of This Report

The time has come for a thorough scrutiny of the impact of the Bureau's persistence in damming up America's waterways. What was considered acceptable practice for the past 70 years of operation is no longer tolerable. Traditional critiques of Bureau activities have focused merely on specific drawbacks, such as isolated environmental damage. Since BuRec invariably

---

*For a list of benefit-cost ratios of projects for which BuRec requested funds for FY '70, see Table 1-C. The number of projects with benefit-cost ratios that are marginal at best is quite large, as Table 1-D demonstrates.

responds by pointing to its favorable benefit-cost studies, which dazzle the Congressmen and effectively mute all further criticism, the Task Force decided to meet the Bureau of Reclamation on its own ground by reviewing BuRec's basic benefit-cost procedures.

The Task Force first looked at aspects of the Bureau's attempts to quantify project benefits and costs. Are these benefits and costs accurately calculated? For example, why is the irrigation of new farmland and the consequential production of crops in the West calculated as a major benefit when the Department of Agriculture is paying billions of dollars to farmers all over the country to limit surplus crop production (Chapter 2)?

Another issue is whether the Bureau of Reclamation fully calculates the cost of their projects in terms of their impacts on our environment (Chapter 3). In particular, have they taken adequate account of water quality, recreation or fish and wildlife? Or have they fully considered the risks associated with their weather modification programs? And what other ecological impacts does--and should--the Bureau of Reclamation consider?

In Chapter 4, the report evaluates more technical distortions in the Bureau's benefit-cost procedures. What kind of data does the Bureau of Reclamation rely on in making its calculations? Why does the Bureau use one of the lowest discount rates in government and give an unjustifiable bias to its benefit-cost ratio? How does it systematically over-estimate the benefits of electric power, municipal and industrial water and secondary contributions? Finally, how are the actual benefits and costs of Reclamation projects distributed in economic terms?

Since the Task Force did not confine itself to technical matters, this report evaluates who really benefits and who actually suffers from Bureau of Reclamation projects. In Chapter 5, we look at the Central Arizona Project and discover that bureaucrats and politicians are prime beneficiaries of the Reclamation pork barrel. Chapter 6 reveals how Reclamation projects also give hidden subsidies to big landowners, and speculators. In particular, this chapter analyzes how the Bureau conceals subsidies in its management of repayment plans and in its lack of enforcement of the 160-acre limitation. In Chapter 7, the report exposes the Federal Government's unjustified violation of Indian water rights and its failure to provide Indians with the Reclamation projects they need.

Since the Bureau of Reclamation frequently defends itself by claiming it is re-evaluating and updating its own goals and procedures, the Task Force felt compelled to appraise and challenge those revisions in the making. Therefore, Chapter 8 looks at how the Water Resources Council fails to address the real issues.

In short, the Task Force is asking: After seventy years of reclamation, has the Bureau of Reclamation outlived its usefulness?

PART I: THE ANALYTIC DECEPTION

> There are three kinds of lies: lies
> damned lies, and statistics.
>
> --Disraeli

CHAPTER 2.

IRRIGATION - TOO MUCH OF A GOOD THING

When patriotic Americans recount the entities sacred to our country's traditions, agriculture rarely falls far behind motherhood and the flag. While society is presently asking challenging questions about motherhood and the flag, the Task Force decided to scrutinize and challenge BuRec's myths about agriculture.

Congress set up the Bureau of Reclamation as an irrigation agency responsible for reclaiming- in other words, irrigating--the arid lands of the West.[1] BuRec has performed this job well. Its water has transformed millions of acres of previously arid land into highly productive cropland. As of June 30, 1970, Bureau water served ten million acres of land- an area larger than the combined acreage of the states of Hawaii, Rhode Island, Delaware, and Connecticut. An impressive amount of crops are produced on BuRec-irrigated lands: almost 50 million tons annually as Table 2-A indicates.

BuRec claims these crops as substantial irrigation benefits in its economic evaluations of projects. Although the specific Bureau provisions for putting dollar values on irrigation "benefits" are somewhat detailed, the basic concept involved is fairly simple. The 1959 Reclamation Instruction manual contains the following provision:

> Direct irrigation benefits are the increase in net farm income resulting from the application of project water.[2]

The revision of the benefit evaluation procedures in 1962 by the President's Water Resources Council left this concept virtually unchanged. Irrigation benefits are still defined as "the increase in net income of agricultural production..."[3] What this really means is that BuRec claims an irrigation benefit equal to the increase in income of farmers receiving BuRec irrigation water.

The Task Force disagrees with this procedure. Several negative benefits (or "irrigation costs") must be subtracted from the Bureau's figure to get the net irrigation benefit to the country. One of the negative benefits of BuRec irrigation is the decrease in income of farmers on non-BuRec-irrigated lands. The Bureau should calculate these negative irrigation benefits. If it did so, the net benefit of irrigation would invariably be zero or even negative.

Do We Need More Farm Land?

It is difficult to find a convincing rationale for further irrigation efforts. While BuRec has been irrigating new farm land, the Department of Agriculture has been trying to hold down excess agricultural production. These two agencies working at cross-purposes waste billions of dollars of the taxpayers' money.

The Department of Agriculture has undertaken several expensive programs to limit agricultural output and to take farm land out of production. The Soil Bank Program took cropland out of production; the Cropland Conversion Program,

the Commodity Diversion Programs, and the Cropland Adjustment Programs are efforts to convert cropland into fields of grass and trees. In addition, various acreage allotment programs and marketing quota systems limit the amount of specified crops that can be grown.

Marion Clawson, a prominent agricultural economist and a consultant for Resources for the Future,* recently estimated that "over 50 million acres of cropland are currently lying idle as a result of government programs."[4] Yet, this is not all of the available, unused farm land. The Department of Agriculture estimates that there is another 110 million acres of U.S. cropland lying idle, which has not been retired by government efforts.[5] In short, more than one-third of the available cropland in the U.S. is not being used currently. Hence, there is no present requirement for more irrigated land.

But what about future needs? BuRec officials often cite the increased food requirements of an expanding population as justification for more irrigation. One recent BuRec publication reasoned:

> Continued and increased effort will be necessary to feed the burgeoning population of the future... If supported only by

---

*Resources for the Future is a non-profit natural resource research and consulting organization, established with the cooperation of the Ford Foundation in 1952.

> presently developed resources, within a decade the West would become a deficit agricultural area--not only in terms of certain items of food, as at present, but in total production.[6]

On the surface, this argument for developing land resources to meet future needs might seem to make a lot of sense. But one major underlying fallacy in the BuRec argument is that future crops will not be produced using only "presently developed resources." Even if no more land is irrigated, existing resources will be developed to a greater extent in the future through increased use of fertilizer, improved agricultural machinery, and other technological advances.

Apparently, BuRec ignores potential technological developments in estimating the irrigation needs of the West. In the Mountain and Pacific Regions, for example, food production increased from 16.3 million tons in 1940 to 23.4 million tons in 1960. BuRec claimed that, in the absence of new irrigation projects, food production in this area would reach only 28 million tons by 2010.[7] However, continuation of current trends would place food output at well over 40 million tons by 2010. Although the amount of irrigated land may not significantly increase without more BuRec projects, there is no reason to assume that food production will be adversely affected.

The National Advisory Commission on Food and Fiber believes that more irrigated land is not needed:

> Policies should be tied less closely to land, since land is becoming a less limiting factor in food and fiber production.[8]

As a result, the Bureau's predicted agricultural shortages, based on the assumption that land is the critical factor of production, are not justified.

Furthermore, it does not make sense to exacerbate current short-run surplus problems because of hypothetical long-run contingencies. The existence of substantial crop surpluses and millions of acres of retired cropland certainly give the U.S. enough flexibility to wait until the prospect of an agricultural shortage is somewhat more than a very shaky, long-range hypothesis. There is no need to continue to irrigate additional land as a hedge against a problem which will probably never arise.

In fact, the consensus of agricultural experts is that land shortages pose no foreseeable problem at all, even in the long run. The USDA Agricultural Stabilization and Conservation Service offered the following evaluation of agricultural production trends:

> Less and less land is being planted and harvested. Of the 460 million acres of cropland, farmers now harvest only about 300 million acres. This is the smallest harvested area since 1909...Ever since 1950, after the accrued benefits of science and technology had really hit agriculture, yields almost doubled and are still climbing.
>
> Higher yields make it possible to divert more crop acres from intensive production to grass, trees, and other conservation uses.[9]

The National Advisory Commission recently released a similar study evaluating Food Needs and U.S. Agriculture in 1980. This Commission concluded that U.S. agricultural surpluses will be even greater in 1980 than they are now.[10]

Several individual economists also have agreed that the U.S. has an excess farm capacity far into the future. Roger Strobehn, the Economic Research Service economist representing the Department of Agriculture on the Water Resources Council Task Force, claimed that he "would have a hard time defending the need for more irrigated land."[11] Marion Clawson, agricultural economist for Resources for the Future, expressed similar sentiments:

> Today, there are about three million farms in the United States. At least two-thirds of these are unneeded in the long run.[12]

In short, leading agricultural experts tell a far different story than do BuRec officials. These experts from Resources for the Future, the Water Resources Council, the National Advisory Commission of Food and Fiber, and the U.S. Department of Agriculture all agree there is no need for more farm land either now or in the future. Thus, the crucial question of whether more irrigated land is needed has been answered with a resounding "No!" The Task Force therefore concludes that there is no existing justification for sinking more of the taxpayers' money into new BuRec irrigation efforts.

The Untold Costs of Irrigation: Surplus Crops and Unemployed Farmers

To a great extent, the preceding arguments against continued irrigation relied upon common sense and basic economic concepts, and focused on the effect of more irrigation. To determine the real impact of current BuRec programs, the Task Force made a crop-by-crop analysis of crops grown on BuRec-irrigated lands. We found that BuRec's irrigation benefit calculations are specious.

Forage: Over 40% of all BuRec-irrigated land is used to grow forage. Pasture, alfalfa, corn fodder, hay, and other such forage differ from most agricultural outputs in that they do not go directly into human consumption. In fact, much of this forage is not marketable since many farmers grow their own livestock feed and don't buy it. By lowering feeding costs, excess forage production encourages farmers to raise too much livestock.

Technically speaking, the Department of Agriculture never labels forage and livestock as "surplus" since it has no price support program to buy up and store these commodities. However it is very possible that these non-"surplus" outputs of forage and livestock could cause livestock prices to fall sufficiently to drive many farmers out of business.

Professor Charles W. Howe*, former director of the Resources for the Future water resources program and Professor K. William Easter*, former Bureau of the Budget economist,

---

*Howe is now Professor of Economics at the University of Colorado. Easter is now Professor of Economics at the University of Minnesota.

recently conducted an intensive study of BuRec's impact on farm surplus problems. They found that BuRec-irrigated forage lowered not only forage prices, but also the income of non-Reclamation farmers.[13] They reasoned that increased forage production resulted in cheaper livestock feed, which resulted in greater livestock production, which in turn resulted in decreased livestock prices and farm incomes.

Howe and Easter's study points out only part of the forage surplus problem. Much of the livestock fed by this forage contributes to surplus crop problems in less direct ways. For example, every year the Department of Agriculture has to step in and boost the prices of butter, butter oil, cheese, milk, wool, and mohair. Thus, the forage supporting cows, sheep, and goats all contributes to price support costs through these livestock by-products.

Cereals: The administrative price support costs, as well as the loss in farm income for non-Reclamation farmers due to BuRec irrigation, are not limited to forage. Over 25% of all BuRec-irrigated land supports the growth of cereals such as barley, corn, and wheat. Unlike forage, cereals are treated as surplus crops by the Department of Agriculture. USDA's Commodity Credit Corporation (CCC) pays out nearly $50 million every year in price support and surplus.

grain storage programs for all the major cereals produced on BuRec land. Howe and Easter estimate that the CCC Programs for the corn, barley, sorghum, and wheat grown using BuRec water cost the taxpayer between $19 million and $50 million every year.[14]

The administrative costs of price supports and grain storage--suffered by all the Nation's taxpayers--are only part of the cost of BuRec efforts. Farmers all over the country--including those in the West--have been forced by excess production to sow fewer acres of corn. Meanwhile, BuRec irrigation projects have increased acreage for corn by 246,000 acres since 1944. Likewise, wheat production has increased by 152,000 acres on BuRec lands and declined everywhere else. Even barley acreage increased by 143,000 acres on BuRec lands with an accompanying decrease in barley acreage in the North and South.[15]

In short, BuRec-supported cereal crops appear to be growing at the expense of other farmers and at a direct annual cost to American taxpayers of as much as $50 million.

Field Crops: Similar drawbacks apply to field crops. The three major field crops, which use about 16% of all BuRec-irrigated land, are sugar beets, cotton, and beans--all of which also have an adverse effect on the national farm surplus problem.

The Department of Agriculture has attempted to cope with the cotton problem through both price supports and storage

programs. Howe and Easter estimate that price supports and USDA Commodity Credit programs for cotton grown with BuRec water have cost between $47 million and $104 million per year.[16] This bill is passed on to the taxpayers—not to BuRec project beneficiaries.

BuRec cotton production also hurt other cotton farmers—particularly in the South. Between 1944 and 1964, Southern cotton acreage dropped by one-third, while BuRec cotton acreage increased by almost 300%--or 369,000 acres.[17] This BuRec cotton competes directly with Southern cotton. In 1961-62, for example, "45% of the crop produced in California, Arizona, and New Mexico was shipped directly to southeastern textile mills."[18]

The effect of BuRec irrigation projects on edible and dry bean production is similar. As with cotton, the Department of Agriculture has to support bean prices and buy up the bean surplus. However, the main cost of BuRec bean production is not that of the surplus crop program, but rather the cost to other farmers. As BuRec supported bean production has risen, bean acreage on other farms has dwindled. Bean acreage declined by 10,000 acres in the North, by 10,000 acres in the South, and by 429,000 acres in the West between 1944 and 1964. But bean acreage on BuRec irrigated land doubled—the increase being 147,000 acres- in the same period.[19] In short, BuRec beans appear to be competing most directly with beans grown by other Western farmers.

Finally, over 500,000 acres of BuRec land is devoted to sugar beet production. The Department of Agriculture currently operates a Sugar Program designed to curtail excess sugar production. Sugar beet production on Reclamation-served land costs taxpayers $19 million annually in Sugar Act payments alone.[20] As a result, every additional sugar beet grown on U.S. soil hurts the taxpayer.*

Fruits, Nuts and Vegetables: The arguments made above about forage, cereals and field crops also apply to what BuRec calls "specialty" crops. Whenever they went in the Bureau of Reclamation, Task Force members heard the argument that BuRec irrigation is needed to produce "specialty crops" that cannot be grown without BuRec water. The following BuRec statement is typical:

> For the most part, Reclamation farms produce crops that can't be grown successfully in the West without irrigation water.[21]

Such alleged specialty crops include fruits, nuts, and vegetables.

---

*In addition, Howe and Easter estimated that curtailed domestic sugar production and increased imports could save U.S. consumers "from 3.5 cents to 4 cents a pound in the short run and 1.5 cents to 3 cents in the long run." This means that with increased imports, households would have to pay only 50 cents for a five pound bag of sugar instead of the 65 cents that they are now paying.

About seven percent of BuRec land is used to grow fruits and nuts. The primary effect of this production has not been to contribute to Americans' food needs, but rather to put established fruit and nut growers out of business. Howe and Easter present the particulars concerning BuRec's performance:

> Between 1944-1964 the acreage of fruits and nuts fell 50 percent in the North and dropped by 6 percent in the South. In contrast to these declines, overall acreage in the West increased by 23,000 acres while the acreage on reclamation-served lands increased 237 percent or 270,000 acres. Hence, acreage in the nonreclamation West must have declined by 247,000 acres, or 13 percent.[22]

To a great extent, BuRec irrigation projects have affected vegetable production in a similar fashion. Between 1944 and 1964, vegetable acreage fell in both the North and South by over 500,000 acres in each area. Only in the West did the vegetable acreage increase. But even there, vegetable acreage declined on non-BuRec lands. On BuRec-irrigated lands, however, vegetable acreage (excluding potatoes) increased by 111,000 acres between 1944 and 1964 as BuRec farmers again profitted at the expense of farmers elsewhere.[23]

BuRec potato production is equally blameworthy. Howe and Easter concluded that BuRec potato production has significantly reduced incomes of non-BuRec farmers:

> Approximately $69 million of the $173 million decline in the farm value of potatoes can be attributed to increased production on lands served by reclamation...By lowering potato prices reclamation irrigation has substantially reduced the incomes of non-reclamation farmers.[24]

Thus, all BuRec vegetables--including potatoes--have brought substantial harm to previously existing American farms.

Yet the Bureau persists in claiming that these "specialty crops" cannot be grown without BuRec water. Surely, some of the 160 million acres of idle cropland elsewhere in the U.S. could be used to grow these so-called specialty crops. To resolve this controversy, we went to a leading U.S. agricultural economist--a man who has written or edited nine economic books in the last 14 years and who serves as an economic consultant for Resources for the Future. This outstanding expert, Marion Clawson, concluded:

> Land quality is somewhat better in some areas, but it's very hard to claim uniqueness. Maybe you can do this for artichokes in California, but by and large the Bureau's claims of uniqueness are nonsense.[25]

Other Miscellaneous Crops: The preceding sections have discussed all the crop varieties served by BuRec water except seeds and crops raised in family gardens and orchards. It is easy to cite the harmful impact of producing seeds for more alfalfa, sugar beets, and other crops shown in Table 2-A. Since too much of these crops is already being produced, there is certainly no need to have BuRec lands produce more seeds to raise even more excess crops.

The family garden problem is a little more difficult to deal with. It can be justly argued that family crops result in that much less food being bought in the stores, thus hurting the income of other farmers. However, since less than 1/400 of all BuRec land is used for family gardens

and orchards it is better to pass over these than to begrudge a person a few tomato plants in his back yard.

Total of Surplus Crops and Displaced Farmers

The direct costs of BuRec irrigation are quite substantial. In a 1959 study of BuRec programs, agricultural economist G.S. Tolley found that the repercussions of BuRec projects were so great that "it may be that one farm worker for every twenty remaining in southern agriculture has been displaced by federal reclamation."[26]

A more recent study by Howe and Easter concluded:

> In terms of land held in retirement, reclamation has probably replaced 5-18 million acres elsewhere.[27]

The pervasive impact that this has had on America's farmers cannot be overemphasized. Perhaps as many as 180,000 farm workers have been driven from their jobs as a result of BuRec's short-sighted policies.* Nevertheless, BuRec has obliviously plowed ahead with its irrigation efforts, aggravating the problem even further.

BuRec irrigation has also placed a heavy burden on the American taxpayers. USDA programs for the cotton, wheat, feed grains, and sugar produced on BuRec-served land cost American

---

*Based on information supplied by USDA estimating that there is an average of one farm worker per 100 acres of active cropland.

taxpayers between $129 million and $258 million annually.[28] And this is only part of the direct cost. Price support costs for BuRec-supported beans, mohair, wool, butter and other crops cost taxpayers millions more annually in direct USDA outlays. In essence, every time BuRec increases its "irrigation benefits," Americans actually suffer increased irrigation costs.

BuRec's Rebuttal

Reclamation Commissioner Ellis A. Armstrong spoke for the Bureau's position in the following exchange at recent Congressional hearings:

> Mr. Evins.[Rep. Joe L. Evins (D-Tenn)]: What answer could one give those who question spending money to irrigate land, at the same time the Agriculture Department is paying people to keep land out of production?
> Mr. Armstrong: As I pointed out in my slides, the major portion of the production of irrigated lands is that which doesn't contribute to agricultural surplus as except for a small proportion of forage and feed grains. Where those are produced they are largely used for beef production. If they weren't produced in that area there would not be nearly as much beef production because of the location and high transportation costs.
> Further, one of the things I think is quite important is insurance, the stability you have with irrigated agriculture. We have been quite fortunate now for a number of years in the drought situation. We haven't had a worldwide drought for quite a number of years. When something of this nature occurs, it is good to have assured production.[29]

Mr. Armstrong's answer to the irrigation question is no answer at all. The Task Force takes exception to Commissioner Armstrong's response for several reasons. First of all, he sidestepped the crucial issue. Regardless of other issues,

as long as over one-third of the Nation's cropland (160 million acres) remains idle, with the prospect of more farmland being retired in the future, why does the Nation need more irrigated land? The Task Force maintains that it does not.

Second, it is not true—as Mr. Armstrong suggests—that BuRec programs are responsible for only a small portion of crop surpluses. As demonstrated earlier, over 52% of BuRec crops (i.e., cereals, beans, cotton, and sugar) contribute directly to either the Sugar Program payments or USDA price support and surplus crop storage programs. The Task Force maintains that all BuRec production of such crops should be considered surplus.

Through a bit of statistical finagling BuRec officials have managed to come up with very low estimates of the Bureau's contribution to the surplus crop problem: wheat—2.2% of the surplus, corn—0.73% of the surplus, upland cotton—4.1% of the surplus, and grain sorghum—0.34% of the surplus. BuRec's method for determining these figures is fallacious, however. Upland cotton, for example, is said to contribute 4.1% of the surplus, since 4.1% of the upland cotton produced in the U.S. depends on BuRec water.

A more appropriate procedure would be to consider all (100%) of the incremental cotton production on BuRec lands as surplus. Professor Otto Eckstein, later a member of President Johnson's Council of Economic Advisers, reached a similar conclusion in 1958:

> But the output on irrigated land should really be considered incremental for the country as a whole. If a crop is in surplus, all of the extra output caused by irrigation must be considered to add to the surplus, not just a proportionate share.[30]

For over a decade since Professor Eckstein published his analysis, BuRec officials have ignored his suggestion; they deliberately continue to use fallacious surplus crop estimates which distort and understate the Bureau's contribution to the crop surplus problem. We are forced to conclude that all those BuRec crops (utilizing 42% of BuRec land) that are covered by various USDA surplus crop programs should be considered surplus.

However, this is not the end of the surplus problem. As discussed earlier, forage contributes indirectly to surpluses by providing livestock feed for animals producing wool, mohair, milk, etc.--all of which are covered by various price support programs. Finally, the remaining crops--even though not covered by USDA support programs--are in surplus in the sense that BuRec production of each of these crops displaces production of these farm goods elsewhere and causes a subsequent loss of income to other farmers--Reclamation has already displaced as many as 180,000 former farmers.

Thus, virtually all BuRec supported crops are excess. To say, as does Commissioner Armstrong, that the "major portion" of BuRec supported crops are <u>not</u> excess is a blatant distortion of the facts.

A final objection to Commissioner Armstrong's testimony relates to the problem of drought. Let us recall for a moment the exact words uttered by Commissioner Armstrong:

> We have been quite fortunate now for a number of years in the drought situation. We haven't had a worldwide drought for quite a number of years. When something of this nature occurs, it is good to have assured production.[31]

The Task Force was somewhat intrigued by Mr. Armstrong's discussion of a worldwide drought. To determine the frequency of such phenomena, we contacted the drought experts at the Environmental Data Service (EDS) of the Department of Commerce.[32] Much to our surprise, there has never in recorded human history been what they would call a worldwide drought. In fact, meterologists think the term "worldwide drought" is an improper description of any actual or potential scientific phenomena. When we then asked about the frequency of "nationwide" droughts, we learned that it is also misleading to refer to any drought in our history as "nationwide," although the Dustbowl of 1934 and 1936 was indeed extensive. Nevertheless, according to EDS, even if we suffered an equally wide-ranging drought today- which is highly improbable--"the impact on our total national farm production would not be as severe as it was in the '30's."[33] For one thing, advanced farm technology can compensate for reduced rainfall by growing more crops per acre where conditions permit. Second, we already have plenty of irrigated land to assure continued crop production; and finally, we now have

millions of acres of land throughout the U.S. lying idle which could be brought into production if the only available water were in their region.

In retreat, BuRec says that it is shifting its projects away from irrigation. While the Bureau spent 97% of its resources and efforts on irrigation in its first decade, it claims that now only 40% of its total appropriations and allotments have gone to irrigation.[34] Yet an analysis of the $5.5 billion backlog of authorized facilities BuRec is fighting to complete, indicates that irrigation is still the primary element in current and prospective reclamation projects.*

Under the FY'71 budget, 26 projects or major project units with a total balance to complete of over $2 billion were not yet under construction.** Twenty-three of these are predominantly irrigation projects; in fact, $1.2 billion or 55% of the total cost of these unstarted projects is allocated to irrigation. Projects with partial construction need nearly $3.5 billion more to be completed*** It is difficult to be certain how much of this balance to complete represents new irrigation costs. Nevertheless, we know from Table 2-C that there are four project units with some construction (5% or less) which have yet to spend nearly $1 billion for irrigation;

---

*See Tables 2-B and 2-C. A similar analysis of the 39 reconnaissance studies and 57 feasibility investigations described in BuRec's FY'72 Budget submission to Congress shows that about 1/2 of the reconnaissance studies and the overwhelming majority of the feasibility investigations still focus largely on irrigation.

**See Table 2-B

***See Table 2-C

and another project with only 11% constructed has over $203 million more allocated to irrigation. If all of these irrigation "benefits" were excluded as they should be, the benefit-cost ratio for most of these projects would dip below unity and our economy would be spared the burden of these costly and counterproductive undertakings.

Recommendations

The Task Force recommends that the billions of dollars of backlogged projects either awaiting construction funds or currently under construction be re-evaluated, giving zero benefits to irrigation. Since the bulk of the benefits claimed for these forthcoming projects are irrigation benefits, most of these projects no longer will pass the economic feasibility test. Moreover, the few projects that do survive will be substantially changed as water earmarked for irrigation should become available for water quality needs as well as for municipal and industrial water supplies. The original task of the Bureau of Reclamation--irrigation--has long since been completed. At least in the area of irrigation, BuRec's time has passed.*

* * * * * * *

---

*It should be noted that the analysis in this chapter was based on the assumption that the Dept. of Agriculture would continue its price support program, as well as its various crop and acreage limitations. Ideally, such restraints on the farm economy should be eliminated--at least from the standpoint of economic efficiency. Under such circumstances, the drop in crop prices would more than offset any increase in crops sold so that the Bureau of Reclamation still would be able to claim only negligible benefits for its irrigation. In addition, there would still be the displacement effect of BuRec irrigation as other non-Reclamation farmers are driven out of business. Finally, if we were to return to free competition for farm goods, the whole concept of a highly subsidized irrigation effort operated by BuRec would be jeopardized.

CHAPTER 6

HIDDEN SUBSIDIES

> Some large farmers push for irrigation projects even though their farms are too large to benefit from the irrigation water. They're just concerned about the public interest. It really restores your faith in democracy and human nature. It really gives you a good feeling inside.[1]
>
> --Loren Holt, Economics Branch, Bureau of Reclamation

> The owners of the big estates cannot get what they want by State action alone. They also need Federal help, and they think they can come to Washington, with no one greatly concerned over the issue and push their proposal through Congress on favorable terms to themselves.[2]
>
> --The former U.S. Senator Paul Douglas

I. TRICKY ACCOUNTING

Commissioner Armstrong likes to boast that "Reclamation projects, to a large extent, pay their way."[3] In reality, BuRec projects do no such thing. Although Bureau officials frequently and repeatedly tout repayment as a virtue of Reclamation projects, BuRec repayment schemes actually hide enormous subsidies.

In order to gain Congressional authorization of a project, the Bureau must demonstrate that project beneficiaries are able to repay all "reimbursable costs." BuRec labels most project costs as "reimbursable," including irrigation, electric power, and municipal and industrial water supply.

As the first step in measuring project repayment capacity, the Bureau determines the amount of project costs which are to

be repaid by the beneficiaries of each project function. To accomplish this cost distribution, BuRec uses the "separable costs-remaining benefits" method. As the name suggests, the extent to which this method allocates project costs equitably depends on the accuracy of the original project benefit estimates.* Since BuRec's benefit estimates bear little resemblance to the actual benefits accruing, as the Task Force demonstrated in Chapters 2, 3, and 4, it is unfortunate that BuRec relies on them in allocating costs for repayment.

Having made such distorted cost allocations for different project purposes, the Bureau of Reclamation then assigns repayment obligations to the project beneficiaries. It is in this latter phase of the process that BuRec buries the biggest subsidies in complicated accounting procedures. Who receives these subsidies? How big are they? And how are they hidden?

---

*The operation of the "separable costs-remaining benefits" method is explained in the Reclamation Instruction manual:

> In this method each project purpose is assigned its separable cost [cost which could be omitted from the project if the purpose were excluded] plus a share of joint costs proportionate to the remainders found by deducting the separable cost of each purpose from the justifiable expenditure for that purpose.[4]

The "justifiable expenditure" is defined as the lesser of the benefits for a given purpose and the alternative cost of a single-purpose project to obtain the same benefit.

Irrigation Subsidies

The history of irrigation project repayment is a story of increasing subsidization. The Reclamation Act of 1902 required recipients of project irrigation water to repay the construction costs in ten annual interest-free installments.[5] When ten years proved to be too short a period for the farmers to repay these costs, Congress lengthened the irrigation repayment period to twenty years, through the Reclamation Extension Act of 1914.[6] Since the irrigators were still unable to meet their repayment obligations, the Fact Finders' Act of 1924[7] authorized the use of Reclamation power revenues to subsidize project irrigation costs. Even with such direct assistance, the irrigation repayment period had to be extended to 40 years by the Omnibus Adjustment Act of 1926.[8] The Reclamation Project Act of 1939 authorized irrigators to use project water for ten years following project construction before even beginning their 40-year repayment obligation.[9] Present Reclamation policy continues the 10-year period, but has extended the interest-free repayment period to 50 years.[10] Thus, Reclamation projects offer irrigators two types of subsidies--direct revenue transfers from other project functions and a subsidy resulting from the long-term interest-free obligations.

Direct Revenue Transfers: The most obvious of the two subsidies is the direct transfer of electric power revenues and municipal and industrial water revenues to repay costs assigned to the irrigators. Although BuRec allocates the bulk of project

costs to irrigation, it does not assign this whole burden to the farmers who will benefit from project water. Instead, the Bureau determines the amount per-acre which an average farmer in the project area can afford to pay toward construction costs; BuRec then multiplies this amount by the number of acres in the area to be irrigated to arrive at the total sum to charge the irrigators.

For example, the Bonneville Unit of the Central Utah Project has allocated $220,409,000 (or $1,408 per acre) to irrigation out of a total project cost of $413,250,000. Yet BuRec has assigned only about $16,400,000 (or $2.10 per acre x 50 years x 156,530 acres) to irrigators for repayment.[11] Hence, the irrigators get a direct capital subsidy at the outset of $1,303 per acre, or a total of over $204 million for all the irrigated farmland in the project area. Collection of a special property tax (an ad valorem tax) is expected to return $64,691,000, or $243 per acre of this initial capital subsidy. Of course, whatever share of this tax the irrigators pay reduces their subsidy accordingly; but in no case will the average direct revenue transfer subsidy to irrigators in the Bonneville Unit fall below $1,060 per acre.*

---

*In arriving at this $1,060 per acre direct transfer subsidy we recognized the fact that costs allocated to irrigators may overstate somewhat the direct subsidy. Currently, irrigators are assigned all separable project costs, plus a proportion of all remaining nonseparable costs---where the proportion depends on the amount of irrigation benefits. Since the irrigation benefits category includes secondary irrigation benefits that don't directly increase farmer income, the resulting portion of costs allocated to irrigation should instead be distributed among all the project purposes in proportion to the amount of benefits claimed. Our analytic neglect of this secondary benefit problem results in a slight upward bias in the subsidy figure which should

This example of a direct transfer subsidy is not extreme or unusual. In fact, Senator Allen J. Ellender (D-La.), Chairman of the Senate Appropriations Committee, discovered during recent hearings that 10 new Reclamation projects are costing $1,045 to $2,803 per acre to irrigate while the farmers themselves are repaying as little as $77 per acre. (See Table 6-A).

To make these direct transfer subsidies, BuRec depends heavily on the use of revenues from its hydroelectric power plants. For the 23 projects listed in the BuRec publication, Power Systems: Average Rate and Repayment Studies, FY 1969, $1,420,705,465 in repayment aid to irrigation was given from power revenues.[12] Future transfers of power revenues make this $1.4 billion figure seem insignificant by comparison. For the Central Utah and Deedskadee Participating Projects of the Colorado River Storage Project, BuRec has apportioned over $1 billion of future power revenues for irrigation assistance;[13] for the Missouri River Basin Project, it has apportioned over $2 billion worth.[14]

BuRec officials frequently claim that it is only right for power and municipal and industrial water users to subsidize irrigation costs since they supposedly reap indirect benefits from irrigation. Or, in the words of Reclamation Commissioner Ellis Armstrong:

> By participating in irrigation repayment, the power user, the user of municipal and industrial water, and the payer of ad valorem taxes, contribute to social payout in return for the economic and social benefits they receive.[15]

Armstrong's logic is deficient in several respects. Admittedly, there are some regional benefits from BuRec projects. BuRec irrigation probably helps expand local economies, thus helping power users and others in the same project area. By the same token, however, electric power and municipal water provisions promote regional growth, thus increasing the local markets in which BuRec irrigators can sell their goods. Thus, the indirect benefits work both ways. It is unclear that power users are receiving more regional benefits from irrigation than irrigators are receiving from electric power.

Furthermore, power revenues from a project located hundreds of miles away often are used to subsidize irrigation costs. BuRec uses revenues from projects, which produce power or M&I revenues in excess of their repayment obligations, to help repay irrigation costs for basin projects that are often several states away. Such basin accounts, for example, are in operation for the Central Valley Project, the Upper Colorado River Storage Project, the Colorado River Basin Project, and the Missouri River Basin Project.* This use of basin accounts gives the illusion that a project is paying for itself when, in fact, it is being subsidized by other projects in the basin. The distant power users who help pay this subsidy to irrigators experience virtually no indirect effects of BuRec projects except the displacement effect of BuRec agriculture on farmers in their region. In short, there is little or no justification for irrigators to be subsidized by power and municipal and industrial water users.

---

*The Missouri River Basin extends into ten states, seven of

To get a feeling for the extent of the interest subsidy over the entire repayment period, consider the following example. Suppose that there are no interest costs during project construction* and that irrigation repayment begins ten years after the original outlay of construction funds. Also suppose that the irrigators will repay their obligation in equally sized annual installments over a 40-year period. If an irrigator repays a reimbursable cost of $100 per acre in the above fashion, then he really is repaying an amount with a present value of $9.42.** Thus, irrigators are getting a 91 percent interest subsidy on their repayment obligation. It should be noted that this 91 percent figure is very conservative. The example used assumed that the repayment period began 10 years after project funding instead of the 60 years required in the Missouri River Basin area. Moreover, irrigators were assumed to repay their obligation in 40 years--ten years faster than required. These two biases in BuRec's favor make 91 percent a conservative estimate of the hidden interest subsidy given to irrigators.

While the hidden subsidies to irrigators vary from project to project, the Task Force devised a general formula for finding them. First look for the direct transfer subsidy, that is, the cost allocated to irrigation minus the irrigators' repayment obligation minus the ad valorem tax. Next, add to this direct

---

*An equivalent assumption is that project construction is instantaneous.

**Present value was computed using a ten percent interest rate.

transfer figure 91% of the irrigators' remaining repayment obligation, which represents the interest rate subsidy. These numbers can be calculated on either a per acre or project-wide basis.

Using this formula for the Bonneville Unit, the Task Force found a total subsidy of $1156 per acre or $235,333,000 for the whole project area.* To find the annual subsidy, we divided this per acre total by a factor of 9.91 which we got by assuming the total subsidy was taken over a 50 year period and discounted at a rate of 10% to its present value. So the annual subsidy to irrigators getting water from the Bonneville Unit will be about $117 per acre or a total of $23,750,151.

Economists Howe and Easter in a recent study for Resources for the Future found comparable figures. They noted that Western farmers served by BuRec water pay $35-$135 less per acre per year than the full cost of supplying the water.[18] If computed for a 50-year period and discounted to its present value, this yearly subsidy range would yield a total over the 50-year assumed life of the project of $347 to $1133 per acre.

*	Per Acre		PROJECT Total	
1) Plus	$1,408	or	$220,409,000	allocated to irrigation
2) Minus	105	or	16,400,000	irrigators repayment
3) Minus	243	or	64,691,000	ad valorem
4) Plus	96	or	14,927,000	interest subsidy
	(91% of $105)		(91% of $16,400,000)	
	$1156		$235,333,000	total subsidy

Lines 1), 2), and 3) are used to compute the direct transfer while line 4) represents the interest subsidy.

Several observations should be made at this point. The fact that irrigators have consistently fallen short of their interest-free repayment obligations, which can be paid off with money worth only a fraction of the initial obligation, implies that either irrigation benefits have been grossly over-estimated or BuRec farmers are reaping a huge profit. Whether irrigators are able to fully capitalize on all of this subsidy is really a peripheral consideration. The crucial point is that the taxpayer--not the irrigator--bears the huge cost of BuRec irrigation facilities.

Subsidies To Other Beneficiaries

Even though power and M&I revenues help pay for irrigation construction costs, power and M&I users may still get a subsidy of their own. In addition to subsidizing irrigators, the power and M&I beneficiaries have to repay their repayment with interest. But the interest rate is so low as to substantially understate the true cost to society of building these projects. The General Accounting Office reached the same conclusion:

> GAO found that the interest rate criteria used by federal agencies in determining the cost of financing the Federal power program result in the use of interest rates that are not representative of the cost of funds borrowed by the Treasury during the period of construction of a power project.[19]

The Bureau of Reclamation is particularly guilty of understating this interest rate. The Comptroller General of the United States pointed out in a 1970 GAO report that "unless legislation

directed otherwise, the Bureau of Reclamation has used a 3-percent interest rate...."[20] Examples of projects using the three percent rate are: the Boise Project, Minidoka Project, Columbia Basin (Grand Coulee Dam), Hungry Horse Project, Palisades Project, and the Yakima-Roza Division.[21] The only major exceptions to this practice are the Yakima-Kennewick Division power project (2.5%) and the Grand Coulee Third Powerplant (3.125%).[22] As a result of these low interest rates, power and M&I users may get enough of a hidden subsidy on some projects to outweigh the share of irrigation costs they must repay. In either case, however, the federal taxpayers are subsidizing the projects as a whole.

Recommendations

Although there is no panacea to this complex problem, some constructive suggestions can be made. First, all subsidies should either be abolished or made openly. Direct project beneficiaries should be required to pay all of the reimbursable costs with interest for the project outputs they receive; if Congress wants to subsidize needy beneficiaries they should do so more candidly and without loopholes and smokescreens that hide the subsidies to the undeserving few. Project costs should include an annually compounded interest charge computed using an interest rate equal to the discount rate. All transfers of power revenues and municipal and industrial water revenues to help pay off irrigation costs should be prohibited. Finally, the General Accounting Office should be funded to do more comprehensive

studies of BuRec projects and given the authority to determine the repayment obligation of the beneficiaries in cases where BuRec does not do so appropriately. The Task Force is merely asking BuRec to stop hiding its subsidy of the few at the expense of the many.

II. 160-ACRE LIMITATION AND EXCESS LAND LAW

> I grant you, you start kicking the 160-acre limitation and it is like inspecting the rear end of a mule: You want to do it from a safe distance because you might get kicked through the side of the barn.[23]
>
> --Senator Claire Engle

While all irrigators receive special subsidies through BuRec's repayment practices, only a few of them receive the largest share of this enormous hidden payout. BuRec is again to blame for this inequitable distribution of Reclamation project windfalls. Through lax and ineffective enforcement, BuRec has enabled certain large-scale irrigators to evade the 160-acre limitation on farms receiving BuRec water.

Statement, Meaning, and Purpose of the Excess Land Law

Initially, Congress hoped to promote homesteading and the development of the West by limiting the acreage of farms eligible to receive BuRec irrigation water. First incorporated in the 1902 Reclamation Act, the excess land law prescribes:

> No right to the use of water for land in private ownership shall be sold for a tract exceeding 160 acres to any one landowner, and no such sale shall be made to any landowner unless he be an actual bona fide resident on such land, or occupant thereof residing in the neighborhood [i.e., within 50 miles]...[24]

In 1914, Congress added an anti-land speculation provision requiring that no contract be let or construction started on any federal Reclamation project until the owners of excess land within the project area agreed to dispose of their excess land holdings at the value it would have been worth, if the Government had not decided to build an irrigation project.[25] Congress intended by this provision to prevent large landowners and speculators from capitalizing on any unearned increment which would result, or had already resulted, from the federal investment in the project.

To tighten the language of the excess land law and to facilitate effective enforcement, Congress included a new provision in the Omnibus Adjustment Act of 1926. After 1926, excess lands could legally become eligible to receive Reclamation project water only if the landowner executed a recordable contract with the United States, obligating him to sell his excess lands at appraised prices excluding incremental values added by the proposed Reclamation project. The Act stated explicitly that "no such excess lands held shall receive water from any project or division if the owners thereof refuse to execute valid recordable contracts...."[26] However, the law did not clearly stipulate when the excess land must be

sold; consequently the Secretary of Interior determined that it must be within 10 years from signing the contract, and that he had a power-of-attorney to sell it, if the owner defaulted on the contract.[27*]

All of these early provisions have been carried forward and reaffirmed in recent Reclamation laws and decisions. In a 1958 opinion, the Supreme Court gave a clear summation of the purpose of these laws:

> ...the claim of discrimination in the 160-acre limitation, we believe...overlooks the purpose for which the project was designed. The project was designed to benefit people not land. It is a reasonable classification to limit the amount of project water available to each individual in order that benefits may be distributed in accordance with the greatest good to the greatest number of individuals. The limitation insures that this enormous expenditure will not go in disproportionate share to a few individuals with large land holdings. Moreover, it prevents the use of the federal reclamation service for speculative purposes.[29]

Interpretation and Enforcement

While the purpose of these laws may now be clear, the interpretation and enforcement of all their provisions is not. How do BuRec and the courts define "any one landowner?" How do they read the anti-speculation clauses, including the residency requirement, and the pre-project appraisal stipulation? Is the law of the land being enforced or evaded?

---

*The Secretary of Interior has used this power of attorney only once, although as of December 31, 1970, there were 9,501 acres under the Secretary's power of attorney since the owners have failed or refused to sell their land as promised--yet they continue to receive water.[28]

"Any one landowner" does not mean "any one person." A husband and wife, for example, may each own 160 acres that are eligible for BuRec water. They may even give ownership of parts of their farms to their children so that a 640-acre or larger farm will be eligible for subsidized water from a Reclamation project. With an annual subsidy of $35 to $135 per acre,* each 160-acre landowner can rake in from $5,000 to $20,000 per year. A family of four may get from over $20,000 to over $80,000 per year--well above President Nixon's proposed guaranteed minimum family income!

Similarly, a family or close-held corporation** can divide its landholdings into several eligible blocks as long as it adheres to three rules by which multiple ownership using the corporate device are to be tested. These rules are:

> 1. No corporation may own more than 160 acres in a single Reclamation project as eligible land for project water.
>
> 2. The corporate farm may be disregarded to determine whether any stockholder, as a beneficial owner of a pro rata [proportional] share of the corporate land holdings owns land in excess of 160 acres.
>
> 3. The corporation must not have been created for the primary purpose of avoiding application of the excess land laws.[30]

If all three of these rules were enforced, corporate farmers would have difficulty hiding their evasion of the 160-acre limitation behind a facade of corporate fronts. But BuRec

---

*These figures were noted by Howe and Easter and described in the previous section

**A close-held corporation has only a few shareholders, usually from the same family, who own and control the operation.

prefers to give them cover by effectively ignoring the third rule, as illustrated in a recent case.

In early 1965, the A. Perelli-Minetti Corporation broke up its 1,909-acre holding into 26 separate corporations, with a different former stockholder owning each new corporation. Since each of the new corporate entities has less than 160 acres and is technically owned by a single stockholder who doesn't "own" any other project lands, each new corporation is eligible for project water. According to J. Lane Morthland, Interior Department's Associate Solicitor for Reclamation and Power:

> The fact that each of the new corporations has identical officers and boards of directors at this time is unimportant....The identity of officers and directors goes to the question of operation and management and not to ownership.[31]

The fact that the total acreage continues to be operated as a unit under essentially the same management and in the same manner as before it was divided, is also ignored.

Mr. Morthland concluded that fraud is the only grounds for invoking the third rule. He did not find fraud in the fact that the owners of this corporate farm of nearly 2,000 acres rearranged its corporate structure in order to receive a subsidy of from $70,000 to $270,000 per year![*] If the Perelli-Minetti corporation didn't defraud the public of these funds, then the Department of Interior did.

---

*The figures are based on the same $35-$135 per acre annual subsidy noted by Howe and Easter and described in the previous section of this chapter.

Publicly owned corporations and large individual landowners can't use the type of cover the Perelli-Minetti Corporation used, since the second rule applies only to family and close-held corporations. It is too difficult to identify all the ultimate owners of a large publicly owned corporation; and the second rule was never meant to apply to individually-owned land. Instead these land barons have other methods of evading the 160-acre limitation and hiding the huge subsidies they get from reclamation project.

First, they get outright exemptions from the law. The private land residency requirement of the 1902 Reclamation Act has "long been discarded;"[32] although one long-time corruption fighter, Ben Yellen, has sued in California to get the residency requirement enforced. If Ben Yellen wins and if Congress doesn't then pass a law repealing the residency requirement, his victory could drive out the big growers in California. One official involved in the case admitted, "Interior is scared stiff; we're going all out on this one because if Yellen wins, all hell could break loose."[33]

Other exemptions have been granted by legislative or administrative fiat to special irrigation districts. A 1971 unpublished report from the Bureau of Relcamation describes 24 different exemptions, modifications, waivers, and special provisions applicable to the excess land laws.[34] These exemptions cover a total of 2,022,500 acres of land.[35]

For example, in the Small Projects Reclamation Act, large landowners succeeded in obtaining the privilege, known as the Engle Formula, of making interest payments in lieu of other compliance with acreage limitations. That is, as long as the big landowner pays back the cost of construction with a low interest rate, he can receive project water for as many acres as he desires.[36]*

Large landowners on the Kings and Kern Rivers and at the San Luis Project have also sought Congressional and administrative acceptance of full payment of their repayment contracts as a means of discharging their obligations to comply with the 160-acre limitation. According to Paul S. Taylor, Professor Emeritus of Economics at Berkeley, former consultant to the Bureau of Reclamation and author of numerous law review articles on the 160-acre limitation issue:

> The demand of excess landholders that full payment be accepted as "full satisfaction" of acreage limitation, is a spurious claim that final payment of a fraction of the construction cost should extinguish a public policy that does not depend on cash.[38]

---

*In addition to this privilege, the Small Reclamation Projects Act provides interest-free loans for private irrigation of less than 160 acres.[37] Such loans follow the simple formula of no money down, 50 years to repay, and no interest--a far cry from the annual 18% rate consumers pay for Master Charge privileges. To date, BuRec has made over $157 million of these no or low interest and long term loans to private individuals and groups for private projects specifically benefitting only these private interests.

Even when large landholders can't get some kind of exemption from the 160-acre limitation, they still have plenty of ways to circumvent the law and reap undeserved and excessive benefits from Reclamation projects. Although the 1914 law specifically required excess landowners to negotiate recordable contracts even before construction begins, in practice the Department of Interior ignores this stipulation and says that the excess landowner "must volunteer" and "has an unlimited time" to sign--or not to sign a recordable contract.[39] On all BuRec projects there are less than 800 recordable contracts covering 164,000 acres of excess land. About 65,000 acres of this has actually been sold and an additional 992,250 acres of excess land in project areas is not even under contract.[40]

The Bureau also ignores the 1926 statute that prohibits giving <u>any</u> water to landowners who refuse to place their excess land under recordable contract for sale. BuRec even gave away $14 million worth of Shasta Dam water before signing any contracts at all. As Table 6-B illustrates, many big landowners in the Westlands Irrigation District are receiving BuRec water in spite of the fact that little--or none--of their excess lands are under recordable contract.

Furthermore, over 60 excess landowners receive BuRec water on several 160-acre plots within the same project or division. For example, Southern Pacific gets Central Valley Project (CVP) water from five districts besides Westlands.[41]

If they get the 160-acre minimum irrigated in each district they get a total annual subsidy from $28,000 to over $100,000.* By administering the excess land law on a contract-wide rather than a project-wide basis, BuRec permits these excess landowners to split up their holdings so that they have several "eligible" 160-acre plots and hence can circumvent the intent of the law.

In addition to permitting this blatant evasion of the law, BuRec participated in a more subtle give-away of federally subsidized water. While the Bureau of Reclamation concedes that the 160-acre limitation applies to surface deliveries of project water, it argues that the excess land law does not apply to pumping of underground waters that have been improved by deep percolation losses from surface water applications--including surface applications of project water.[42] In short, owners of ineligible excess lands get a water-windfall from the raising of the underground water level due to the federal water project. This water "gimmick" or "steal" in Senator Wayne Morse's words,[43] persists to this day.

Even those landholders who do execute recordable contracts have nothing to lose--and everything to gain. Those excess lands under a recordable contract are still eligible to receive subsidized water for up to ten years before they must be sold. And the value of this subsidy is considerable.

---

*Again these figures are based on Howe and Easter's $35-$135 figures developed in the previous section.

Take Anderson Clayton & Co., noted in Table 6-B, for example, which has over 25,000 acres under recordable contract. These excess lands under recordable contract receive a direct subsidy of over $2 million per year in cheap water. No wonder Harry Horton, a lawyer for big Southern California growers, stated:

> I will give you my own opinion of Jack O'Neill's [a big landowner in the Westlands District of the San Luis project] willingness to sign the 160-acre limitation. He thinks if he gets water for ten years on there without having to sell, he can make enough money out of it so he can afford to sell the land at any old price.[44]

But Jack O'Neill and other big landowners don't have to sell their excess land at "any old price." The Bureau's assessment policies see to that. Instead of appraising land values prior to project construction and without project benefits as the law requires, the Bureau's trick is to compare land receiving project water with nearby land not receiving the water, claiming that the difference in sales price represents the project's value to the land. But San Luis has helped non-project land in the area a great deal by replenishing their fast-dwindling groundwater supply, by raising its value, and by relieving the general demand for its water. The Bureau's assessment technique permits O'Neill and associates to cash in on an unearned increment in land value created by the San Luis Project, contrary to the intent of federal law.

In one example given by a Westlands realtor, Jack Molsebergen,[45] the Bureau approved the sale of land for $425 an acre.* Its appraised value at the time of sale was $450, but the Bureau considered that $25 worth of value came from the San Luis Project, and in conformity with the law requiring sale at pre-water prices, marked the land down to $425. In other words, by the Bureau's own straight-faced estimate, the United States was spending nearly $1,000 an acre to confer benefits which it valued at only $25 an acre.[46]

Of course, the Bureau's $25 figure was phony, and anyone selling for $425 an acre receives an unearned incremental land value added by the project. In 1960, the land cost $150 and its value was declining rapidly as groundwater levels plummetted from over-pumping. Westlands was "mining" 900,000 acre-feet a year from a basin with an estimated replenishable yield of 190,000 acre feet, dropping pumping levels ten feet a year. The San Luis Project is the only change throughout Westlands since 1960 that could possibly affect land values.[47] Even adding a factor for inflation, based on the average increase of all farms during the period, the Task Force calculated that the land would yield a price of only $190 by the time of its sale in 1968. But with the water levels dropping it probably wouldn't have been worth $100 an acre without the project.

---

*One Bureau official indicated that Westlands land values range from about $400-$1,000 per acre, so the example we are using is on the low end of the spectrum.

In fact, sales figures in Westlands show an appreciation of about $300 an acre*. Using Table 6-B, this confers a potential windfall of more than $23.5 million on the Southern Pacific Co.; $13.4 million for the Giffens; nearly $7 million for Boswell's Boston Ranch; and over $9 million for the Anderson, Clayton, Co. The District's total land value has increased over $167 million (again see Table 6-B). This is the capitalized value of the subsidized water, which the law is supposed to prohibit large landowners and speculators from getting.

By permitting a high selling price like $425 per acre, BuRec sometimes gives the landowners a way to avoid selling at all. Since the fraudulent assessment technique of the Bureau puts the post-subsidy land value in the "pre-subsidy assessment" for sales purposes, no one wants to buy. So the large landowners in Westlands, some of whom, like Southern Pacific, never wanted to sell in the first place, get to keep their land and the subsidies that go with it, while theoretically complying with the 160-acre limitation--at least as the Bureau applies it.

* * * *

The Westlands case discussed above is the most conspicuous** and well documented example of how large landowners

---

*The $300 figure is less than our computations in Table 6-B showing a total subsidy of $847 per acre, since land owners could only capitalize on part of the total.

**It is true that Westlands has about 1/3 of all the excess acreage on Bureau projects; but there are still over 858,000 acres of excess lands outside Westlands.

circumvent the excess land law with BuRec's help. Unfortunately, there is no way to determine whether similar evasion takes place on other project areas. BuRec did not have--or at least would not admit to having--the information they would need to enforce the law effectively. The data they did have on Westlands were incredibly difficult to dig out and organize; and the data they have on other projects are even more fragmentary, confusing, and largely irrelevant.

Why doesn't BuRec have a readily available list even more detailed than Table 6-B covering each and every project or major unit and each and every excess landowner. More important, why don't they know how much subsidy is in each acre-foot of water they distribute and exactly how much water (and hence subsidy) each individual landowner receives--by name? If public welfare recipients must give much more detailed and personal information to qualify for meager benefits, why shouldn't the few big irrigators who soak the government for millions of dollars be required to give their names and the amount of federally subsidized water they receive. At least, Congress is entitled to a list of all the landowners receiving BuRec water, the estimated subsidy per acre-foot of this water, and the total amount of water and subsidy they receive.

Then Congress can better evaluate where the excess land law is being evaded and where profiteers are receiving excessive and undeserved benefits.

The Bureau also fails to give enforcement of the law a high priority. They have less than 25 people working on the problem and only six are technically full-time compliance officers.[48] Worse still, the Bureau has never cut off water as a penalty for violation of the law, so irrigators know they can evade it with impunity.

Recommendations

Without taking a position on the current debate over whether 160 acres is still a viable size for profitable farm operations,* the Task Force supports the continuation of a low-acre limitation--if for no other reason than to set a limit on the federal subsidy one landowner can receive from a Reclamation project. In fact, we recommend that Congress revise the excess land laws so that one landowner cannot receive BuRec water for more than 160 acres--counting water received from all BuRec projects. To be effective the excess land law must at least be more vigorously enforced.

---

*Governor Reagan's Special Task on the Acreage Limitation Problem recommended that the federal excess land provisions be raised to 640 acres; but others such as Bill Kinsey, agricultural economist with Stanford University's Food Research Institute, and Paul Taylor, Professor Emeritus of Economics at Berkeley and noted expert on the 160-acre limitation, strongly disagree.

If BuRec really wanted to enforce the law, they would buy up the excess land themselves before building the project and either lease or resell it at cut-rate prices to small land operators or sell it at the market price, which would include the capitalized value of the project water subsidy. The Government--rather than private profiteers--would then receive the "unearned increment" which it could use to help the hard-pressed Treasury or redistribute in the form of other Government programs, such as education or conservation efforts. Representatives Robert Kastenmeier (D-Wis), Jerome Waldie (D-Calif), Ronald Dellums (D-Calif), Don Edwards (D-Calif), George Danielson (D-Calif), John McFall (D-Calif) and Edward Roybal (D-Calif) have introduced legislation to achieve this objective. These proposals are supported by labor groups, conservationists and educators.

At the very least, the Secretary of Interior should require that all excess landholders sign recordable contracts before the project is built and that they must sell all their excess land before receiving any water on any of their lands. Furthermore, their land values should be assessed before the project is built to ensure that the appraised value excludes project benefits. Finally, BuRec should compile data in more relevant form (as illustrated in Table 6-B) for each and every project, showing: the excess landowners; the amount of

their land that receives BuRec water; the direct annual subsidy they get with this cheap water; the total amount of their excess land in the project area; and the unearned increment they may capitalize on by selling their land.

The Secretary has ample authority to make these procedural revisions which are more in keeping with the original intent of the laws. It was the administrative discretion of past Secretaries that established the current loopholes that let landholders evade the excess acreage laws. Unless the hidden subsidies that sneak through these loopholes are exposed and eliminated, a privileged few will continue to profit at the expense of the general public.

* * * * * * *

CHAPTER 9

SUMMARY OF MAJOR CONCLUSIONS AND RECOMMENDATIONS

The Bureau of Reclamation has outlasted its chief purpose. No longer is there a need for more and bigger dams and irrigation canals to reclaim the arid lands of the West. Yet BuRec doggedly pursues this counterproductive goal that benefits politicians, bureaucrats, and a few profiteering irrigators but not the Nation as a whole.

BuRec manipulates its economic analyses to justify unneeded projects, not to evaluate them -- much like the drunk who uses a lamppost for support instead of illumination. If the Bureau can show that a project has a benefit-cost ratio greater than 1.0, then the project passes the acid test required for Congressional and Office of Management and Budget approval. From that point on, project critics can do little to stop or alter a project's construction.

To get benefit-cost ratios over 1.0, the Bureau persists in claiming enormous benefits from continued irrigation of the West. As we saw in Chapter 2, BuRec's routine irrigation benefit calculations are a sham. The country needs no more farm land. BuRec irrigation facilities not only cost billions of dollars to build and operate, but also drive thousands of other farmers out of their jobs, and increase the amount of money that the U.S. Department of Agriculture must spend to curtail surplus crop production and to support agricultural prices. Thus, taxpayers are hit coming and going.

The Task Force recommended that irrigation be counted as a zero benefit. All backlogged and future BuRec efforts should be evaluated giving no benefit to irrigation. If this recommendation is implemented, then almost all currently planned projects will either fail the economic test or will pass only after considerable changes in project goals.

Although the Bureau of Reclamation should cease its irrigation activities, there is no reason why it should cease to exist.

BuRec must still operate and maintain its existing dams and other facilities. More important, the Bureau should apply its seasoned expertise in a saner way to the West's modern water-resource needs.

The first place to start is with the Bureau's environmental impacts. To date, BuRec dams and levees have ravaged a good deal of the West's natural resources. In typical subservience to the wishes of irrigation, BuRec has harnessed the free-flowing Snake River to the point where millions of fish have been killed and Northwest residents have been forced to abandon the Snake as a source of water and recreation. The Colorado River, as well, has suffered from the severe salinity and sedimentation problems occasioned by BuRec's myopic concern with irrigation.

The American taxpayers have to pay for BuRec's plunder of the West's natural environment. If anything, the Bureau of Reclamation should be paying the taxpayer for flooding out scenic areas, damming up wild-running streams, engaging in ecologically dangerous weather modification efforts, as well

as threatening unique species of Western fish and wildlife. BuRec even tried to dam up America's greatest natural wonder--the Grand Canyon. Such activity is hardly a bargain--at any price.

Again, these atrocities are attributable to the Bureau's faulty economic practices. By failing to give appropriate dollar values to environmental impacts, Bureau officials remain oblivious to such consequences.

The Task Force believes that if BuRec applies consistent and meaningful dollar values to both environmental improvements and damages, then its projects will begin to develop the water resources of the West for the benefit of all citizens--not just for the irrigators. In addition, the Task Force recommends that BuRec funds and water be allocated to water quality improvement as a major goal of project design and operations.

In Chapter 4 the Task Force analyzed more technical economic criteria. We found that BuRec's 200% cost overruns gave its projects a place high on the list of tax-supported government boondoggles. The Bureau's use of an unjustifiably low discount rate also hurt the American taxpayer by making him pay now for BuRec dams that don't even benefit the present generation of taxpayers--except a few heavily subsidized irrigators! Private businessmen and American consumers also suffer from BuRec's overestimated power and municipal and industrial water "benefits" that displace more desirable private alternatives.

Finally, BuRec's current practice of hiding the distribution of project benefits and costs should stop. To alleviate these technical problems, the Task Force recommends that the Office of Management and Budget and the General Accounting Office increase their supervision over BuRec economic evaluations and adopt the many specific suggestions made in Chapters 2, 3 and 4. The President, Congress and the American people should know who really benefits and who really suffers from Bureau of Reclamation projects.

In Chapter 5, the Task Force found that the Central Arizona Project, like so many other BuRec projects, would benefit primarily a few irrigators, politicians and bureaucrats at the expense of the city-dwellers in Arizona and the American taxpayers. CAP would supply central Arizona municipal and industrial water users with water they do not need, at prices they cannot afford. Moreover, CAP will probably require a huge interbasin rescue operation, since there will not even be enough water in the Colorado Basin to fill CAP goals. The Task Force, therefore, strongly recommends that this $1.4 billion pork barrel blunder be scrapped now.

CAP is not the only Bureau project that benefits only a special few. Chapter 6 details how BuRec hides its enormous subsidies--especially those given to irrigators. The direct subsidy with each acre-foot of water combines with BuRec's lax enforcement of excess land laws, to bestow million-dollar windfalls on select profiteers.

However, BuRec has not been so generous in improving the well-being of a more needy group--particularly, the American Indians. The Bureau's deliberate infringement on the Indians' water rights is undoubtedly the most blatant display of BuRec's anti-Indian bias. In particular, the Task Force investigated the Pyramid Lake case, the Kennewick Extension controversy, the Yellowtail Dam deceit, and the Navajo Indian Irrigation Project delay. In all of these cases we found the Federal Government had a conflict of interest that resulted in misrepresenting Indians. While the Task Force detailed specific recommendations for each case, in general we recommend that the Department of Interior recognize the Indians' legal rights before proceeding with any BuRec projects. Furthermore, Reclamation officials and their Congressional allies should promote more Indian water projects by appropriate recognition of distributional impacts in the benefit-cost evaluations.

In Chapter 8, the Task Force scrutinized the policies and recommendations of the Water Resources Council to see if they would remedy BuRec's deficient economic analyses. The Bureau of Reclamation certainly was not the only water-resource development agency to draw outside criticism. The Army Corps of Engineers, which uses similar benefit-cost procedures, also needed revised economic procedures. However, the Corps differs from BuRec in two major ways. First, Corps projects are all over the United States, not just in the West. Second, the Corps

concentrates more on flood control and navigation, while BuRec emphasizes irrigation and electric power. Yet, both of these agencies build multi-purpose projects and use similar economic techniques to evaluate their projects. Moreover, both of these agencies were guilty of using misleading and erroneous indicators of project worth. We concluded that the WRC efforts were so politically biased and narrowly conceived that implementation of the WRC proposal would worsen an already deplorable situation.

Moreover, we believe that the recommendations contained in our report are sufficient to end the Bureau of Reclamation's senseless damming of the West. As a result, we call upon Congress and the President to freeze all Bureau of Reclamation construction until such recommendations or their equivalent are implemented.

Part IV--Tables and Footnotes

FOOTNOTES: CHAPTER 1

1. See Table 1-A.

2. Reclamation Law 32 Stat. 388 (1902), 43 U.S.C. 391.

3. Hearings before a Subcommittee of the Senate Committee on Appropriations, AEC and Public Works Appropriations, FY 1971, Part 2, 91st Congress, 2nd Session, p. 278.

4. Interview by Daniel Barney with Rep. Morris K. Udall (D-Ariz.), July 16, 1971.

5. Senate Appropriations Hearings, op. cit. Also see Bureau of Reclamation, "Bureau of Reclamation Planning Activities," December 1968.

6. Interview by Kip Viscusi with Daniel Dreyfus, Senate Interior and Insular Affairs Committee staff, June 22, 1970.

7. Interview by Kip Viscusi with David Flipse, Chief of Economics Branch, Bureau of Reclamation, June 24, 1970.

FOOTNOTES: CHAPTER 2

1. Reclamation Law, 32 Stat. 388 (1902), 43 U.S.C. 391.

2. Bureau of Reclamation, Reclamation Instruction Series 110, Part 116.4.12.A (1959).

3. Senate Document 97, Policies, Standards and Procedures in the Formulation, Evaluation, and Review of Plans for Use and Development of Water and Related Land Resources, 87th Congress, 2nd Session, p. 9 (1962).

4. Marion Clawson, A New Policy Direction for American Agriculture, Resources for the Future Reprint No. 82, p. 5, (1970).

5. U.S.D.A. Agricultural Stabilization and Conservation Service, Surplus Cropland, pp. 1-2 (1965).

6. Bureau of Reclamation, The West - A Potential Future Food Deficit Area (April 4, 1963).

7. Ibid., Chart II.

8. Report of the National Advisory Commission on Food and Fiber, Food and Fiber for the Future, p. 14 (1967).

9. U.S.D.A. Agricultural Stabilization and Conservation Service, op. cit.

10. National Advisory Commission on Food and Fiber, Food Needs and U.S. Agriculture in 1980, Technical papers, Vol. I, p. 1 (1967).

11. Interview by Kip Viscusi with Roger Strobehn, U.S.D.A. Economics Research Service, August 7, 1970.

12. Marion Clawson, op. cit.

13. Charles W. Howe and K. William Easter, Interbasin Transfers of Water (Baltimore: Johns Hopkins Press, 1971), pp. 163-164.

14. Ibid., pp. 144-145.

15. Ibid., p. 139. For Howe and Easter's study, the West consisted of 11 Reclamation states; the South included two Reclamation states (Texas, Okla.) and 14 non-Reclamation states; the North included four Reclamation states (N. Dak., S. Dak., Nebr., and Kans.) and 17 non-Reclamation states.

16. Ibid., pp. 144-145.

17. Ibid., pp. 152-153.

18. Ibid., p. 151.

19. Ibid., p. 139.

20. Ibid., p. 144.

21. Bureau of Reclamation, Reclamation and the Crop Surplus Problem, p. 6 (1961).

22. Charles Howe and William Easter, op. cit., p. 160.

23. Interview by Kip Viscusi with Marion Clawson, economist with Resources for the Future, July 24, 1970.

24. Charles Howe and William Easter, op. cit., p. 139.

25. Ibid., pp. 142,154.

26. G.S. Tolley, "Reclamation's Influence on the Rest of Agriculture," Land Economics, Vol. XXV, Number 2, May 1959, pp. 176-180.

27. Charles Howe and William Easter, op. cit., p. 140.

28. Ibid., p. 143.

29. Hearings of the House Subcommittee of the Committee on Appropriations, Public Works for Water and Power Development and Atomic Energy Commission Appropriation Bill, FY 1972, 92nd Congress, 1st Session, Part 3, p. 39.

30. Otto Eckstein, Water-Resource Development (Cambridge: Harvard University Press, 1958), p. 201.

31. House Subcommittee Hearings, op. cit.

32. Phone interview by Richard Berkman with Wayne C. Palmer, Environmental Data Service, July 22, 1971.

33. Phone interview by Richard Berkman with Don Durost, U.S.D.A., July 22, 1971.

34. Hearings of the Senate Committee on Appropriations, Public Works for Water, Pollution Control, and Power Development and Atomic Energy Commission Appropriations, FY 1971, 91st Congress, Second Session, Part 2. p. 278.

* * * * * * *

FOOTNOTES: CHAPTER 6

1. Interview by Kip Viscusi with Loren Holt, Bureau of Reclamation, July 2, 1970.

2. 105 Cong. Rec. 6738 (daily ed. May 5, 1959).

3. Bureau of Reclamation, Summary Report of the Commissioner, Statistical Appendix, Parts I, II, III, p. ix (1969).

4. Reclamation Instruction Series 110, Part 116.5 19, (1959).

5. Reclamation Act of 1902 (32 Stat. 388, 43 U.S.C. 391).

6. Reclamation Extension Act of 1914 (38 Stat. 686).

7. Fact Finders' Act of 1924 (43 Stat. 672).

8. Omnibus Adjustment Act of 1926 (44 Stat. 636).

9. Reclamation Project Act of 1939 (53 Stat. 1187, 43 U.S.C. 485).

10. Reclamation Instruction Series 110, Part 116.6.2 (1959).

11. Hearings before a House Subcommittee of the Committee on Appropriations, Public Works for Water and Power Development and Atomic Energy Commission Appropriation Bill, 1972, 92nd Congress, 1st Session, Part 3, p. 379 (1971).

12. Bureau of Reclamation, Power Systems: Average Rate and Repayment Studies FY 1969, Schedule 1.

13. Hearings before the Senate Committee on Interior and Insular Affairs, Columbia River Basin Account, p. 19 (1965).

14. Ibid., p. 11.

15. Hearings before the House Subcommittee on Appropriations, op. cit., p. 33.

16. Bureau of Reclamation, Summary Report, op. cit., Statistical Appendix, Parts I, II, and III, p. 98, (1969).

17. Senate Hearings, op. cit., p. 11.

18. Charles Howe and K. Williams Easter, Interbasin Transfers of Water, (Baltimore: Johns Hopkins Press, 1971), p. 136.

19. Comptroller General of the United States, Change Proposed in Interest Rate Criteria for Determining Financing Costs of Federal Programs, B-167712, p. 2 (1970).

20. Ibid., p. 2.

21. Ibid., p. 7.

22. Ibid.

23. Former Sen. Claire Engle, as quoted in an unpublished address by Dr. Paul Taylor to the American Association for the Advancement of Science, July 1970, p. 9.

24. 32 Stat. 389 (1902); 43 U.S.C. 431.

25. 38 Stat. 689 (1914); 43 U.S.C. 418.

26. 44 Stat. 649 (1926); 43 U.S.C. 423 (e).

27. Memo to Richard Berkman from Mr. Al Burrows, Compliance and Settlement Officer for the Bureau of Reclamation, August 3, 1971.

28. Ibid.

29. Ivanhoe Irrigation District v. McCracken, 357 U.S., 275,297 (1958).

30. Memo to Regional Solicitor in Sacramento from J. Lane Morthland, Department of Interior Associate Solicitor for Reclamation and Power, March 31, 1971, p. 2.

31. Ibid.

32. Ibid.

33. Michael Kinsley, "Ben Yellen's Fine Madness," Washington Monthly, January 1971, Vol. II, No. 11, p. 45.

34. Bureau of Reclamation "Exemptions, Modifications Waivers, and Special Provisions Applicable to Land Limitations Provisions of Federal Reclamation Laws," Unpublished report, Feb. 1, 1971.

35. Memo from Al Burrows, op. cit.

36. Paul S. Taylor, "Excess Land Law: Secretary's Decision? A Study in Administration of Federal-State Relations," U.C.L.A. Law Review, Vol. 9: 1, 1962, p. 4. See also "Acreage Limitation Policy", June 1964.

37. Small Projects Reclamation Act, 70 Stat 1044 (1956), 43 U.S.C. 422a.

38. Taylor, op cit., p. 5.

39. Hearings before Senate Committee on Interior and Insular Affairs...Proposed Contract Between the Secretary of the Interior and Westlands Water District...in the San Luis Unit, Central Valley Project, California, 88th Cong, 2nd sess. (July 8, 1964), p. 34.

40. Memo from Al Burrows, op. cit.

41. "List of Excess Landowners Owning Land in More than One District," supplied to Task Force by Bureau of Reclamation, July 22, 1971.

42. Letter to Senator Jackson from former Commissioner Dominy cited at 110 Cong.Rec. 17497 (daily ed. Aug. 5, 1964).

43. "Gimmick" in 110 Cong. Rec. 17915 (Daily ed., Aug. 7, 1964) and "steal" in 105 Cong. Rec. 6886 (daily ed., May 7, 1959).

44. Subcommittee on Irrigation and Reclamation, Acreage Limitation Review, 85 Cong. 2nd Session, pp. 87-88 (1958).

45. The Nader Task Force Report, Power and Land in California, Robert C. Fellmeth, Editor, 1971, Chapter 3.

46. Hearings before the Senate Committee on Appropriations, Public Works for Water, Pollution Control and Power Development and Atomic Energy Commission Appropriations, 91st Congress, 2d session, Part 2, Data Sheet, p. 464.

47. The Nader Task Force Report, op. cit.

48. Interview by Richard Berkman with Mr. Al Burrows, Compliance and Settlement Officer for the Bureau of Reclamation, August 3, 1971.

* * * * * * *

POWER AND LAND IN CALIFORNIA

The Ralph Nader Task Force Report on Land Use in the State of California

Volume I

ROBERT C. FELLMETH, PROJECT DIRECTOR AND EDITOR

PRELIMINARY DRAFT

© COPYRIGHT 1971 BY CENTER FOR STUDY OF RESPONSIVE LAW, WASHINGTON, D.C.

INTRODUCTION BY RALPH NADER

We gratefully acknowledge the support of this study by the Sierra Club Foundation, the Abelard Foundation and the Center for Study of Responsive Law.

Knowledge about the politics of California land use requires knowledge of the actors. Who owns the land? Who finances the land? Who uses the land for income production? The interests of these parties are inextricably bound to the land use policies of government; every land use decision involves governmental aid or acquiescence of one form or another.*

It is the purpose of Chapter I to provide a setting, and to identify these parties and to define the nature of their interest in the land. The substantive chapters that follow describe the social impacts of land use practices by these actors and their role in public policy determination.

I. WHO OWNS CALIFORNIA

California covers 100,185,000 land acres.[1] In addition, there are some 1,379,840 acres of inland water.[2] Table I - A, below, lists the basic use categories of land by acreage.

---

* The government regulates many land use decisions directly, through its ownership of land or through the enforcement of rules (e.g. zoning, codes). Indirectly, government affects major land use decisions by shaping the political and economic incentives of the private parties making them. For example, 100 people each owning 100 acres will put that ten thousand acres to very different use than one owner would, simply because their number and small size gives them different financial abilities and different points of view than a single large owner. A governmental policy encouraging small ownerships indirectly encourages the land use decisions which flow from such a pattern of holdings. The government also shapes incentives by offering rewards or penalties for various types of decisions. For example, a policy of subsidizing irrigation water encourages agriculture; heavy tax assessments of open space near cities encourages development of the space; tax rules, such as rapid depreciation of "capital improvements" to land (charging the depreciation "expense" against current income) encourage speculation and development. Government can also shape incentives through its own massive public works: roads, airports, water projects. Even the ground rules for the formation of local governments to which much land regulation authority is delegated, affects land use patterns.

Table I - A:*
Land Areas, by Major Class of Land
1964 - 65

Class of land	Acres
Total	100,185,000
Forest land	42,416,000
Commercial[a]	17,345,000
Public	9,253,000
Private	8,092,000
Productive-Reserved[b]	1,255,000
Unproductive[c]	23,816,000
Crop land[d]	11,815,000
Urban and suburban land[e]	2,200,000
Other land	43,754,000

[a]Forest land which is producing or capable of producing crops of industrial wood and not withdrawn from timber utilization by statute or administrative regulation.
[b]Productive public forest land withdrawn from timber utilization through statute or administrative regulation.
[c]Forest land incapable of yielding crops of industrial wood because of adverse site conditions.
[d]As reported by 1964 Census of Agriculture. Excludes land cultivated in developing improved pasture.
[e]Residential areas containing at least five homes, with a density of one home or more on each two acres; industrial and commercial development; and the actively occupied portions of military reservations--as determined by land and water use specialists of the Department of Water Resources.

A. GOVERNMENT OWNERSHIP

Of the land area of California, the federal government has proprietary rights over 44.4% or 44,394,000 acres, nearly all desert or mountainous forest land in the northern and eastern parts of the State. Federal holdings have declinedfrom the 49.7% or 49,703,000 acres under federal control in 1961. The State owns 2,310,000 acres and local government another 2,050,000. Table I - B below sets forth the amounts of California acreage controlled by the various government subdivisions and their agencies in 1965 and in 1969:*

---

* From 1969 California Statistical Abstract

** Chapter IV discusses the management of these lands.

Table I--B
Government Owned Land in California**

	1969	1965
Federal:	44,394,000	45,076,000
Department of Agriculture:		
U.S. Forest Service	19,971,000	19,971,000
Department of Interior:		
Bureau of Indian Affairs	761,000	547,000
Bureau of Land Management	16,816,000	14,969,000
Bureau of Reclamation	1,089,000	1,105,000
Department of Fisheries and Wildlife	62,000	75,000
National Park Service	4,102,000	4,061,000
Department of Defense:		
Army	1,058,000	1,062,000
Air Force	486,000	5.6,000
Navy	2,772,000	2,646,000
Corps of Engineers	3,319,000	1,954,000
State:	2,319,000	1,954,000
Resources Agency:		
Department of Conservation:		
Division of Forestry	75,000	74,000
Department of Fish and Game	117,000	115,000
Department of Parks and Recreation	811,000	697,000
State Reclamation Board	199,000	13,000
Department of Water Resources	119,000	56,000
Division of State Lands	609,000	634,000
State Comptroller (tax deeded lands)	73,000	72,000
Business and Transportation Agency:		
Department of Public Works	210,000	198,000
Counties	793,000	617,000
Cities (incorporated and excluding city-counties)	809,000	770,000
School Districts	25,000	78,000
Junior College Districts	7,000	7,000
Special Districts	418,000	467,000**
TOTAL	48,765,765	48,969,000[3]

* Federal and State totals included small miscellaneous holdings of departments not included in breakdown.

** Includes:

Irrigation Districts	191,000
Reclamation Districts	24,000
Water Districts:	
State	13,000
County	10,000

(continued)

There are 51.2 million acres left in private ownership, including most of California's coast and nearly all of her rich valleys.

B. PRIVATE OWNERSHIP

There are numerous reasons why government or public knowledge of the identities of certain landholders and the nature of their holdings is essential. The possible abuse of market power is one reason for legitimate State interest in knowing who owns the land of California. Owning the right 5,000 acres might mean extensive market power with respect to land. For example, there is the power to set prices on a type of tree which is necessary for certain uses, e.g., a termite resistant type of Redwood for house construction.

In addition to excessive market power over the products of the land, there is the control over an entire regional economy that ownership of immense acreage can bring. Owning 10,000 acres or more of land that is prime for residential or commercial development can reveal the deep meaning of Winston Churchill's quote introducing this chapter. Once development is established, power over gas stations, retail stores and countless other economic activities connected with the initial development can be exercised through land lease arrangements. The greater the distance to alternate services, the greater the margin for excessive profit. Large land tracts ripe for development (see below) are especially susceptible.*

** (continued from previous page)

Water Districts:	
Municipal	26,000
L.A. Metropolitan	86,000
Water Conservation Districts	14,000

* Owning even a small piece of land may confer much economic and political power. In a state with California's remarkable topographical, soil and plant diversity, this power is likely to be considerable. Ownership of several hundred acres of land that has rare soil and climatic qualities for production of a specialized crop, can give the owner great market power for setting prices on that crop. To the extent that comparable soil, weather, or water are not available in the vicinity of a given piece of land, ownership means the power to set prices within that area for products of the land that require those conditions. California is the foremost producer of such specialized crops. Two basic conditions which may qualify this power are the elasticity of demand for the commodity (e.g., above a given price consumers will substitute peas or broccoli for excessively priced asparagus) and transportation cost of carrying the commodity from more distant points of production.

In addition to the general danger of excessive market power, there are certain governmental functions requiring knowledge of land ownership.

First, the proper regulation of utilities must entail detailed knowledge of land holdings. By granting monopoly power to utilities, the State assumes the responsibility for a careful examination of costs and revenues--since higher rates for consumers can legally be justified on the basis of increased costs. Accordingly, land ownership of utilities should be comprehensively surveyed as part of State regulation. All information concerning the finances of utilities should, of course, be made public in order to enable public monitoring of its government. In addition, the vast powers of eminent domain granted to utilities demand special surveillance. Is condemned land really needed? Is it used for utility purposes? Is just compensation (or excess compensation) paid and due process observed?*

The same kind of information should be an integral part of the regulation of banks, savings and loans and insurance companies as well. Here, not only is information necessary to regulation, it is necessary to enforce specific, existing laws which limit or prohibit non-producing land ownership by these financial institutions.

Knowledge of specific holdings of agricultural land owners is necessary for the proper administration of innumerable laws--from federal grants for non-production to 160-acre water subsidy limits.

Likewise, regulation of logging, grazing, and mining requires, at the very least, the identities of those who are supposedly regulated. The Resources Agency has numerous boards and commissions needing this information.

Finally, those corporations involved in the development of land should make known all property held for many reasons. Among them is a public interest in tangential enrichment which a given public work (e.g. sewage, roads) brings. The public at large has an interest in knowing who owns intervening land through which the utilities and services they pay for are being extended. More specifically, proper administration of current law by the State Department of Real Estate requires this information.

1. Who Does Not Know Who Owns the Land

The Public Utilities Commission does not keep any formal records of landownership by utilities. The annual

---

* Chapter VII and Appendices discuss in detail the enormous power of eminent domain, focusing on the condemnation powers and procedures of the Division of Highways.

reports which utilities are required to file merely state dollar value of real estate holdings. There is little information about derived income. The only time that acreage owned by utilities appears to enter the records of the Commission is in occasional hearings, such as in the merger of utilities.

California's major railroads are interstate. The federal Interstate Commerce Commission which regulates them keeps no detailed records of landholdings. The major landowner, Southern Pacific Railroad, has formed a holding company. The "Southern Pacific Land Company" technically owns the railroad-granted land. Macco Corporation, a subsidiary of the Penn Central conglomerate, is another California landowner and major developer. ICC annual reports require little information about parent or subsidiary holdings or dealings. As with State-regulated utilities, these railroads each have territory within which they exercise substantial monopoly power, especially in the transportation of bulk freight (e.g., ores, grain). The lack of informatin about land dealings of subsidiaries makes it easy to divert railroad assets to land ventures and numerous land development costs to the parent company. Rate increase requests are based on higher costs. Once the higher costs are proved, freight shippers are forced to pay; they pass the costs to the consumer. The Interstate Commerce Omission (Grossman, 1970), by another Nader task force, documents the growing diversification of the railroads, their growing monopoly power over specific traffic, the ICC's lack of information about subsidiary dealings, five consecutive rate increase approvals by the ICC over the last three years, evidence of cost hiding and cost padding by railroads and the corruption of public officials.

Although some general data is available concerning bank, savings and loan and insurance connection with land, these, too, have formed holding companies. Despite laws to minimize the direct application of the organized financial power of these institutions into direct land speculation, ownership and development, bank or insurance holding companies have enabled such activity. Subsidiaries and trusts are now entering the field. The California State Department of Insurance, the Department of Savings and Loan and the State Banking Department do not have information adequate to deal with this twentiety-century

loopholing. Ownership of subsidiaries, though subsidiaries might use insurance or bank capital for land purchases in violation of law, is not scrutinized.*

The holdings of those corporations engaged in land development should be publicly disclosed to those charged with subdivision and other regulation. But neither the California Department of Real Estate nor any other agency requires disclosure. Only when a given piece of land is ready for actual subdivision must the existence and owner of that parcel be divulged to the Real Estate Commissioner.** This precludes long-range planning or any useful regulation.

Since no agency directly regulates reports sent to stockholders, there is no requirement that such information be included in annual reports to shareholders. Only rarely is such information included.

The State Department of Agriculture nowhere compiles a statewide list of large agricultural concerns. In order to determine the farms which have registered their land for tax reduction purposes under the Williamson Act (discussed in Chapter II), State Senator Danielson has found it necessary to conduct his own poll in conjunction with this study.

The California Resources Agency cannot tell us who owns any of California (except for government-owned land, above); nor can any of its twenty-plus major commissions or departments. The view is expressed that there is no reason for anyone's wanting to know this information within the Agency.

The State Office of Planning has no idea at all.

The State Board of Equalization should have been the best bet for this information. California tax assessment is now highly computerized and most county records are on tape. Yet the State Board does not compile this information either.

---

* Note: records will show the resale at cost of land purchased by an insurance company to the parent holding company. This resale may be strictly a "paper" transaction, allowing the otherwise illegal use of insurance enterprise revenues for land speculation (e.g., the insurance subsidiary may sell its land to the parent below cost); nor is land allegedly "held in trust" by banks scrutinized or questioned.

** Business and Professions Code subsection 11012 requires that land can be subdivided for sale or lease only after the owner or subdivider has given notice. Notice could normally include acreage, plans, etc.

Two instances suggest that the absence of land ownership records is not always a mere oversight. The Department of Water Resources, in administering the State Water Project, was required from the beginning to collect figures for the areas to be served on land ownership in excess of 160 acres. This requirement sought to fulfill Governor Brown's pledge, when he was promoting the Project, that such owners would be charged for any subsidy conferred by the Project. Upon learning this, we immediately went to the DWR office in Sacramento and asked to see those figures. We found, instead, a series of memoranda from Director Gianelli to the contracting water agencies. The memoranda, not made public, reveal: the date for submitting such figures (originally 1968) was postponed, then Gianelli asked the contractors if they really wanted to disclose their holdings and to tell him at their next meeting; a final memo noting that the contractors indicated at the meeting that they did not want to supply the information. Giavelli agreed to drop the requirement. At present, therefore, it appears that the DWR does not have specific land ownership information, and will not collect it in the future--regardless of the Governor's promises.

Even where information must exist, it is sometimes suppressed. The U.S. Department of Agriculture will not release the acreage figures for farms receiving federal subsidies. The California Stabilization and Conservation Service office denied us access to this information, which forms part of the basis for multi-million dollar subsidy grants to California's large farmers.

The defense of this denial rests in the view that this is somehow "trade secret" information. It is disturbing that in the one area where acreage absolutely has to be compiled by owner, it is denied to the public--particularly when the information is part of the formula for distributing in subsidies the public's money.

We are left with county recorders and assessors, having found no statewide compilation anywhere. The offices of county assessor should be a likely source of information concerning landholding. The assessor must collect information relating to all taxable property in the county. Upon the request of the assessor every person must file annually a written property statement under oath with the assessor.*

---

* See Revenue and Taxation Code subsection 441. The property statement must show all taxable property owned, claimed, possessed, controlled, or managed by the person making the statement. The statement must also show the county where the property is taxable, and if taxable in the county where

(continued)

Whatever the legal status of the right to inspection under current law,* canvassing the assessors' offices for this information poses extreme difficulties. First, there are fifty-eight counties. Each county assessor maintains a file on each parcel of land in the county. The order of filing is by tract, block and lot in urban areas, and by description in non-urban areas. There are also alphabetical card files of property owners. But these indicate only the number and locations of parcels in each owner's name for assessment purposes. There are often hundreds of thousands of parcels in each owner's name for assessment purposes. There is no cross-indexing by type, size, value or other characteristics: hence, there is no practical way of compiling the total acreage of land by owner or use in the county. Information kept by county recorders is in even less useful format for analysis by owner.

---

* (continued from previous page)
the statement is made, in a city or revenue district in which it is situated. The statement must give a legal description of any real estate. The purpose of property statements is to assist the assessor in performing his duty. Revenue and Taxation Code subsection 451 provides that all information furnished in property statements is to be held secret by the assessor and is not open to inspection except by law enforcement agencies, the county grand jury, the board of supervisors when conducting an investigation of the assessor's office, the State Board of Equalization, and other duly authorized legislative or administrative bodies of the State.

* Until 1961, the assessor's position was that the only records open to inspection by taxpayers were the map books and the assessment role. In 1961, subsection 408 of the Revenue and Taxation Code was broadened to include the right of an assessee of property to inspect any information and records, whether or not required to be kept, relating to the appraisal and assessment of his property. Information and records which also relate to the property or business affairs of a person other than the assessee is not available to the assessee. Whether this section of the Revenue and Taxation Code establishes a more narrow right of public inspection than the general inspection statutes in the Code of Civil Procedure (subsection 1892) has yet to be adjucated in California. According to the Code (California Public Records Act) every citizen has the right to inspect and take a copy of any "public writing" of the State, with certain exceptions.

Potential computer technology for recording and already existing computer use by assessors would make the gathering of this information by county and by State* relatively easy and cheap. It merely requires standard coding and a very simple program. The following two letters from assessors in response to our request for the names and acreage of the top twenty landowners in each county illustrates the current problem.

2. Who Are the Private Owners of California?

The last serious attempt to determine California's ownership was in 1940. At that time, a Congressional Committee sought to compile a list. It came up with a list of twenty-seven properties.** The list is incomplete and omits hundreds of owners.

---

* A small number of assessors do keep this information by owner and supply it upon request; see below.

** 1939 Hearings: Violations of Free Speech and Rights of Labor
Landholdings in California
Exhibit 9589
Landholdings in California
I. Land and Farming Companies

California Delta Farms	6,440
California Lands, Inc.	395,800
Del Monte Properties	13,504
Diamond Ranch, Inc.	51,667
El Solyo Ranch	4,500
Empire Farms, Inc.	8,300
Holland Land Company	4,202
Kern County Land Company	413,561
Marysville River Farms Company	1,750
McDonald Island Farms	3,424
Mid State Horticultural Company	3,386
Miller and Lux, Inc.	93,058
Natomas Company	61,271
Productive Properties, Ltd.	5,295
Rancho Mira Loma	1,857
River Farms Company	31,000
San Diego County Water Company	46,000
Shoreland Corporation	13,000
Southern Pacific Land Company	4,005,840
Spring Valley Company, Ltd	8,870
Sunny Hill Ranch, Inc.	2,650
Sutter Basin Corporation	41,922
Suttern Buttes Land Company	8,512
Temescal Water Company	8,600
Valley Agricultural Company	4,404
Yuba Consolidated Goldfields	18,211
Weyl-Zuckerman Company	2,704

Source: Walker's manual of Pacific Coast Securities, 1939, except where otherwise indicated.

Our results are presented in Appendix I - B. Our sources are many and varied, including surveys of popular sourtrade press,* financial directories,** county atlases, maps and survey reports issued over the past decade,*** personal compilations of agricultural, union officials and others.

We first attempted to gather a listing of statewide landholders deductively. We identified the large owners and then wrote them all in an attempt to get their acreage figures. Our attempts were rebuffed. Not only did corporations almost universally refuse to answer at all, but even utilities termed this information (mere acreage figures) "confidential." Evidently, the monopoly and condemnation powers granted to these utilities by the public is not considered sufficient to justify disclosure to the public of this fundamental use of their funds.

Our results changed somewhat when we changed our letter. The new version did not ask about ownership, it asserted that we had discovered that x company had y acres and left two blanks at the bottom. One was to be checked if the number filled in was correct, another if incorrect, with the correct number supplied. If we thought we knew the acreage, we filled in our estimate. If we had no idea, we used the arbitrary figure of 28,000 acres. Interestingly, the opportunity to correct a seeming error brought in well over 100 replies (25 to 30% of those queried by this method). Nevertheless, some would check "incorrect" and mark "x" or "confidential" where the correct amount was to be supplied in our form. Most still would not answer despite the easy form and the self-addressed stamped envelope. Even utilities (except for PG & E) maintained an arrogance inappropriate for an entity with their publicly-granted privilege and trusteeship. Following is one reply

We were also interested in a complete survey of enough individual counties to verify the statewide holders contacted individually and to examine concentration within some typical counties. To aid in these efforts, we wrote to each of the fifty-eight county assessors in California. As mentioned above, we requested the names of the top twenty landholders by acreage and the ten top property taxpayers. We enclosed a form for the information

---

* Includes survey of L.A. Times and Sacramento Bee over past several years and of trade press both through Funk and Scott's Directory and separate reviews of Western Fruit Grower, Produce Marketing, other leading agricultural press.

** Including Walker's Manual of Far Western Corporations (1968), Standard and Poor's, Moody's, et al.

*** Including Metsker's Atlases, Ballis's Map, Price's Map, Henry's Atlases, Real Estate Directory Inc. Atlases, et al.

and a self-addressed, stamped envelope. We received eighteen replies. Only seven complied with our request. Those who answered pleaded insufficient resources, said that they did not keep acreage figures (even though often on their computer tapes) or merely sent back a blank form with no comment at all. Even those who complied generally wanted to know who we were and the use to which the information would be put. Nevertheless, the returns which we did receive, in addition to our own independent county studies and surveys, gave us a chance to look at land ownership concentration for a number of different counties. It also enabled us to do a trend analysis in several counties for which we had older (1959) map data. Finally, it gave us a second dimension, concentration by land value as well as by land acreage. Here we can look not only at who owns the most land, but who owns the most valuable land (under current assessment criteria).

Table I - C below lists the twenty-five largest landowners in the State according to our survey results. Given California's size, wealth and diversity, statewide concentration of ownership by acreage is remarkably high. Table I-D analyzes concentration in greater depth and reveals that 257 entities own at least 25% of the privately owned land of the State.

The fact of concentration is as important as it mobilizes potential political as well as economic power. Our figures, as high as they are, understate the level of concentration. First, although we believe most of our acreage figures are accurate,* we could obtain no reliable acreage figures for many we know to be large landowners. (See Appendix I - B).

The major landowners where acreage figures were unobtainable are listed in Appendix I - B along with a listing of known acreage holdings.

Second, our figures are understated because economic and political power concentration is more relevant by land category.** One hundred thousand acres is not a dominant share of the State's land, but if there are only 250,000 acres of white pine and the 110,000 acres are

---

* About 5-10% of our figures are from data more than three years old and therefore not perfectly reliable or current.

** See Chapters II-VII for examples and case studies of the use of organized political power by landowners to obtain public works, tax and other favors.

white pine land, the share is more significant. Our division of owners into three categories in Appendix I - B by type of land is extremely rough, but affords some opportunity to see how concentration increases when the land is divided into agricultural, timberland and development groupings. Comparing Table I - A with timberland acres, nineteen firms own about 35% of it. If we add in the timberholdings of Southern Pacific (which is in the agricultural category in our tables) the total comes to twenty firms owning about 43% of this land.*

The 11,815,000 acres of cropland in California agriculture is not comparable to the 37 million acres of total "farmland" which would include private range and waste land, in the general agriculture category of our tables.** If we assume that approximately one half is cropland,*** then twenty-nine own 21% of this land, seventy-five own 27% and 220 own 35%.

---

* See commentary by owner in Appendix I - B for breakdown of land type and location where land falls into more than one general category.

** CALIFORNIA FARMLAND USE

	Million Acres	Percent of Farmland
Cropland Harvested	7.8	21.1
Cropland Pastured	2.1	5.7
Cropland not Harvested or Pastured[a]	1.9	5.1
Total Cropland	11.8	31.9
Woodland Pastured	2.8	7.6
Woodland not Pastured	.6	1.6
Pasture not Woodland or Cropland	20.5	55.4
Land in Farmstead, Roads, etc.	1.3	3.5
Total Farmland	37.0	100.0

[a]This includes 1 million acres in summer fallow; the rest includes idle land, crop failure, etc. Source: Facts about California Agriculture, 1968.

*** Written breakdowns by those large owners answering our questionnaires indicate that 50% of farmland holdings are in the cropland category. The large cropland holdings of the "new corporations " discussed below makes this figure reasonable (i.e., as revealed in recent surveys).

Third, our figures as clarified are still understated because they are statewide. Owning that 110,000 acres of white pine means more if the other 140,000 acres are in another part of the State--500 miles away. Taking somewhat smaller areas, such as counties, gives us a clearer picture of localized land ownership concentration. Table I - E presents two typical rural counties and one urban county. Appendix I - C presents all eight rural and three urban counties for which we have data. Generally, the top twenty landowners of rural counties (amounting to from one-fiftieth of one percent to just under one percent of the population) own from 25-50% of the private land. In urban counties, the top twenty landowners (amounting to from one two-hundredth of one percent on down) own 15-30% of the private land. Breaking each of these counties down by land type (as we briefly did on a statewide basis) would raise these levels still further.

Moreover, counties chosen for this analysis were not the most concentrated. The State's largest landowners concentrate their ownership in Kern (Kern County Land, et al.), San Bernadino (Southern Pacific Land Co.) and other counties.* Yet, concentration is very, very high in the counties for which we had data. Images of medieval baronies are compelled. When examining county maps plot by plot, land domination by small numbers of firms and individuals is most striking.

The trend in land ownership suggests further concentration. Although homesteading and sales reduced California's land empires of the 18th and 19th centuries, a U-curve has formed as concentration has lately begun to enter another upswing. For the past three to four decades diversified giants have been accumulating new territories. Increasingly, they own California.

---

* See, for example, the ownership of land in these counties as presented in Chapter III tables. See also the Williamson Act Survey data in Chapter II. Note that the giant landowners of Appendix I - B are situated generally in counties not covered in our survey.

A very recent survey affirms these levels of concentration, but suggests that they might be understated. The Agricultural Extension Service of the University of California, in cooperation with the Economic Research Service of the U.S. Department of Agriculture, conducted a survey in 1969 of the 2,566 corporations engaged in agricultural production in California. The results of their survey are presented in a little-known booklet entitled "A Statistical Profile of California Corporate Farms," published in December of 1970.

The survey covers 6.1 million acres in corporate farms. Very little of this is range or waste land, the majority of it is prime crop land and probably represents close to one-half of the prime crop land of the State. Table 18 on page 27 of the study reveals that as of 1969, forty-five corporate farms, representing less than one-tenth of one percent of the commercial farms in the State,* control 3,714,000 acres, or approximately 61% of the land covered by the survey. This is high concentration, even before this land is categorized by specific crops. The survey also found, as we shall discuss in Chapter II, that one-half of the acreage is controlled by large conglomerate corporations with other business enterprise, and often with additional farming operations in numerous states. At the same time, most of the corporations are closely held, controlled by another corporation or by fewer than four stockholders.**

Evidently, we were not alone in having difficulty obtaining data or in concluding that our findings understate the degree of concentration. Just less than one-half of the respondents in this 1969 survey returned their questionnaires. The authors conducted a follow-up study of 164 nonrespondents. Interestingly enough , they remark on page one that "there was a significant difference between non-respondents and those who had answered the original request--nonrespondents were sugnificantly larger than the original respondents."

---

* According to the 1964 U.S. Census of Agriculture, there are 57,298 commercial farms in California

** One-half of the acreage is farmed by corporations that are not controlled by individuals or families, but by unrelated individuals or other corporations. Further, 46% of the acreage is controlled by corporations with substantial other business enterprise outside of farming. Those with other business interests own 85% of their land, those engaged in farming as their sole business own only about one-half of their land and "rent"the remainder; 46.4% of the farming corporations (representing an even larger share of acreage) operate farms in two states or more, 25% of them in four states or more. At the same time, 66% of the corporate farms have four or fewer stockholders and 98% have less than ninety stockholders.

A 1963 study* of timberland holdings discovered that the top twenty-three owners representing one thirteenth of one percent of the total owners, owned just over forty-three percent of all private commercial forest land in the State. By 1970, we can find twenty firms owning this much land if we allocate the timberland holdings of Southern Pacific properly. (See Appendix I - B for data)

A comparison of ownership in Modoc County shows the trend in a county with much timberland and increasing development. Table I - F below shows the marked increase in concentration over the past twelve years.

The identities of the new statewide developers and landowners, e.g. Kaiser Industries, Standard Oil, presage accelerating ownership concentration. Tax breaks for capital gains from land value appreciation and the ability to profit from influenced government expenditures (public works) make continued involvement likely. The immense resources of these firms and the entry into the field of the nation's financial giants indicates that the tightening oligopolistic structure of American industry will be reflected in land ownership.**

---

* OWNERSHIP OF COMMERCIAL FOREST LAND, CALIFORNIA, 1960

	Estimated number of owners	Million Million acres owned
Total Public	--	9.26
U.S. Forest Service	--	8.57
Other federal	--	0.50
State and local	--	0.19
Total Private	--	8.05
More than 50,000 acres	23	3.44
5,000 to 50,000 acres	105	1.11
Under 5,000 acres	30,000	3.51

Source: Economic Development Prospects for the Commercial Forest Resources and Forest Products Industries of California (Berkeley, 1963)

** One other dimension to this tightening structure, the many and increasing interlocking directorate arrangements binding these giants to one another and to allied financial institutions is discussed below. Also discussed below are the institutional ties created between these firms through their trade associations.

Appendix I - D presents data and analysis of land concentration by land value instead of acreage. It is evident that even though concentration by value is lower than by acreage, partly due to assessment criteria (which includes structures), it is still high--especially for underdeveloped or just developing areas.*

The U-curve trend in the concentration of agricultural holdings is even more apparent than with respect to timberland. The average acreage of agricultural landowners has been increasing steadily since 1930.

TABLE I - G
AVERAGE SIZE OF CALIFORNIA FARMS

Year	Average Acreage
1920	250
1930	224
1940	230
1950	267
1954	307
1959	372
1964	458
1969	627

The fact that a few corporate owners control a great deal of California's land has important consequences for the use made of that land. For one thing, the large corporate owner has a much more single-minded desire for profit than, say, the family farmer who may develop sentimental attachments to his land. Often, management jobs depend solely on profit returns which satisfy controlling directors or stockholders. Likewise, the well-being and friendship of his neighbors may not concern the corporation. The profit motive dictates the "highest" economic use of the land, even if incompatible with other values. This approach encourages speculation and short-term time horizons for the owners. Land can be used until no longer profitable, and then discarded for other land. For example, one of us asked a corporate farm manager if his excessive use of ground water would deplete the source and leave the earth a wasteland. "Sure," he told us, smiling, "but we won't be here then."

The permanence of the land and of the changes to it from various uses often makes the market an intrinsically inadequate regulator--failing to account for costs which will fall on those other than immediate investors and converters.*

---

* Before development, the large landowners by value are comparable to the large landowners by acreage, with a slightly lesser concentration ratio. During development, concentration lessens as profits are taken from speculative holding at this stage, and new high value landowners begin to appear. These are usually utilities, railroads, large developers, oil companies and occasionally very large manufacturers. See Table I - F.

Almost by definition, highly concentrated land ownership and control means more political and economic power and greater ability to oppose contrary interests than widely-diffused ownership or control (See Chapters II-VII for case studies). A larger portion of the earnings from large land holdings go toward political expenses (See Chapter VII). Also, the large owner's land-use decisions have a greater public impact, and thus give him a stronger bargaining hand with officials. Most important, a few owners can far more easily unite in common cause (for example, advocating the State Water Project) than can a diverse and heterogeneous multitude. The few control their political and economic destinies; the many are more subject, both in economics and politics, to Adam Smith's invisible hand. In California, the few increasingly own its private land.

C. CHALLENGING OWNERSHIP

We have chosen for presentation in Appendix I - E a brief description of the land-holding history of the present Southern Pacific Company (SP). Still the largest landowner in California, the Southern Pacific acquired its initial holdings via land grant, as with many of California's larger estates. The Southern Pacific land grant was not Spanish in origin, but the nature of the grant presents questions typical of those that can be posed about many of California's larger landowners: How did they acquire the land? On what basis is it held? Who should have it if not the present owners? Have they managed it responsibly or have they sacrificed future use for present profit? How should damages be assessed? These are all preliminary questions to a study of land use. There is no reason to assume that large landowners, who may control much government policy, have a right even to own what is allegedly their land. The analysis of Southern Pacific's holdings raise severe doubts concerning the continued legality of current land ownership and use.

---

* As we shall see, there are other deficiencies in the current market system which fail to allocate resources efficiently or sensibly. That is, rules of liability which fail to assess the external costs of a land use (e.g., pollution) fail to minimize these costs. In individual cases, lack of information about the consequences of a land use (or lack of information about the uncoordinated land-use plans of others) impede the proper functioning of the market.

The federal Homestead Act of 1862, designed to prevent land monopolies and to open the West to the small independent farmer and rancher, was undermined not only by SP and federal grants, but by the Mexican land grant system. The scandals evolving from the disposition of California's land during the entire 1800's makes our examination of SP holdings relevant to many of California's large older estates.

The Mexican government broke up the early mission estates in 1833, granting over 26 million acres to some 800 families. The criteria for receipt of this land usually involved political, economic or military "service" to the regime. From 1833 to 1870, the courts were clogged with property disputes involving these grants. In the 1870's a federal commission examined the grants and "approved" 588 of them covering approximately 8.8 million acres. The federal examination of these grants was sketchy at best, but the grants form the basis for many of the top twenty-five landholdings in Table I - C. Tejon Ranch, Irvine Company and Miller and Lux, among others, derived their estates from this system. Not only the grants themselves, but as with Southern Pacific, the seemingly unlawful sale, leasing and use of the grants pose serious questions worthy of renewed and exhaustive investigation.

Of course, there are many examples of ruthlessness which are not clearly illegal. Henry Miller, for example, creator of the once immense Miller and Lux holdings, became famous for his tactic of controlling water supplies and forcing dependent farmers to sell to him at a pittance of the land's irrigable market value (after they had cleared and cultivated the land) or face a devasting cut-off of water. He eventually acquired 150 miles of shoreline along the Kern and San Joaquin Rivers and approximately one million acres.[5] The complexities of water and property law were not taught in the elementary school houses where settler-victims were educated. Thus, SP could advertise and promise to sell its land (according to the requirements of its grant) at $2.50 per acre and then lower the boom by demanding $25 to $40 per acre (fine print charges, interest, etc.)--after the land had been cleared, buildings erected, irrigation ditches dug, fences up and the first crop about to come in to pay for the land. If the higher figure were not forthcoming, public auction would provide it.[6]

But as we have pointed out, as often as not the law was violated--almost always in a most explicit manner. Despite court interpretations of law in favor of the large landholders (often due not only to the famous corruption of the California judiciary throughout the late 19th and early 20th centuries, but to the inadequacy of legal resources and talent mustering the challenge), there is a substantive basis for the return of most of what remains. Henry Miller, for example, may have had much of Southern Pacific's sophistication, but he committed

illegalities most difficult to explain away. For example, in 1850 land speculators pushed through the U.S. Congress a bill which granted all federally-owned "swamp and overflow lands" within each state to that state. California then sold more than two million acres of what was designated swamp land for $1.15 to $1.25 an acre. California has never had this much swamp land. Two state surveyors, authorized to designate tracts as "swampland," left office with 300,000 acres apiece. Horace Greely wrote that much of the land with which he was personally acquainted was "so dry there was not enough muck to supply a single small frog." An investigating committee later adjudged the disposition of this land as "wholesale fraud." But the damage had been done. Henry Miller bought much land in this category. In fact, he hitched a small boat to a team of horses and had himself dragged through one tract so he could testify that it was swampland.[7]

William Carr, James Haggin and Lloyd Tevis created much of the current Kern County Land Company through similar manipulation of the federal Desert Land Act in the mid-1870's. William Carr acquired thousands of acres at a mere $1.25 per acre under the Act through "dummy" individuals. The law limited each entry to 640 acres. Seventy thousand acres were obtained. Despite later investigation disclosing fraud, Carr and his associates were allowed to keep the land after explaining that they deceived officials because they were the only ones who had the resources to irrigate and make the land useful. After so improving it, they promised to sell it to the settlers who were supposed to receive it under the Act. They did not sell the land, however. Now government is providing the water works which will enable the irrigation of this land and increase its value immensely (See Chapter III).

Where common law analogy and the terms of major laws and grants allow, land either obtained fraudulently or used in violation of express conditions should escheat to the state. That is, the land should be forfeited or revert to federal or state government. Such should be the case with most of the land of the Southern Pacific Company and inquiry would uncover other cases where there is continuing violation (or lack of a statute of limitations problem) and where the owner remains accountable.

Indeed, there are numerous questions of fraud, mismanagement and public corruption which cannot be attacked by forfeiture of ownership. Henry Miller's famous "loans" to county assessors in return for low assessments do not violate a condition of his interest in the land. The body of this work will present hundreds of such current examples. These must often be met through acknowledgement of ownership, and then enforcement of the responsibilities that ownership entails. Thus, while we emphasize prospective, general social remedies (e.g., changes in rules of liability, taxes)--private covenants, equitable servitudes, enabling acts for disposition of public land and grant terms should be challenged as they apply to the past and present actions of individual owners in particular cases.

APPENDIX I - B:

MAJOR PRIVATE LANDOWNERS AND HOLDINGS IN CALIFORNIA--DATA LIST*

PRIMARILY AGRICULTURE

200,000 acres +

Name	Amount	Comments
Tenneco Inc.	362,843	+53,584 leased in California and over one million acres owned in other states, mostly through Kern County Land Co. subsidiary
Tejon Ranch Co.	348,000	fifty percent owned by LA Times Mirror Corp.
So. Pacific Co.	2,411,000	394,000--app. rt. of way and trans. acreage 163,000--agricultural, 674,000 grazing, 468,000 timber--rest is idle and held for investment. 179,023--Siskiyou Co. survey 17,500--Butte Co. 60,294.84--Nevada Co. 28,852--Sierra Co. 197,160--Trinity Co. 156,400--Shasta Co. 111,256--Fresno Co. (D. Survey) 2,017,000 non trans-holdings verified by owner
Standard Oil of California, Inc.	306,000	Mostly agricultural--also for oilfield operations, refining, marketing, pipilines, grazing and development--verified by owner.

80,000 - 200,000 acres

Irvine Co.	101,600	Row and field crops--25,837; Pasture and grazing--49,016; Develop.--15,747; 10,000 in Imperial County--verified by owner.

---

* As of January 1971. See text for general sources. "Verified by owner" means owner responded to our survey, supplying the acreage figure. "Metzker's" refers to "Metzker's Map." "Danielson Survey" refers to the assessor survey of the State Senator in cooperation with our Task Force (see Chapter II). "Studies" or "surveys" of individuals counties refers to our separate survey of assessors (note forms in Appendix I - C and in text).

J.G. Boswell	108,000	Includes Boston Ranch Inc.--verified by owner
Miller & Lux, Inc.	93,058	Includes Buena Vista Farms (26.766 acres), Bowles Farming Co., Santiago Ranch
Newhall Land and Farming	152,000	50,000 in agriculture, numerous ranches
Kaiser-Aetna	118,000	Rancho California (98,000 acres) and Rancho Ventura (10,000 acres)
	40,000 - 80,000 acres	
Giffen Inc.	60,000	52,410 in Westlands Water District
San Diego Water Co.	46,000	Pre-1960 records
Sutter Basin Corp.	41,922	Pre-1960 records
Anderson, Clayton & Co. (ACCO)	52,000	(Vista del Llano), 30,738 in westlands water district
Rancho Mission Viejo Co.	50,000	Orange Co.
Wm. G. Henshaw	60,000	San Diego Co.
Cammatti Ranch	40,000	Shandon, San Luis Obispo Co.--both cultivated and range land
R.E. Jack Co.	60,000	Cholame, San Luis Obispo Co.--both cultivated and range land
Twisselman Estate	45,000	Cholane, San Luis Obispo Co.--ranch, cultivated and orchard land
Dibles Estate Co.	46,000	Santa Barbara Co.
Jesus Marina Rancho Co.	47,000	Santa Barbara Co.
H & W Pierce	47,000	Santa Barbara Co.
Edwin L. Stanton	50,000	Santa Cruz Island--Santa Santa Barbara--range land
Vailt Vickers	52,000	Santa Rosa Island, Santa Barbara Co., range land

App. I - B-3

Hearst Ranch	50,000	San Simeon, San Luis Obispo Co.--range land
H. Walker et. al.	51,200	
Getty Oil	62,000	Danielson Survey, Kern Co., 12,000 development, 48,000 agricultural
Bangor-Punta Corp.	54,000	54,000 acres in Southlake Farms--conglomerate
	20,000-40,000 acres	
Purex Corp.	30,000	Brock Ranches, Fresh Pick major subsidiaries. Others include: Valley Packing Co., Wilco Produce Co., Gonzales Potato Co., George Russ Co. (Col.) Assoc. Produce Distributors, Cochran Co., Ferry Morse Seed Co., John Jacobs Farms (Ar.), Oceanview Farms. most land in vegetable production. Purex is being told to divest by FTC.
River Farms Co.	31,000	
Di Giorgio Corp.	27,000	
Del Monte Corp.	21,220	Formerly Del Monte
Colt Ranch Inc.	24,500	6,500--agriculture; 1,800 recreation; 6,252 in Westlands Water District--verified by owner
Will Gill & Sons	29,926	
Tidewater Assoc. Oil Co.	25,551	
Von Glahn Lands	21,553	
Blackwell Land Co.	25,000	(owned by Lazard Frere)
Samuel S. Vener	28,000	
Sisquoi Ranch	38,000	(owned by James Flood) Santa Barbara Co.

Moulton Co.	21,500	El Toro Orange Co.--range, orchard, cultivated land
C.W. Clark Co.	20,000	Shandon, San Luis Obispo Co.--range land
Grayson Owens Co.	35,000	Carrisa, San Luis Obispo Co.--range and cultivated land
Santa Margarita Ranch	26,000	Santa Margarita, San Luis Obispo Co.--cultivated and range land
Claude Arnold	20,000	Carrisa, San Luis Obispo Co.--cultivated and range land
La Panza	30,000	Carrisa, San Luis Obispo Co.--cultivated and range land
Sinton Bros.	25,000	Shandon, San Luis Obispo Co.--range land
Pike	30,000	Stewarts Pt., Sonoma Co.--range land
I.G. Zumwalt	30,000	Colusa, California--cultivated, orchard and range land
Wendell Payne	20,000	Woodland, Colusa Co.--range land
J.E. Mitchell	28,000	Colusa Co.--range land
Wm. Sites	20,000	Colusa Co.--range land
French Co.	27,000	Willows, Glenn Co.--range land
Grenoc Ranch	22,000	Middletown, Lake Co.--range and cultivated land
Hewlett Packard Co.	22,828	San Felipe Ranch, Danielson Survey, Santa Clara Co.
Adobe Ranch	22,000	Madera Co.--range land
Flournoy Bros.	25,820	13,540 a. Modoc Co.--cultivated and range land--12,280 a. Fassen Co.--Metzker's
Nels Monroe & Son	25,000	Modoc Co.--cultivated and range land

Broome Ranch	24,000	Camarillo, Ventura Co. range land
L. Doheny	22,000	Ventura, Santa Barbara Cos.
Lewis family	20,000	Carrisa, San Luis Obispo Co.
Belridge Oil Co.	24,000	Through Belridge Land Co.
Roger Jessup Farms	21,700	18,500 Modoc Co.--Metsker's '58; 3,200 Trinity Co.--Metsker's '59
Anderson, Clayton	30,738	In Westlands Water District
L. McConnel	20,480	Shasta Co.-- Metsker's '59
Wm. Smith	34,960	25,760--Humboldt Co.; 9,200--Lassen Co.
Salyer Land Co.	34,000	Danielson Survey, Kings Co.
Westlake Farms	24,250	Danielson Survey, Kings Co.
California Land & Cattle	31,370	Danielson Survey, Monterey Co.
Galvin Trust	30,057	Danielson Survey, Monterey Co.
	10,000-20,000 acres	
Dow Chemical	16,940	15,000 for Bud Antle Lettuce land + 1158 more for agriculture; 782 for industrial--some is in Arizona
Giumarra Vineyards Corp.	12,459	Including some leases
Spreckels Sugar Co.	14,800	
Union Sugar Co.	11,200	Verified by owner
San Emidio Rancho	15,660	
J.F. Gibson	12,517	
Kings Co. Devel.Co.	11,371	

Sayler, William Jr.	10,240	
General Petroleum Co.	12,296	
South Dawn--McCarthy Farms	14,000	
Bruce Church Inc.	14,000	
M.J. Yoder	15,000	Hemet, Riverside Co.--cultivated land
Searl Bros.	15,000	Hemet, Riverside Co.--cultivated land
Martin Bloom & Co.	18,000	San Diego Co.
Jean Cazaurang	16,000	San Diego Co.
P.J. Connolly	12,000	Tracy, San Joaquin Co.--range land
White Ranch Co.	10,000	Shandon, San Luis Obispo Co.--cultivated and range land
Heilmann Bros.	15,000	Ataseadero, San Luis Obispo Co.--cultivated and range land
Miller & Hanson	12,000	Shandon, San Luis Obispo Co.--range land
Asa Porter	15,000	Arroyo Islands, San Luis Obispo Co.--cultivated and range land
Elmer King	10,000	Carrisa, San Luis Obispo Co.--cultivated land
Rice Ranch	10,000	Nipomo, San Luis Obispo Co.
Guy Arnold	10,000	Pozo, San Luis Obispo Co.
Goodwin Ranch	10,000	Carrisa, San Luis Obispo Co.
Howard Sumner	10,000	Carrisa, San Luis Obispo Co.
Howard Iverson	15,000	Cholane, San Luis Obispo Co.--cultivated and range land
Iver Hansen	10,000	Paso Robles, San Luis Obispo Co.--cultivated and orchard land

J.R. Ranches	15,000	Paso Robles, San Luis Obispo Co.--cultivated and range land
Fields Ranch	10,000	San Luis Obispo--range land
Marre Land & Cattle Co.	15,000	San Luis Obispo--range land
Tar Springs Ranch	10,000	Arroyo Grande--range land
Buck Horn Ranch	10,000	Carrisa, San Luis Obispo Co.--cultivated and range land
R.T. Buell	16,000	Santa Barbara Co.
Orena family	18,000	Santa Barbara Co.
J.E. Cebrian	19,000	Santa Barbara Co.
Patterson Bros.	11,000	Livermore, Alameda Co.--range land
George Walker	15,000	Livermore, Alameda Co.--range land
E.L. Adams	10,000	Nelson, Butte Co.--cultivated land
Chester Tiscornia	17,000	San Andreas, Calveras Co.--range land
J.L. Browning	10,000	Colusa--cultivated land
Howell Davis	10,000	Colusa--cultivated land
Bacchi Ranch	15,000	Lotus, El Dorado Co.--range land
Todd Wheeler	14,000	Orland, Glenn Co.--range land
Holmes Livestock Co.	17,000	Willows, Glenn Co.--range land
Ernest Michael	14,000	Artois, Glenn Co.--range land
Sherman Thomas	11,000	Madera Co.--cultivated land
H.C. Cattle Co.	19,000	Modoc Co.--cultivated and range land; 3,000-Lassen Co.

W.S. Orvies & Son	10,000	Northern Stanislaus Co.--cultivated land
Dickerson Ranch	12,000	Patterson, Stanislaus Co.--range land
George Covert	12,000	Coast range, Stanislaus Co.--range land
George Covell	10,000	Patterson, Stanislaus Co.--cultivated land
Sutter Basin Corp.	12,000	Robbins, Sutter Co.--cultivated land
River Farms	13,500	Knights Landing, Yolo Co.--cultivated land
American Crystal Sugar Co.	12,000	
Meiss Ranch, Inc.	13,323	Siskiyou Co. Assessor
Porterfield Bros, Inc.	12,852	Siskiyou Co. Assessor
Roy Naftzger	13,794	Danielson Survey, Santa Clara Co.
Mills Ranch	10,532	Siskiyou Co. assessor
Redfern Ranches	13,017	Danielson Co., Santa Clara Co.
John Gill et. al.	10,383	(Sacto Co. Assessor)
Bar Seventy one	10,385	Danielson Survey, Santa Clara Co.
Nora Henderlong-Wickersham Ranch	11,883	Danielson Survey, Sonoma Co.
Soper Wheeler Co.	10,120	Butte Co. Survey
5-D Ranch (Douglass)	11,359	Danielson Survey, Stanislaus Co.
Taylor, Agustus Jr.	10,100.11	Nevada Survey, Stanislaus Co.
Hansen Cattle Co.	12,020	Lassen Co.--Metzker's '58
W.H. Raupp et. al.	13,040	" "
G.R. Heath	11,520	" "

69-133 O - 73 - pt. 5B - 16

T.E. Connoly	13,400	Lassen Co.--Metzker's '58
W.H. Hunt, Est. Co.	14,440	" "
J.W. Mapes	13,400	" "
S.S. Jaksick	17,680	" "
Dean Witter Jr. et. al.	18,040	Trinity Co.--Metsker's '55
R.G. & E. Jameson	10,920	" "
Wm. C. McCulloch	10,600	" "
P. & J. McAuliffe	11,520	Shasta Co.-- Metzker's '59
Tooby & Prior	13,000	Humboldt Co.-- "
Calif. Barrel Co.	11,680	" "
Hill-Davis Co.	18,325	" "
Jos. & S.A. Russ	10,000	" "
Merillon & D"Oultremont	13,240	" "
Gamble	13,970	Danielson Survey, Napa Co.
R. Hunter	19,640	Humboldt Co.-Metsker's
Stimson & Miller	14,400	Del Norte Co.-- Metsker's '59
Westgate-California Corp.	17,000	14,000 acres are presently agricultural in San Joaquin Valley--rest is development
West Haven Farming Co.	10,273	Bureau of Reclamation--Excess Land Ownership Study 12/68
N-3 Cattle Co.	16,112	Alameda County--Danielson
W.J. Deal Co. Ltd.	10,555	Danielson Survey, Fresno Co.
Noble, Wm. H.	18,197	" "
Nickel, George	15,770	Danielson Survey, Kings Co.
Mouren Farming Co.	12,120	" "
Elsie Buchanan	17,354	" Madera Co.

George A. Pope, Jr.	15,543	Danielson Survey,	Madera Co.
Albert Hansen	18,619	"	Monterey Co.
Walti & Pearson Ranch, Inc.	11,136	"	"
Raymond F. Reynolds et. al.	10,146	"	"
Laurette Echeberria et. al.	11,109	"	"
William Luton	13,131	"	Santa Barbara Co.
Cowell Estate	at least 15,000	Davis, Yolo Co.--over 10,000 range land	
Santa Margarita Ranch	at least 15,000	San Juan Capistrano, Orange Co. over 10,000 acres cultivated land	
Starr Ranch	at least 15,000	San Juan Capistrano, Orange Co. over 10,000 acres cultivated land	
Bryant Ranch	at least 10,000	Olive, Orange Co.--over 10,000 acres range land	
Rudnick & Mendiboro	at least 15,000	Kern Co.--range over 10,000; cultivated over 5,000	
A. Brown Co.	at least 15,000	Weldon, Kern Co.--over 10,000 acres range land	
Carver-Bowen Ranch	at least 15,000	Glennvile, Kern Co.--over 10,000 acres range land	
Carl I. Carver	at least 10,000	Delano, Fresno Co.--over 10,000 acres range land	
Crofton Ranches	at least 10,000	Keene, Kern Co.--over 10,000 acres range land	
Jameson Ranch	at least 10,000	Tehachapi, Kern Co.-over 10,000 acres range land	
Mrs. W.D. Joughin & Sons	at least 10,000	Isabella, Kern Co.--over 10,000 acres range land	

Leroy Rankin	at least 10,000	Walker Basin, Kern Co.--over 10,000 acres range land
Russell Bros.	at least 10,000	Maricopa, Kern Co.--over 10,000 acres range land
Sneddon Land Cattle Co.	at least 10,000	Maricopa, Kern Co.--over 10,000 acres range land
Carl Tweisselman	at least 10,000	McKittrick, Kern Co.--over 10,000 acres range land
Sheldon Potter	at least 10,000	Mendocino Co.--over 10,000 acres range land
Buttes Gas & Oil	13,800+	Includes Tree Crop Co., Jasmin Groves and Schenley Subsidiaries
Vener Brothers	15,100	Tomatoes
Frank C. Trosi	7,473	
P.J. Divizich	5,500	Bankrupt--in process of selling land
Zaninovich family	8,200	Zaninovich brothers compete against each other. They are: A. & N. Zaninovich--2,283; Marko Zaninovich--3,686; V.B. Zaninovich--2,157.
Donald Ramelli	8,280	
Daniel Russell	7,893	verified by owner
Schramm Ranches, Inc.	5,500	verified by owner
M.J. & R.S. Allen	9,000	Directors of Producer's Cotton Oil, verified by owner
Sam Hamburg Farms	6,000	verified by owner
Comfort Farms, Inc.	6,000	verified by owner
Superior Oil Co.	7,500	verified by owner
Frank Lanterman	6,000	La Canada Ranch

Known large holdings of unavailable acreage

S.A. Camp Farms Co.[1], United Fruit,[2] Williams Austin Co., Coello Farms[3], Shuklian Bros. Inc., McKittrick Ranch Inc., G.W. Nickel, Jr.[4], H.B. Murphy Co.[5], Harger Corp. Ltd., Liberty Farms Co., Gilkey Farms Inc., J.G. Stone Land Co., Riverview Farm & Cattle, Timco[6], Houchin Bros. Farming Co.[7], Gragnani Bros., Ridgeside Farms, C.J. Vignola, W.F. Young & W.E. Young Jr.[8], Maggie Farms[9], Summer Peck Ranch Inc., Bedart Bros.[10], Clarence Matheson, Twen Farms, Borba Bros., Joe Mendibura, Berman Leasing (Black Watch Farms?), Bogett Farming, R.A. Rowan & Co., Coberly West Co.[11], Red Fern Ranches, George B. Willoughby, Jack Elmore, D.K. Ranch, Reynold M. Mettler, V.C. Britton Co., Wolfsen Land & Cattle, Marion Harris, Em. H. Mettler & Sons[12], Hacienda Ranch, Antelope Ranch, Deepwell Ranch, Las Yeguas Ranch, Rio Bravo Ranch, Chimineas Ranch, Wells Ranch, Conner, Bonita Ranch, Laguna Seca Ranch, Chounet Ranch, Chaney Ranch, Tres Picos Farms, Tillis Ranch, Domengine Ranch, Rancho Mirage, Warners Ranch, Cholame Ranch, Howard Ranch, Turner Ranch, Henry Doelger[13], El Rico Ranch, Butler Valley Ranch[14], Rindge Family, E. & J. Gallo Winery, Harden Farms of California, Jane Macc Macchiaroli Fruit Co., Blue Goose Growers, Church Rancho[15], L.M. & V. Jacks[16]

PRIMARILY TIMBERLAND

Name	Acreage	Comments
	100,000 acres +	Comments
Boise Cascade Corp.	303,000	8,000 Nevada Co., 77,000 acres in development and repeated there--Major subsidiaries here are Sonoma Timber Co., Unco Lumber Co., verified by owner
Georgia Pacific Corp.	278,500	verified by owner
Shasta Forest Co.	479,196	151,445.84--Modoc Co. (supplied by assessor); 264,000 Lassen Co. (Metsker Map); 53,751 Siskiyou Co.
Sunkist Corp.	192,000	Through Fruit Growers Supply Co. subsidiary--192,000 for timber, Xmas trees, (68,219-Siskiyou, 45,560 Lassen Co., 74,760 Shasta Co. survey, verified by owner

Masonite Corp.	110,000	verified by owner
Fibreboard Corp.	155,000	65,000 in Pickering Lumber Corp., 25,000 in development and repeated there through Trimont Land Co.--a subsidiary, 80,000 Hobart Mills, Nevado Co., 28,978--Sierra Co., verified by owner
The Pacific Lumber Co.	171,062	Includes 5,062 acres of agricultural land in Yolo, Sutter and Yuba Counties (rice and tomatoes) and 10,000 acres of grazing land in Humboldt (verified by owner), 140,000 timber in Humbolt Co., 3,480--San Mateo Co., verified by owner
The Times-Mirror Corp.	145,000	White Mountain Lumber Co. is major subsidiary
American Forest Production	150,000+	American Box Corp. of California, Pine Logging Co. of California; Calaveras Land and Timber Corp. (49,000), Winton Co. are major subsidiaries or timber acquisitions. See Siskiyou Co. assessor survey and Danielson Surveys El Dorado and Placer Counties
International Paper Co.	103,547	Siskiyou Co. survey
Hammond Lumber Co.	119,840	Humboldt Co.--Metsker's
Diamond International Corp.	100,000	Mostly Butte Co., 10,900 in Shasta Co.
Weyerhauser Corp.	27,174.98	for growing, managing and harvesting forests--Modoc County survey (22,080-Modoc County), verified by owner
Collins Lumber Co.	80,000	Chester, Plumas Co.
Feather River Pine Mills	60,000	Feather Falls, Butte Co.
Northern Redwood Lumber Co.	32,000	26,960 in Humboldt and Del Norte Co.

Empire Redwood Co.	26,000	Sonoma and Mendocino Cos.
Hearst Corps.	66,614	21,814 Siskiyou Co. survey; 44,800 Shasta Co.
Kimberly Clark Co.	51,158	Siskiyou Co. survey
Soda Creek Forest	10,206	Siskiyou Co. survey
U.S. Plywood Champion Corp.	87,852	71,332 Siskiyou Co. survey, 14,510 Shasta Co., 2,000 Trinity Co.
Di Giorgio Lumber Co.	2,176	Sierra Co. survey
Yuba River Lumber Co.	2,101	Sierra Co. survey
Northern Calif. Lumber Co.	3,620	Trinity Co.--Metsker's
Calif.-Oregon Lumber Co.	1,960	Trinity Co.--Metsker's
Trinity Alps Lumber Co.	760	Trinity Co.--Metsker's Co.
Shasta Box Co.	19,200	Trinity Co.--Metsker's '55
Mt. Shasta Pine Mgf. Co.	3,840	Trinity Co.--Metsker's '55
R.L. Smith	63,885	Shasta Co.--Metsker's '59
Scott Lumber Co.	12,040	" "
McCloud River Lumber Co.	16,900	" "
Trinity Logging Co.	3,520	" "
Elk River Mill & Timber Co.	8,220	Humboldt Co. - Metsker's
Solbeer & Carson Timber Co.	12,500	" "
Arrow Mill Co.	6,120	" "
Arcata Redwood Co.	1,920	" "

Sage Ind. & Lumber Co.	37,280	34,080-Humboldt; 3,200-Del Norte
Ward Redwood Co.	8,720	3,520 Humboldt Co.--Metsker's 5,200 Del Norte Co.--Metsker's '50
Simpson Timber Co.	19,440	" "
Westmoreland Pacific Lumber Co.	5,120	Del Norte Co.-- Metsker's '50
Santa Cruz Lumber Co.	5,000	San Mateo Co. Assessor
Michigan-Calif. Lumber Co.	71,733	Danielson Survey, El Dorado Co.
Georgetown Lumber Co.	10,876	" "
North Fork Assoc., Inc.	4,836	" Placer Co.
J.F. Moore	2,529	" "
F. Bonnifield	2,366	" "
Pomfret Estates, Inc.	2,326	" "
R.G. Watts & Assoc.	19,520	Shasta Co. survey

Acreages Unknown

Cyprus Mines Corp., Fall River Lumber Co.[17], Union Lumber Co.[18], D.E. Ayer[19], Walker Forest, Willits Redwood Products Co., Crane Mills Co., Michigan-California Lumber Co., Red River Lumber Co., R.G. Watt & Assoc.

APPENDIX I - C:

LAND OWNERSHIP CONCENTRATION IN
SELECTED, LESS CONCENTRATED COUNTIES

Rural Counties
COUNTY OF BUTTE*

Total Acreage 1,067,520
Private Acreage 847,371

THE TWENTY LARGEST PRIVATE LANDOWNERS IN COUNTY BY ACREAGE

	Corporation or Individual	Acreage	Cumulative Private %
1.	Diamond International Corp.	85,000	10.0%
2.	Parrott Investment Co.	21,870	12.7
3.	Georgia Pacific Corp.	21,759	15.2
4.	Southern Pacific Corp.	17,500	17.3
5.	Newhall Land & Farming Co.	12,570	18.7
6.	Soper Wheeler Co.	10,120	19.9
7.	Elna Schore	7,830	
8.	M & T Inc.	5,870	
9.	John N. Graham	5,700	
10.	Nathan Thomasson	5,600	
11.	Mabel Safford	5,100	
12.	Leah Gunn	4,760	
13.	Jack Meline	4,400	
14.	Richardson Mineral Springs	4,000	
15.	G & M Ranches	3,798	
16.	George Roney	3,700	
17.	Alma Hugge	3,600	
18.	Hazel D. Gianella	3,400	
19.	J.M. Gainer	3,340	
20.	Robert Draper	3,300	27.5

* Source: Henry Maps Survey, 1969

App. I - C-2

COUNTY OF SISKIYOU*

Total Acreage 4,008,960
Private Acreage 1,452,667

THE TWENTY LARGEST PRIVATE LANDOWNERS IN COUNTY BY ACREAGE

Corporation or Individual	Acreage	Cumulative Private %
1. Southern Pacific Land Co.	179,023	12.3%
2. International Paper Co.	103,547	19.5
3. U.S. Plywood Corp.	71,332	24.4
4. Fruit Growers Supply Co.	68,219	29.1
5. Shasta Forests Co.	53,751	32.8
6. Kimberly Clark Corp.	51,158	
7. Hearst Corp.	21,814	
8. American Forest Products	20,987	
9. Beverly Enterprises	14,000	
10. Meiss Ranch Inc.	13,323	
11. Porterfield Bros., Inc.	12,852	
12. Mills Ranch	10,532	
13. Soda Creek Forest	10,206	
14. Dennis, Jeff	9,948	
15. Ed Hart, et. al.	9,674	
16. Scott, Glen	9,058	
17. Louie & Sons	8,824	
18. Frieden, Stan	7,389	
19. Criss Bros., Inc.	6,920	
20. Kel-Del Ranch	1,138	47.4

* Source: Assessor's Survey, 1970

COUNTY OF SHASTA*

Total Acreage 2,427,520
Private Acreage 1,439,491

THE TWENTY LARGEST PRIVATE LANDOWNERS IN COUNTY BY ACREAGE

	Corporation or Individual	Acreage	Cumulative Private %
1.	Southern Pacific Land Co.	156,400	10.8%
2.	Fruit Growers Supply Co.	74,760	16.1
3.	R.L. Smith Lumber Co.	63,885	20.5
4.	K. Walker et. al.	51,200	24.1
5.	Hearst Corp.	44,800	27.9
6.	P.G. & E.	22,480	
7.	L. McConnel	20,480	
8.	R.G. Watt	19,520	
9.	McCloud River Lumber Co.	16,900	
10.	U.S. Plywood Corp.	14,520	
11.	Scott Lumber	12,040	
12.	P. & J. McAuliffe	11,520	
13.	Diamond Match Co.	10,880	
14.	W. Hunt Estate	9,960	
15.	C. Cransford	8,400	
16.	E. Blodgett	5,760	
17.	Crone Hereford Ranch	5,760	
18.	Welch & Welch	4,480	
19.	Bollibukka Land Co.	4,140	
20.	Foundation Stock Plants Inc.	3,840	39.1

* Source: Metsker's Map Survey (1959 records)

App. I - C-4

COUNTY OF SIERRA*

Total Acreage 612,480
Private Acreage 229,278

THE TWENTY LARGEST PRIVATE LANDOWNERS IN COUNTY BY ACREAGE

Corporation or Individual	Acreage	Cumulative Private %
1. Fibreboard Corp.	28,978	12.7%
2. Southern Pacific Land Co.	25,852	23.9
3. Ramelli, Donald	8,280	27.5
4. Russell, Daniel (dir. of So. Pac., & Tenneco)	7,893	31.0
5. Trosi, Frank C.	7,473	34.3
6. Monarch Investment Company	5,717	
7. Sierraville Properties	4,520	
8. Webber, G.D. & E.	3,626	
9. Sierra Pacific Power	3,430	
10. Johnson, Clifton O.	2,942	
11. Roivley, Sterling H.	2,496	
12. Di Giorgio Lumber Co.	2,176	
13. Yuba River Lumber Co.	2,101	
14. Graeagle Land & Water	2,054	
15. Turner, Frank	1,937	
16. Genasci, A.R.	1,853	
17. Torri, Kenneth	1,800	
18. Vanetti, Alice	1,558	
19. McPherrin, Anastasia	1,482	
20. P.G. & E.	1,406	48.9

* Source: Survey by John Elam et. al., U.C. Davis, 1970

App. I - C-5

COUNTY OF NEVADA*

Total Acreage 624,000
Private Acreage 438,483

THE TWENTY LARGEST PRIVATE LANDOWNERS IN COUNTY BY ACREAGE

	Corporation or Individual	Acreage	Cumulative Private %
1.	Southern Pacific Land Co.	59,958	13.6%
2.	Pacific Gas & Electric	12,750	16.5
3.	Taylor, A., et. al.	9,418	18.5
4.	May, W.	7,213	20.2
5.	William Austin Co.	6,247	21.5
6.	Fibreboard	5,357	
7.	Johnson, D.	4,897	
8.	San Juan Gold	3,995	
9.	Sierra Pacific Power Co.	3,905	
10.	Hoffert Co.	3,840	
11.	Walton, J.E., et. al.	3,590	
12.	Boise Cascade	3,269	
13.	Peacock, J.C.	3,021	
14.	Viscia, A.A.	2,882	
15.	Robinson, Guy	2,484	
16.	Nicholls Estate Co.	2,441	
17.	Spring Valley Land Co.	2,155	
18.	Graham, R.K.	2,081	
19.	McAllister, J. et. al.	1,954	
20.	Bancroft, J., et. al.	1,818	32.5

* Source: Assessor's Survey, 1970

App. I - C-6

COUNTY OF HUMBOLDT*

Total Acreage 2,295,040
Private Acreage 1,635,874

THE TWENTY LARGEST PRIVATE LANDOWNERS IN COUNTY BY ACREAGE

Corporation or Individual	Acreage	Cumulative Private %
1. Pacific Lumber Co.	140,000	8.5%
2. Hammond Lumber Co.	119,840	16.2
3. Sage Land & Lumber Co.	34,080	18.4
4. Northern Redwood Lumber Co.	26,960	20.1
5. William Smith	25,760	21.7
6. C.G. & L.W. Wiggins	23,680	
7. R. Hunter	19,640	
8. Hill-Davis Co.	18,325	
9. Merillon & D'Oultremont	13,240	
10. Tooby & Prior	13,000	
11. Dolbeer & Carson Lumber Co.	12,500	
12. California Barrel Co.	11,680	
13. Jos. & S.A. Russ	10,000	
14. D & O Schanon et. al.	9,600	
15. Ogletree Land Co.	9,540	
16. Elk River Mill & Lumber Co.	8,220	
17. C.R. Barnum	7,680	
18. A.W. Mather & H.A. Truslow	7,680	
19. Fortuna Development Co.	7,680	
20. McKay and Co.	7,040	32.3

* Source: Survey of Metsker's Maps, 1958

App. I - C-7

COUNTY OF LASSEN*

Total Acreage 2,919,040
Private Acreage 1,113,804

THE TWENTY LARGEST PRIVATE LANDOWNERS IN COUNTY BY ACREAGE

	Corporation or Individual	Acreage	Cumulative Private %
1.	Shasta Forests Co.	264,000	24.0%
2.	Fruit Growers Supply Co.	45,560	28.1
3.	Rocky Hill Inc.	14,920	29.5
4.	W.H. Hunt Est. Co.	14,440	30.8
5.	T.E. Connoly	13,400	32.0
6.	J.W. Mapes	13,400	
7.	W.H. Roupp et. al.	13,040	
8.	Flourney Bros.	12,280	
9.	Hansen Cattle Co.	12,020	
10.	G.R. Heath	11,520	
11.	N.H. Monroe	9,720	
12.	W.M. Smith	9,200	
13.	C.F. Stone & J.T. Bath	8,940	
14.	McClean Ranch Co.	7,680	
15.	A.R. Hughes et. al.	7,000	
16.	Lloyd S. Whaler	7,000	
17.	S.S. Jaksick	5,000	
18.	A.S. Walton family	4,480	
19.	Pierre Mendibourne	4,160	
20.	L.W. Kramer	4,000	43.7

* Source: Metsker's Map Survey (1959 records)

App. I - C-8

COUNTY OF SAN MATEO*

Total Acreage 286,080
Private Acreage 259,467

THE TWENTY LARGEST PRIVATE LANDOWNERS IN COUNTY BY ACREAGE

Corporation or Individual	Acreage	Cumulative Private %
1. Westbay Community Associates	10,152	3.9%
2. Deane & Deane, Inc.	8,000	6.9
3. Leslie Salt Co.	7,343	9.8
4. Ideal Cement Co.	6,113	12.1
5. Santa Cruz Lumber Co.	4,976	14.0
6. Theodore Char, et. al.	4,319	
7. Pacific Lumber Co.	3,480	
8. Crocker Land Co.	3,082	
9. Purisima Canyon Assoc.	2,513	
10. Leland Stanford Jr. University	2,478	
11. Carver Ranch	2,258	
12. R.E. Crummer, et. al.	2,225	
13. Crummer Corp.	2,125	
14. Ox Mountain	2,012	
15. Consolidated Farms	1,987	
16. Ainsley Corp.	1,826	
17. Emma Muzzi	1,788	
18. Joseph Cabral	1,659	
19. California Water Service Co.	1,471	
20. Rudolph W. Driscol	1,464	27.4

* Source: Survey of Assessors, 1970

App. I - C-9

COUNTY OF VENTURA*

Total Acreage 1,1[illegible],320
Private Acreage 23[illegible],[illegible]

THE TWENTY LARGEST PRIVATE LANDOWNERS IN COUNTY BY ACREAGE

Corporation or Individual	Acreage	Cumulative Private %
1. Getty Oil	17,679	3.3%
2. Newhall Land and Farming	15,443	6.1
3. Adrian Woods	12,504	8.5
4. Union Oil Company	9,744	10.3
5. Kay Investment Company	8,899	11.9
6. Danielson, Richard E. Jr.	7,115	
7. American Hawaiian Steamship Co.	7,078	
8. Rancho Guadalasca (J. Broome et. al.)	6,785	
9. Bob Hope	6,466	
10. Adams Canyon	5,818	
11. Fred Smith	4,621	
12. Rancho Sespe	4,246	
13. Flying "H" Ranchos	2,899	
14. Kaiser Aetna	2,610	
15. Moreland Investment Co.	2,421	
16. Elstree Ltd.	1,913	
17. Lang Ranch	1,788	
18. Camulos Ranch	1,770	
19. Limoneira	1,726	
20. North American Aviation	1,360	22.[illegible]

* Source: Survey of Assessors, 1970

App. I - C-10

COUNTY OF SACRAMENTO*

Total Acreage 624,000
Private Acreage 567,215

THE TWENTY LARGEST PRIVATE LANDOWNERS IN COUNTY BY ACREAGE

Corporation or Individual	Acreage	Cumulative Private %
1. Crocker Anglo National Bank	12,908	2.3%
2. Aerojet General Corporation	12,382	4.5
3. Gill, John S. et. al.	10,383	6.3
4. Schneider, John et. al.	7,557	7.6
5. Ella Corp.	5,281	8.5
6. Redden, William L. et. al.	5,104	
7. Valensin/Valensin Trust of	4,989	
8. Van Vleck, Stanley	4,384	
9. Gau, Louis	4,066	
10. McDonnell-Douglas Aircraft Inc.	3,958	
11. Wilson, George & Bertha	3,919	
12. Pension Trust Fund Operating Engin.	3,534	
13. Hamel, Richard H.	3,000	
14. Pham, Charles E. & Joseph E.	2,998	
15. Silva, Faustino Sr.	2,960	
16. SMUD (Sacto. Municipal Utility Dist.)	2,400	
17. Simas, Antonio	2,200	
18. Lodwetter, Lester C.	2,025	
19. Wired, Margaret & Finn, Eleanor	1,922	
20. Cavitt, S.H.	1,908	17.3

* Source: Survey of Assessors, 1970

COUNTY OF TRINITY*

Total Acreage 2,042,880
Private Acreage 571,081

THE TWENTY LARGEST PRIVATE LANDOWNERS IN COUNTY BY ACREAGE

	Corporation or Individual	Acreage	Cumulative Private %
1.	Southern Pacific Land Co.	197,160	34.5
2.	Shasta Box Co.	19,200	37.9
3.	Dean Witter Jr., et. al.	18,040	41.0
4.	R.G. & E. Jameson	10,920	43.0
5.	William C. McCulloch	10,600	44.7
6.	University Hill Foundation	9,480	
7.	Favell-Utley Realty Co.	4,320	
8.	S.E. Underwood	4,320	
9.	Mt. Shasta Pine Mfg. Co.	3,840	
10.	N. Calif. Lumber Co.	3,620	
11.	Roger Jessup Farms	3,200	
12.	Frank M. Crawford	2,240	
13.	U.S. Plywood Corp.	2,000	
14.	California-Oregon Lumber Co.	1,960	
15.	S.F. & C.B. Mitchell	1,800	
16.	M. Tyson et. al.	1,600	
17.	John A. Shaw	1,500	
18.	Nielson Motor Co.	1,500	
19.	George Dear	1,000	
20.	Oscar O. Davis	1,000	52.5

* Source: Survey of Metsker's Maps, 1955

App. I - D-5

Rural Counties
COUNTY OF SISKIYOU

Corporation or Individual	Property Tax Paid	Appraisal of Property	Acreage Owned
1. American Forest Prod.		[illegible],980,250	20,987
2. Fruit Growers		[illegible],632,670	68,219
3. Hearst Corp.		[illegible],757,255	21,814
4. International Paper		18,775,655	103,547
5. Kimberly Clark Corp.		2,149,100	51,158
6. Shasta Forests Co.		973,920	53,751
7. S.P. Land Co.		14,000,060	179,023
8. U.S. Plywood Corp.		14,142,915	71,332
9. Friden		1,012,000	7,389
10. Meiss Ranch		1,069,000	13,323

COUNTY OF NEVADA

Corporation or Individual	Property Tax Paid	Appraisal of Property	Acreage Owned
1. Pacific Gas & Elec.	$580,000	$8,279,000	12,750
2. Pacific Telephone	266,000	3,802,000	13 (approx.)
3. So. Pacific Land	154,000	2,196,000	59,958
4. Boise Cascade	75,000	1,074,000	3,269
5. Sierra Pacific Power	71,000	1,013,000	3,905
6. So. Pacific Rail	65,000	930,000	1,200 (approx)
7. Fibreboard	35,000	496,000	5,357
8. May, W.	31,000	440,000	7,213
9. Southern Pacific Pipe Line--SPR r/w	25,000	362,000	utilizes SPR right of way
10. Spring Valley Land	20,000	279,000	2,155

COUNTY OF MODOC

Corporation or Individual	Property Tax Paid	Appraisal of Property	Acreage Owned
1. Weyerhaeuser Co.	$51,363.78	$ 690,245	27,174.98
2. Shasta Forest Co.	35,091.37	509,320	151,445.84
3. Leisure Ind., Inc.	27,164.40	388,385	19,522.55
4. McKinley & Unruh	25,818.00	335,000	10,976.92
5. Calandor Pine Corp.	20,037.77	261,365	804.90
6. Grace, Willoughby T.	18,595.31	249,640	25,045.37
7. Flournoy, D.F.	12,277.65	159,450	3,434.51
8. H.C. Cattle Co.	10,480.34	136,245	6,965.41
9. Cockrells, Inc.	10,419.94	142,200	4,804.29
10. Stewart, Walter	10,194.71	135,325	8,986.28

the appropriate patents, it is entitled to ignore the regulations which governed the issuance of the patents as well as vital conditions of the original grants.*

4. Agricultural Lands and Piracy of Water

Another way in which the Southern Pacific makes money today from the land originally given to it for the construction of the railroads is by leasing agricultural land to farmers. Approximately one-third of the six million dollars annual net profit on land-grant lands comes from this type of activity. There are approximately 150,000 acres of irrigated farm land in California owned by SP. Mr. Van Loben Sels assured us that the company sends its agriculture experts around annually to insure that the farmers to whom it leases are handling the land properly. The arrangements made by Southern Pacific with the farmer provide that SP will pay the property taxes (although later to be reimbursed), and will receive a certain percentage of the profits. The statement was made that Southern Pacific doesn't even like to consider doing business with a farmer unless he has large amounts of land, machinery, and money.

Southern Pacific's leasing of agricultural lands should be mentioned in terms of its relationship with the Westlands Water Project, on the west side of the San Joaquin Valley. SP is the largest landholder in the Project, with 120,000 acres and its influence on recent events cannot be overlooked. In the Westlands Project (referred to at much greater length Chapter III), large landholders have presistently disobeyed the regulations concerning the maximum size parcels eligible for federal irrigation subsidy. Southern Pacific, by virtue of the fact that it has received federal water for many years without complying with the 160-acre maximum plot stipulation, has seen the value of its once worthless land increase many times--at the cost of the individual taxpayers financing the water projects. While blatantly violating the law to send the value of its land up, the SP is sucking the valley dry, causing subsidence of the soil with their own wells. Meanwhile, SP looks for federal help to replenish its sinking underground water supply. Clearly this particular type of land use was neither intended nor expected when the original land grants were issued.

---

* In 1921, SP created Pacific Oil Company. For Pacific Oil's first move, it paid $43,750,000 to SP for 259,000 acres, most of which was proven oil land. Southern Pacific provided the funds for the purchase by subscribing to 3.5 million shares of Pacific Oil's stock, which it then passed on to its own shareholders. Southern Pacific created a subsidiary, which was entitled to the mineral rights, the possession of which SP perhaps saw threatened. Pacific Oil later became Standard Oil.

APPENDIX II - H:

1969 ASCS SELECTED SUBSIDY RECIPIENTS IN CALIFORNIA:*

1969 ASCS program payments of $25,000 or more excluding price support loans and wool and sugar payments--California

[FRESNO COUNTY]

Giffen, Inc.	3,333,385
Mt. Whitney Farms	1,152,294
Vista Del Liano Farms	778,624
Boston Ranch Co.	643,006
Tellis Ranch, Inc.	503,285
Jack Harris, Inc.	475,924
Airway Farms, Inc.	360,823
Raymond Thomas, Inc.	272,280
W.J. Deal	244,755
Timco	241,965
Gragnani Bros.	227,451
Schramm Ranches, Inc.	215,435
J.E.O. Neill, Inc.	215,295
M.J. & R.S. Allen	209,819
Clarence Matheson	205,755
Colt Ranch, Inc.	178,949
Redfern Ranches, Inc.	171,289
So. Pac. Co.	161,068
V.C. Britton Co.	155,252

[KERN COUNTY]

Kern County Land Co.	974,163
S.A. Camp Farms Co.	928,917
B.V. Frms & Miller & Lux	292,961
W.B. Camp & Sons	267,559
Santiaga Ranch	243,366
Houtchin Bros. Farming	232,163
Giumarra Vineyard Corp.	227,539
Ridgeside Farms	226,709
C.J. Vignolo	225,797
Mazzie Farms	207,146
Twin Farms	201,683
Joe Mendiburu	195,290
D.M. Bryant Jr.	182,994
Coberly-West Co.	171,367
M. & I. Farms	159,463
Reynold M. Mettler	156,463
EM H. Mettler & Sons	152,902

---

* Those receiving over $150,000 are listed

B. SUBSIDIES FROM "OUTSIDE" CORPORATE FARMS

In general, California farmers have had years of exposure to corporate-type farming and thus are perhaps less alarmed by the "corporate invasion" than their counterparts elsewhere in the country. Farmers who were interviewed by us differed considerably in their reactions to the entry of nonagricultural corporations into the farming business: Their reactions fell into three categories:

(1) The "young turks", typified by the Davis and Cal Poly graduates, are currently using modern business methods and eagerly seek out the latest in farming techniques. They are optimistic about their adjustment thus far and feel that they will continue to be able to compete effectively. If they can't or don't want to compete, they can still remain in farming since they are attractive candidates for managerial positions.

(2) Older farmers (those over fifty years old) and farmers near retirement have few alternatives. Many of these farmers have achieved their lifelong goal of getting out from under a debt umbrella and now own their farms in full. Unencumbered by debt and with very considerable assets in the form of their land, these men are more likely to farm "just to keep busy" and will phase out and retire in ten to fifteen years. They are not concerned with more rigorous competition.

(3) The farmers who feel most affected are the younger men who have only limited assets. With their capacity impaired to respond to newer technology and the need for larger land units, they will find it increasingly hard to pay their debts and at the same time earn a satisfactory living in agriculture. The choice that many make is to sell out and seek employment in fields other than agriculture.

One San Joaquin Valley farmer interviewed by us said, in effect, that given the same resources of land, tax privileges and equal access to credit, the individual farmer "can beat the pants off any corporation" in efficiency and management. There was no doubt as to this farmer's willingness and ability to try just that; however the givens that he asks for may prove troublesome to come by. The resources that he needs are not his for the asking, and they may not be his for the buying either.

The disadvantages faced by the non-conglomerate, non-outsider are the direct result of public laws or regulation--or the discriminatory lack thereof. This is ironic given stated public policy. For example, we read in the Agricultural Act of 1961 that "It is hereby declared to be the policy of Congress to:

> ...Recognize the importance of the family farm as an efficient unit of production and as an economic base for towns and cities in rural areas and encourage, promote, and strengthen this form of farm enterprise.

1. Tax Policies

It is clear that federal and State tax policy is one of the main factors encouraging large corporations to go into farming. Substantial capital gains, favorable depreciation rates on equipment and machinery, and tax losses written off against nonfarm income are major benefits that return sizeable tax savings to absentee investors and thereby permit them to operate with a cost structure entirely different from that of the small owner-operator (whether he is incorporated or not). The independent operator who earns a living entirely from farming is able to make some use, of course, of depreciation and capital gains provisions. But because the independent farmer is far less likely to have taxable nonfarm income agains which to offset farming losses, the tax loss advantage accrues substantially to the corporate or outside investor.*

---

* In 1963, Secretary of the Treasury told the House Ways and Means Committee that tax policies "create unfair competition for farmers who may be competitors and who do not pay (cont'd.)

Federal tax laws (duplicated by California tax laws) substantially subsidizes outside investor or large non-farming, corporate entry into farming. A concrete example best illustrates the consequences of the law. Let us take Conglomerate A, which buys 10,000 low grade acres at $300 per acre (a 3 million dollar expenditure). Now we shall skip all of the tax, etc. breaks our Conglomerate A has that Farmer Brown, Inc. also can use to great benefit (the Williamson Act, federal price support payments, et. al.)

First, let us take investment write offs. Conglomerate A invests $1 million each year for five years in irrigation and soil improvements on his heretofor low grade land. He is able to deduct each year this $1 million from his profitable operations elsewhere --profitable operations Farmer Brown, Inc. does not have. With a 50% corporate tax rate, this means a $500,000 annual tax gain Conglomerate A would otherwise have to pay each year. Over five years the savings comes to $2.5 million. Conglomerate A has managed a 31% return on total expenditures in tax savings alone over five years, and a 50% return on the improvement investment which is not available to Farmer Brown, Inc. This subsidy of investment enables Conglomerate A to expand, adjust and take advantage of technological innovation. In other words, although these improvements will certainly add value to his property, probably more value than the investment lost, he is taxed as if he has had a net loss. That is, Conglomerate A is taxed as if it had a net loss of $1 million per year on these investments. But after the five years, or whenever it desires, Conglomerate A will most likely sell for $8 million plus. The $5 million in improvements

---

costs and expenses out of tax dollars but who must make an economic profit in order to carry on their farming activities." (See Robert Dietsch, "The Merger Boom, Who Owns What?," New Republic, February 22, 1969, p. 15).

In the same vein, Orville Freeman said when he was Secretary of Agriculture that "there could be real trouble if (the conglomerates) move into agriculture....They already have contributed to the building up of land values. They can go in and farm and write off their losses as a tax deduction on a very profitable operation elsewhere. When this happens, dangerously unfair competition takes place." (See Tax Reform, 1969; p. 2070.)

actually adding at least that much increase (not decrease) in the value of that land. When Conglomerate A sells, it will not have to make up that $5 million in tax write off from investments which were not losses, but gains.*

Second, when Conglomerate A makes the sale, not only will it gain, but its gain will be taxed at half the tax rate for income. This is an advantage both Farmer Brown, Inc. and Conglomerate A enjoy, but Conglomerate A can use it to greater advantage. Land to Conglomerate A is merely another corporate asset, to be disposed of when tax and investment demands dictate. Conglomerate A knows that it can invest in value escalating farm land for pure speculative gain at an opportune time given losses or needs of other enterprises. More important, as long as appreciable gains can be made from land sale, the corporation can and will accept a low rate of return on crop production, etc. itself. This drives Farmer Brown, Inc. out of business because he is attached to the land, without other enterprise, and dependent upon adequate rates of return from agricultural activity. Gene L. Swaknamer, an agricultural economist with the Federal Reserve Bank of Kansas has remarked:

> Past rates of appreciation on farm land and rural real estate have been impressive. Although there is no assurance of continued increase in land prices, acquisition of farm land remains an attractive inflationary hedge for firms with adequate liquidity. Because of other considerations such as rapid transportation, urban sprawl, population growth, and expanding recreation needs, land may be acquiring a renewed investment appeal.**

---

* Further, the capital gains law has the effect of giving the investor a free loan, with the public footing the interest charges through tax deficiency. That is, Conglomerate A can use the first $500,000 tax saving amount for five years (until he sells the land) without paying any taxes on the gain. The next $500,000 (the second year) he uses for four years, etc.

** In Gene L. Swaknamer, "The Growth of Corporate Farming," Monthly Review of the Kansas City Federal Reserve Bank, (May 1968), p.5. Mr. Swaknamer also wrote:

> A study of the rates of return on farmers' equities in California...suggests that returns are low and apparently decreasing. Yet farmers (including corporation farmers) continue to invest their savings in agriculture."

But is this agriculture that these "farmers" are investing in? Franklin Reiss ("Is $900 per Acre Too Much for Farmland?" Illinois Agricultural Economics, July 1968, p. 23) recently

A third tax advantage lies in Conglomerate A's depreciation write off skills and flexibility and in operating cost write offs. For if our Conglomerate A decides to plant tree crops (with the exception of citrus), then he can deduct as operating costs all the expenses which go into caring for the trees until they are ready to bear. Then Conglomerate A can sell this land after the trees are ready to bear fruit, just before harvest. And we can expect that the value of the land has greatly appreciated as a result of these fruit bearing tress. After sale, all of this appreciation can be considered a capital gain. That is, expenses are deducted from income, but the gain from these expenses are now not considered "income" but capital gains and taxed at half the rate income is taxed.*

This gimmick is of sufficient effect that a total stop had to be put to the practice in citrus orchards. As the Commerce Clearing House said in their Explanation of the Tax

---

(cont'd. from prev. page) wrote: "Many people who invest in farmland may...simply count on capital gains occurring that is, a rise in the value of the land."

The data substantiate Reiss' judgment. For example, according to U.S. Department of Agriculture Economic Research Service statistics, farm income has not even kept pace with inflation- nationally or in California (see Farm Income-State Estimates 1949-1968, August 1969). The same agency, however, reveals that farm real estate value per acre has been rising markedly in the U.S. and even more so in California. (e.g.,"1935= $25 per acre, 1940= $26 per acre, 1945= $49 per acre, 1950= $58 per acre, 1955= $79 per acre, 1960= $116 per acre, 1965= $160 per acre, 1969= $186 per acre." Farm Real Estate Market Developments, Appendix, p. 6) San Joaquin Valley Irrigated Orchard land is increasing in value at an even faster rate: 1965= $1230 per acre, 1969= $1900 per acre (California Crops and Livestock Reporting Service, A Report on California's Principle Crop...)

* The 1969 Tax Reform Act limited this loophole to some extent. For example, assume Conglomerate A spends $60,000 per year on its orchards and this is his only cost. It then decides to sell its orchard after he develops it for, say, two years, At this time, assume that the orchard is worth $120,000 more than it was when the Conglomerate bought the land. Before the 1969 Act was passed, the entire $120,000 could be treated as capital gain; now the farmer must subtract $35,000 (the amount of deductions in excess of $25,000)from the $120,000 which previously could be treated as capital gain. (If the farmer took less than $60,000 per year in tax losses, then he will be able to subtract less of it from the $120,000 capital gain and more of it from "income".) That is, after (cont'd.)

Reform Act of 1969 (p. 198):

> The tax advantages of being able to deduct currently the costs of developing a citrus grove has apparently resulted in speculative plantings of orange groves, overproduction, and low selling prices. To remedy this, the new law requires capitalization of all amounts spent for purchase, planting, cultivation, maintainance or development of any citrus grove within four years after the trees are planted.

So far, no such protection has been given to the growers of other tree crops.

Moreover, the State of California's response to the minimal closing of this corporate loophole for its tax system betrays its commitment to the corporate farm. Appendix II - D briefly presents the story of unsuccessful efforts to apply the usually routinely approved federal tax charges to the State system.*

These tax loopholes and advantages for the conglomerate are not of mere academic concern. In 1966, 108 individuals with annual incomes of more than $1 million were involved in

---

(cont'd. from prev. page) $25,000 per year in "losses," any further "losses" (investment in land) will reduce the capital gain by that amount--acting as a capital loss. This is as it should be, but if the farmer had a profitable operation overall (i.e., if he did not lose any money in his farming operation), then the entire $120,000 could be treated as capital gain and the farmer would have succeeded in converting his capital development costs for the orchard into operating costs so that a greater percentage of the final selling price of the orchard will be taxed at the lower capital gain rate. Further, there are other holes in this loophole "closing" measure, see below.

* To understand the importance of the potential gains to the farmer as a real estate speculator, we must understand that:

> the net capital gains on California farm real estate would have totaled about $12.3 billion between 1950 and 1966 had farmers sold out at values used by the USDA in computing the January 1, 1966 Balance Sheet for Agriculture. This figure is net of an estimated $1.4 billion invested by armers in land improvement and irrigation development.
>
> During this same period net farm income, which varied from a low of $846 million in 1950 to a high of $1.1 billion in 1952, totaled only $15.8 billion for the 16-year period. (cont'd.)

some phase of farming. Ninety-three of them reported farming losses for income tax purposes. The reports of the Governor's own tax return indicate that he is among those using some of these devices to escape altogether (in his case) State tax liability, and by analogy, probably federal tax liability on substantial non-agricultural income. The Governor's repeated statements that taxes should "hurt" is evidently not meant for universal application.

2. Land and Credit Availability for Optimum Economies

A trend that has paralleled the entry of corporations into agriculture has been, as we have noted in Chapter I, the growth in average farm size and the concentration of farm land in fewer and fewer hands. Table II - F partially duplicates Table I - G, giving the average size of California farms for a number of different years. The Table also adds additional area data. Over the twenty-four year period from 1930 to 1954, the average size of farms in California increased only 37%; but over the shorter five-year period from 1954 to 1969, the average farm size jumped over 100%, from 307 acres in 1954 to 627 acres in 1969. In large measure this trend toward larger farm size has been stimulated by accelerated technological developments in crop mechanization. As farm wages rise, farmers are encouraged to substitute machinery for human labor. It is accepted that there is a direct, positive correlation between the horsepower (i.e., capacity) of a farm machine and the wages of the machine's operators. When wages go up, machines with greater capacity are purchased so that the expensive operator can get more work done. But with rapid technological change, the capacity of the machines soon outstrips the ability of the farm to use that capacity. So the only alternative is to expand the size of the farm so as to utilize fully the machinery purchased originally to cut labor costs. The net result of much of the technological change in agriculture has been an inexorable push towards bigness.

Table II - G, below, classifies the number of farms in California according to size. The total number of farms of all sizes in California has declined from 135,676 in 1930 to 80,846 in 1964. This trend may be broken down into two time periods to illustrate the impact of accelerating technical change. From 1930 to 1954, the total number of farms decreased by only nine percent. It is also informative to

---

(cont'd. from prev. page) (John A. Hopkin, Vice President Bank of American N.T. & S.A., "Some Implications of Long-Term Outlook for California Agriculture on Capital Requirements" delivered to the Agricultural Economists of the Federal Reserve Banks, May 24, 1967, p. 17).

TABLE II - F:
AVERAGE SIZE AND LAND AREA OF CALIFORNIA FARMS
SELECTED YEARS, 1930-64
(in acres)

Year	Average Size of Farms	All Land in Farms	All Cropland Harvested	Irrigated[1] Land in Farms	Irrig Cropl Harve
1930	224	30,442,581	6,549,967	n.a.	3,540,
1940	230	30,524,324	7,956,671	4,276,554	3,732,
1950	267	36,613,291	7,956,671	6,438,324	5,309,
1954	307	37,794,780	8,326,331	7,048,049	5,948,
1959	372	36,887,948	8,021,836	7,395,570	6,216,
1964	458	36,996,327	7,837,133	7,584,363	6,421,
1969	527				

1 Includes both cropland and pasture.

2 Includes some duplication where two or more crops were harvested from the same land.

n.a. Not available

Source: U.S. Department of Commerce, Bureau of the Census, 1964 U.S. Census of Agriculture, 1969 figure from California Information Almanac, Bank of America, 1969, p. 285.

TABLE II - G:

NUMBER OF FARMS IN CALIFORNIA BY SIZE GROUP,

SELECTED YEARS, 1930-64

Size Group	1930	1940	1950	1954	1959	1964
Total	135,676	132,658	137,168	123,075	99,274	80,846
Under 10 acres	28,892	31.546	37,402	34,138	24,110	15,938
10-49 acres	56,985	54,467	51,760	44,342	34,570	29,474
50-99 acres	16,378	15,200	15,257	13,705	11,652	9,806
100-259 acres	16,537	15,131	15,153	13,971	12,629	10,636
260-499 acres	6,969	6,498	6,604	6,148	5,836	5,164
500-999 acres	4,861	4,551	4,853	4,523	4,464	4,096
1,000 acres or more	5,054	5,265	6,001	6,248	6,013	5,732

Source: U.S. Department of Commerce, Bureau of the Census, 1964 U.S. Census of Agriculture.

compare what happened to farms in the two smallest size groups with what happened in the two largest size groups. Over the period, 1954-1964, farms under ten acres declined by 53% and farms from ten to forty-nine acres declined by 34%; by contrast, farms between 500 and 999 acres decreased in numbers by only 9%, and farms in the largest size group decreased by only 8%. Significantly a great decline in the number of small farms and a very small decrease in the number of large farms is perfectly compatible with the growth of a smaller number of extremely large farms.

A glance at Table II - H, below, shows how the earning power of California's agriculture has changed along with the changes in the number of farms. If we consider the two periods 1954-1964 and 1955-1965 as roughly comparable, it is apparent that the increase of $1.06 billion in cash receipts over that period was paid out to a rapidly diminishing number of farms. Only two-thirds of the farms in existence in 1954 were still around to take advantage of greater earnings in 1964. By 1968, when California farm cash receipts were even higher, the realized gross income per farm in California was almost $71 thousand, more than four times the income of the national farm average.*

Why has there been this enormous increase in the size of farms and concentration of land holdings? The reason given above is that the new technology developed for farming has not been neutral to scale, that is, each new development has tended to favor larger and larger farm units. This in itself is enough to explain some of the growth of farms in a state as rich in good farmland as California. For an explanation one must turn to an examination of the advantages large corporation farms have that family farms do not have.

* * *

The question to which an answer must be sought is simple: Can family farms compete with outside corporation-conglomerate farms? The answer, unfortunately, does not come quite so easily.

---

* See Appendix II - F for other comparisons between California agriculture and U.S. agriculture in recent years.

TABLE II - H

CASH RECEIPTS FOR CALIFORNIA FARMS,

BY SELECTED COMMODITY GROUPS, 1950-1968

(in thousands)

Year	Total	Fruit and Nut Crops	Vegetable Crops	Livestock and Poultry	Government Payments	Forest, Nursery, and Greenhouse Products
1950	$2,315,267	524,656	270,052	847,220	13,641	54,021
1955	2,692,172	587,400	378,047	966,602	11,970	80,836
1960	3,210,879	614,529	407,600	1,245,120	21,913	105,728
1965	3,751,402	678,346	545,001	1,424,910	41,258	176,069
1968	4,374,785	849,380	774,642	1,604,851	100,731	206,711

Source: Department of Agriculture, Bureau of Statistics.

69-133 O - 73 - pt. 5B - 18

The first problem of the small farmer is an inability to make the expansion and innovation changes which new technology may demand. He may not be able to get the resources he needs to expand the size of his operation because he is too small to start with.

Walter Minger, a Bank of America credit officer, succinctly put the whole question of size in the proper perspective:

> People talk of corporate farming being evil, and really that isn't the problem at all. It isn't corporation farming...it's a problem of sheer size. And it's the size thing that gives you so many advantages. A major corporation has better access to credit,sure, but really it's the function of size that causes the problems in the farm sector...not just the fact that they're incorporated. The people who are trembling in their boots are the little people who don't have an opportunity to merge, grow, expand. Their farming venture is really in jeopardy because they can't compete.

Minger went on to point out some of the most important advantages of sheer size. Among those he mentioned were: bulk purchasing of all inputs, labor utilization, efficient sized blocks of crops, volume enough to interest major buyers, greater sophistication in marketing, better leverage in the market place, greater diversity and hence less risk, more financial sophistication, better projections, and use of skilled management with great depth and a high degree of continuity.

Many of the above advantages--such as management and marketing sophistication--are intangibles, so it is difficult to say just how much they benefit the larger farms. Estimates have been made, however, of the monetary economics resulting from bulk purchasing of inputs. Table II - I, below, illustrates how important these monetary economies can be and how they are correlated with farm size for a group of Kern County cash crop farms.

In discussing with farmers the matter of bulk purchasing, they readily agreed that the larger farms could save some five to six per cent of cash costs in purchasing. But few believe that this small magnitude of saving could increase net farm income by 25% or even more. In the example given in the table following, the lower base cost per acre for the 3,200 acre farm would result in an added income of $21,184, and for the 1,280 acre farm an added income of $5,069. By

TABLE II - I:

RELATIONSHIP BETWEEN FARM SIZE, COST OF CAPITAL, AND OTHER PURCHASED INPUTS

KERN COUNTY, CALIFORNIA

Farm size (acres)	Interest on Operating Capital (6% norm)	Volume Discounts: Fertlizers	Volume Discounts: Insecticides	Volume Discounts: Crop Dusting & Aerial Spraying	Total difference from base cost per acre
80	6.88%	0%	0%	0%	$0.56
160	6.52	4	0	0	-0.25
320	6.47	4	5	0	-0.53
640	6.47	4	5	12.5	-1.27
1,280	6.15	10	8.5	17.5	-3.96
3,200	5.90	10	14.0	25.0	-6.62

Source: J.E. Faris and D.L. Armstrong, Economies Associated with Farm Size, Kern County Cash Crop Farms, Giannini Foundation Research Report No. 269 (1963), pp. 73-96.

contrast, the 160 acre farm saves only $40 for its lesser amount of purchases. The difference in magnitude of cost reduction between the small and the large farms does much to explain the presence of purchasing agents on many large farms. Appendix II - G presents some current data on optimum farm size.*

Simply on the basis of the evidence presented above, one may well ask: How can the small farmer afford not to expand? How indeed! The answer is that he can't afford not to expand

* Note that the economies that do exist are often the direct consequence of tax and credit policies--not of "inherent" or, as we shall call it, "technical" economies.

and he can't afford to expand. Bank of America's Walter Minger explained the credit and financing plight of small farmers to us in these terms:

> Some of these fellows are going to have a credit squeeze, because the profit margins in farming are so poor. When you look at the capital requirements these fellows face--just to expand operations to keep efficient--with no margins to speak of, there is an inability to set up a financing plan that will repay these capital requirements. It's profits after taxes that repay debt and without the margins--without an adequate level of profits--you just can't take on a lot of term debt even though in your best interest you should do this to become more efficient, develop land, or get out from under a labor problem.
>
> Farmers can't do much about this problem and we can't do much about it. It's simply a problem of hellishly good production, highly efficient growers already, and a market condition that recognizes that we're close to surplus in everything.

Regarding the relative ease of access to credit by large corporate farms, an economist at Stanford University's Food Research Institute stated: "It's hard to generalize yet as to whether small or large farms have the easier access to credit. But farms of 200-300 acres are losing their credit base because they are losing their land and, therefore, their ability to secure a loan." It is extremely important to note that outside corporate farms and family farms (whether incorporated or not) operate in completely different capital markets. Traditionally, the local bank is the only source of credit for the small farmer, while outside corporate farms operate within a broader capital market--issuing securities and bonds as well as securing loans.

The Bank of America (B of A) is the single largest investor in California agriculture, and its 1,000 retail branch banks provide farmers and ranchers with some 850 million to a billion dollars a year in seasonal production credit. The B of A is further involved for well over a billion dollars seasonally in agribusiness. Even the B of A has felt the impact of the corporations' modus operandi. One of B of A's credit officers related to us what happened in the instance of one of its local branches:

> The outstanding example is in Salinas. Here we had two giants come in: United Fruit and Purex. They have bought up a total of, I think, seventeen grower-shippers of lettuce, celery and onions. Our bank had commercial accounts with nine of these people and seasonal crop liens with more than half. And if it wasn't our bank, it was somebody else. They did their borrowing locally...they bought locally. But when these managements were centrallized--United Fruit out of Boston, and Purex out of Los Angeles--the financial activities and hence most of the major purchasing was centralized in these areas. It had a dramatic effect on our Salinas branch.

B of A officials admit that they have a declining number of farm borrowers every year, but they are quick to point out that the totals keep going up so that they are not losing gross business. They attribute this by and large to the consolidation of land into the hands of local farm corporations, which still utilize the banks as credit sources, and also to the fact that cash inputs are growing as a percentage of total farm expenditures.

B of A credit officers were chary of admitting that their credit policies may be squeezing small farmers out of production. They claimed that even with a tight money market there was no finite limit to the amount they might want to put into agricultural financing. As to the criteria for selecting those farmers who would receive credit: "What we want to finance are people who have capability, who have proven history, who have home [market] for product, where there is some reasonable expectation of repayment of a production loan. We're trying to identify those people who're going to be around in 1980."

Agricultural economists interviewed by us disputed the B of A's claim that it is willing to provide unlimited credit to agriculture in the middle of a tight money market. The economists pointed out the obvious--that credit will go where the returns are the highest and where the risk is least. This often means that a small farmer in the midst of an expansion program will have only one bad year, and his credit will be cut off. One of B of A's own economists indirectly verified this charge: "When they get in trouble, you have a carryover for another year on their loan commitment. When do you shut it off? If you shut it off, you know they're sure to fail. If you don't shut it off, they may fail in even worse condition." It is no mere coincidence that the road to larger-sized farms has been paved with a rising number of farm bankruptcies. There is little danger

of the bankruptcy of Purex or other conglomerates from several bad years. In fact, the risk is easily bearable just from a tax deduction standpoint. Tax favoritism for these farming entities, their "deep pockets" have little to do with farming efficiency, per se. But the credit these advantages provide enable them to expand to optimum size at will. Thus, credit denial becomes, in part, a self-fulfilling prophesy. Non-corporate farms fail more not only because of a lack of other enterprises to carry them, but because they also lack credit to expand or adjust. They are not given credit because they are more of a risk to fail.

The Bank of America claims that foreclosure of a loan and repossession of a farm is the last resort. In justification, they point out that banking laws do not permit them to be in the business of farming any more than is necessary through foreclosures. The discussion above presented impressive evidence on the rising prices for farm land going into nonfarm uses. It is difficult to believe that an organization commanding the financial and management experience that the Bank of America does could not turn a farm foreclosure into a profitable venture in the real estate market, (e.g., profitable auction charges, default penalties, acceleration of interest charges, etc.) In fact, they do so quite often, disposing of well over .5 million acres over the past forty years. Other banks, as Chapter I points out are following suit. Such an incentive for profit which is not available in the case of large corporations with deep pockets, does indeed affect credit policy toward non-corporate farms.

Another source of credit until recently available to many smaller farmers in California has begun to dry up. For years it was the practice of food processors and canners to supply credit to producers in order to ensure that these producers would in turn sell their crop to the processor supplying the credit. A change is now developing in that cycle. Every major farm commodity in California is now over-produced or is on the threshold of becoming surplus. Thus, there is no longer any particular reason for a processor to finance producers because there is no longer any problem securing an ample supply of produce. Coupled with this has been a decline in profits, increase in the cost of carrying large inventories, the high cost of money, and a decreasing amount of competition on the supply side. So there are many incentives to get a processor out of the credit business and none to keep him in it. Many of those farmers who were cut off from processor financing have no other credit alternative. The president of John Deere & Co. said the following about the availability of credit to the small farmer:

> To us credit is a sales tool. We provide it because we must (because the banks don't)...The paper we accept from dealers higher rates than the banks charge for such paper and our rates are as low as any in the industry...Surely the limited availability of credit from other lower cost sources must be a factor in the situation.*

There are additional reasons for large corporation-conglomerate success and interest in agriculture. One is disproportionate enrichment from the subsidies described below. Another is the political power available to these entities through campaign contributions, etc. in the influence of major public works adding to the value of their land. Adding value for capital gains through school, highway, airport locations is no new phenomenon for these interests, but they are also doing it for farming profits--the tax advantages described above enabling them to exhibit fiscal courage here too. Reclamation, specifically water projects making specialty crop production possible to conglomerate holders of land is a direct subsidy. It is discussed in Chapter III, below. But it should be understood that the arid western lands of California are mostly owned by large corporate landholders such as those conglomerates listed above. These lands, when irrigated by even very expensive water, can turn a profit by growing high priced crops like tree crops, grapes and cotton. For the tree crops and grapes very little additional acreage can mean a very large percentage increase in production. When the water is publicly subsidized,the advantage is even greater.

One writer who studied the effect of these irrigation projects concluded that "There can be little doubt from the data analyzed that reclamation had a significant effect on U.S. agriculture. Increased production on reclamation-served land has...reduced non-reclamation farmers." 11

A recent study has analyzed the effect of the San Joaquin West Side Development on the prices of selected crops. This study estimated that one effect of this project would be to depress the price of deciduous fruits from 5 to 7%, almonds from 4 to 8%, grapes from 9 to 17%, cantaloupes from 7 to 17%, other vegetables from 4 to 7% and early spring potatoes from 42 to 80%. [12]

---

* Mr. Hewitt also added: "We do not attract this business by taking excessive risks. Our credit standards have been high...(and) our losses have been minor." (see William A. Hewitt, Speech before the Board of Governors of Federal Reserve System, Financial Small Business,Government Printing Office, p. 364.)

III. FARM SUBSIDIES

Agriculture enjoys enormous subsidization. One program alone provides more support than all of the monies, federal state and local, paid to welfare recipients. Although many of these subsidies can be traced to agriculture's long-standing political power, two conditions unique to agriculture are usually cited to justify them.

First, agriculture suffers from chronic overproduction.* This overproduction arises in part because too many people and resources remain in agriculture, and in part because of agriculture's economic structure. That is, although the demand for food remains relatively fixed (people need a certain amount of food and no more), an individual farmer can increase his income only by producing more. When all farmers act this way, they overproduce. Because of the fixed demand for food, the prices then drop so low farmers acutally get less total return than if they had produced less.

Second, largely because of the tendency to overproduction and the inflexible demand for food, farmers suffer from severely fluctuating prices. For after a crop has been overproduced one year so that the price goes through the floor, many farmers will switch to another crop. When the price shoots way up, farmers start growing large amounts of the crop again, and the cycle repeats itself. In addition, market variations from year to year in climate and pest infestation mean that farmers cannot control too closely the amounts they produce, leading to further fluctuations in price between good and bad years.

With few exceptions we found that despite their huge cost, the subsidies aggravate or at least do not solve the basic farm problems that purport to justify them. The subsidies help redistribute income from workers to growers and from small growers to big growers. They encourage wasteful, badly balanced and destructive use of farm resources. Finally, they cost more than the public even begins to suspect while the benefits to the public are limited. They misallocate resources between agriculture and other sectors of the economy. Even within the food production industry, those harvesting the sea do not receive such favors. We shall examine in detail the four major kinds of subsidy applicable to California agriculture:**

---

* Overproduction in the sense of producing more than people will buy at prices allowing farmers a profit, not in the sense of producing more than people would eat if they could afford it. Even if all Americans could afford a decent diet, however, agriculture would still overproduce, only at a higher level.

** In addition to these, there are numerous other forms of subsidy including tax loopholes (e.g., the Williamson Act), the exemption from regulation for the transportation of agricultural produce (lower rates), free or low cost tuition at State agricultural colleges, etc. .

1. Income maintenance subsidies. Both the federal government and the State of California provide subsidies in the form of payments or special legislation to increase farm income, and to deal with the income problems of overproduction and fluctuating prices.

2. Labor subsidies. Neither the federal government nor the California government gives agricultural workers the same legal rights to unionization, minimum wages and conditions,etc., that they give to other workers. Furthermore, both the U.S. and the California governments have special programs actually supplying growers with extra-cheap labor.

3. Water subsidies. The federal government, through the Bureau of Reclamation, State of California and regional and local water agencies, supply growers with cheap water at the expense of taxpayers and power users.

4. Research subsidies. The federal government and to an even greater extent, the California government, supply funds to the University of California for research on growers' problems. Other industries must pay for their own research.

We analyzed these subsidies with four questions in mind. First, how do the subsidies affect the basic farm problems of low income, overproduction and unstable prices? Second, how do the subsidies affect the distribution of income, from workers to growers, and from small growers to large growers? Third, how do the subsidies affect the use and misuse of resources in agriculture? Finally, how much do the subsidies cost and benefit the general public?

A. INCOME MAINTENANCE SUBSIDIES

On March 24, 1970, Senator John J. Williams of Delaware rose on the floor of the Senate to deliver what has become for him a routine annual message:

"Mr. President, for many years I have been critical of the large cash payments that, under our agriculture program, are being paid to the large corporate type farming operations.

"In my opinion, if this program is to be continued, these payments should be limited not to exceed $20,000 per person.

"Today I have received a report of all cash payments in excess of $25,000 that were made in 1969 but to save space in the Record, I have limited this report to a $60,000 minimum...

"Significantly this report shows that one company, J.G. Boswell Co., of California, received $4,370,657.

"Giffen Inc. of California, received $3,412,867.

"Seven companies received in excess of $1 million each.

"Fourteen companies were paid between $500,000 and $1 million each.

"Fifty-four companies were paid between $250,000 and one-half million dollars each.

"These are not small farmers..."

Senator Williams actually made a mistake about J.G. Boswell. Boswell also owns the Boston Ranch Company, which received $643,006, boosting Boswell's total take to $5,013,663. Russel Giffen is also partner of Price Giffen, who received $81,482 and Michael Giffen received $76,142. Both Giffen and Boswell may have received even further subsidies from other holdings.

Of the top eleven subsidy receivers nationwide, ten are in California. Aside from Boswell and Giffen they are: South Lake Farms, Salyer Land Company, Mt. Whitney Farms, Kern County Land Company, S.A. Camp Farms Company, Vista del Land Farms, Westlake Farms, Vista del Llano Farms. Of the 103 recipients of payments over $200,000, forty-six or 40.7% of the total are in California. Arizona and Hawaii follow California with twenty-two and twenty-one respectively. Of the 415 receiving $100,000 or more, one lucky recipient of $127,995 is none other than the Standard Oil Company. In other words, California unquestionably gets the lion's share of the federal agricultural bonanzas.

These big payments, however, represent only the most conspicuous part of the federal subsidy program. Thus, thanks to Senator Williams' efforts, although a limitation on payments of at least $55,000 has recently passed the Congress, the agricultural subsidy program will remain essentially unchanged.*

Despite their traditional independence, farmers have a long history of organizing to demand government interference in the free market on their behalf or to attempt monopoly control over the market for some given commodity. In 1933, they finally found sufficient support in Congress to win passage of the Agricultural Adjustment Act, the first special government program to manage farm income, prices, and production. Roosevelt's archenemy, the conservative Supreme

---

* There are many loopholes to this limit, see below.

Court promptly declared the Act unconstitutional, but Congress successfully reenacted most of the provisions over the next few years. Although supposedly just "emergency" measures to protect the hard-hit farm population during the Depression, the programs have managed to survive fundamentally unchanged to this day, though with enough encrustations to generally prevent laymen from understanding how they work at all.

There are two basic kinds of income programs: commodity programs and marketing order programs.

The commodity programs cover the basic commodities produced in large quantities over large areas of the country, such as cotton, wheat, and corn. For these commodities, the federal government attempts direct management of farm income by what agricultural economist Marion Clawson terms the "trinity" of: production control, price support, and storage of "surplusses."

In the marketing order programs, which apply to fruits and vegetables (with some exceptions) and milk, the federal or state government essentially allows producers of a crop to design their own regional cartels and helps them enforce the provisions, or "marketing orders," as they are called. Marketing orders allow grower associations to control quality and quantity marketed and to fund advertising and research. Marketing orders have a peculiar importance in California's highly diversified agriculture; of ninety marketing orders in effect in the United States in 1966, forty-four are in California.

8. Other Federal Subsidies

Aside from the commodity support programs, the Sugar Act program, the wool program and the marketing orders (discussed below), the USDA provides a miscellany of other subsidies, some small, some not so small. A sampling:

In addition to help through marketing orders (below), milk receives its own particular kind of support from the Commodity Credit Corporation. The CCC purchases surplus stocks of more stable milk products such as butter, cheese and non-fat dry milk and stores them, thus driving up the price. Needless to say, the milk program is very expensive.

The USDA also provides so-called "section 32" assistance for the benefit of growers of all crops. Section 32 of the Agricultural Act of 1935 (PL 320) administered by the USDA's Consumer and Marketing Service, provides for "surplus removal." That is, when growers overproduce, the USDA may step in and raise the price by buying up the crop on the open market, and then usually giving it away to "needy persons" either in this country or abroad. As the USDA's booklet on the Consumer and Marketing Service boasts, "Section 32" programs are funded "without need for annual Congressional approval and appropriations" by 30% of annual duties collected on imports."[23] In recent years, Section 32 support has gone to such products as beef, butter, cheese, nonfat dry milk, turkeys, eggs, pork, lamb, dry beans, lard, potatoes, various vegetables, fruits, cotton and tobacco.[24] Presumably, the children and "needy persons" really appreciated the cotton and tobacco. Section 32 programs are administered solely for the benefit of the growers, and without any Congressional supervision at that.

The Consumer and Marketing Service also administers the famous food stamp program. As the reader may recall, a poor family can spend about $100 to get $112 worth of food stamps. Poor families do not simply get $12 of stamps free because then they would not spend that much extra on food. The food stamps ensure that they spend at least $12 more on food so that agriculture gets at least $12 in benefit for every $100.

Other functions of the Consumer and Marketing Service include meat and poultry inspection, inspection of seeds and other produce, collection and distribution of marketing information for the benefit of the agricultural industry. The Service also provides matching funds, state marketing information and other agricutlural services.

The USDA's Soil Conservation Service provides farmers with help in improving the productivity of their land. If this function seems to run counter to the attempts by the USDA's Agricultural Stabilization and Conservation Service to reduce production, well,that's agriculture. Under the Soil Conservation Service's Agricultural Conservation Program, the federal government covers 50% of a farmer's costs up to $[illegible],500 a year in making such improvements as ground cover for erosion control, land drainage, land levelling and ponds for irrigation. The most valuable part of the subsidy, the advice of Soil Conservation Service engineers, comes free. Nevertheless, the program averages $5 million a year in California, and has cost well over $2 billion nationally since its inception in 1935.

Another little subsidy comes to farmers under the Soil Conservation and Domestic Allotment Act of 1936. In order to qualify for payments, farmers must undertake certain "conservation" measures. The program has been severely criticized as "paying farmers to do what they would do or should do in their own interests, anyway." For example, half of limestone use is subsidized, though farmers find the use of limestone quite profitable. The limestone producers association has blocked attempts to stop the support of limestone. In all, subsidies under this Act have totalled over $8 billion since 1936, and have increased output at least as much as assistance from the Soil Conservation Service--which leads to greater subsidy under the price maintenance programs described above-- and so it goes.

9. "Them As Has, Gits"

The USDA's support programs have succeeded moderately well in stabilizing prices and controlling production though at a high and rapidly increasing cost; they have also succeeded in raising average farm income. Nonetheless, few farm economists can be found with a kind word for them. According to Marion Clawson, "these programs seem to have fallen into a rut from which the U.S. Department of Agriculture has been unable to extricate itself; their efficacy for their stated purposes is at least doubtful and they have grown increasingly expensive." Varden Fuller, Professor of Agricultural Economics at the University of California at Davis, terms the programs simply, "perverse."

The Congressmen who carried the original Agricultural Adjustment Act through in 1933 on a wave of sympathy for the suffering farmers, intended primarily to maintain farm income. However, they made one fatal mistake: they assumed all farmers were poor. Since of course some farmers are not poor, and a few are very, very, very rich, a program which rewards production must inevitably reward those farmers proportionately more. Yet the vast majority of farmers, who really are poor, get almost nothing, --just enough, as one agricultural sociologist points out, so they will politically support the programs. As Charles M. Hardin at the University of California at Davis comments, "The windfalls of the wealthy may well be politically sustained by the pittances to the poor."[25]

The farm programs have also backfired in another way, not so obvious but equally serious. The originators of the farm programs worried also about another aspect of farm income: the returns for a farmer's labor were disproportionately low compared to the returns from his land and equipment. In other words, if the farmer had invested his

money in the stock market instead of land and equipment, and had taken a managerial job commensurate with his abilities outside agriculture, he would receive the same for his money but much more for his labor. This disproportion between returns to labor and returns to land and equipment can also be seen on the farm of the farmer's large competitor down the road, who pays his hired workers the lowest wages for any kind of work in the country. The originators of the programs did not concern themselves about farm workers; they did intend, however, to increase the returns for the independent farmer's labor.

In fact, however, the farm programs have done exactly the opposite: they have greatly increased the value of farm land at the expense of farm labor. This could have been predicted, of course, since tying price supports to production rather than to individuals (as would a welfare program) automatically enhances the value of the means of production, particularly the land. When the government then further tries to control production by reducing the land in cultivation, the price of the land goes up that much more. As Clawson puts it, "American farm policy for the past generation has been directed--often unconsciously--more towards farm property values than towards welfare of farm people." California has virtually the highest farmland prices in the nation, higher than could possibly be justified by the productivity of the land alone. Interestingly enough, this last year California farm prices did not rise for the first time since World War II, according to Varden Fuller, probably due to the rumored payments limitation before it was watered up to $55,000 in the Senate.

Whom do these inflated land values benefit? Most of all, they benefit the large landholder, both big growers and big speculators. They also benefit people investing in land as a hedge against inflation--a phenomenon that drives prices up further. They also benefit, though much less, small farmers selling out and leaving farming.

The inflated land values hurt the most small farmers who try to make a go of it performing all or most of their own work. To begin with, these farmers, if they are to survive and compete, must continually expand their operations by purchasing or renting more land and equipment; inflated land values hinder this necessary expansion. (And of course, the pressure for expansion helps inflate land values.) Then, due to the higher land cost, the farmers receive a proportionately smaller return for their labor--precisely the effect the founders of the support programs wished to remedy. For example, as Varden Fuller has calculated, given the actual

yearly growth in the value of land since 1954, a farmer in 1968 earned $1.06 an hour for his labor. If the value of land has grown only at the same rate as the value of agricultural produce since 1954, the farmer would have received $1.69 an hour.

The independent farmer does not feel this pinch on his labor directly since he receives his income from both land equipment and labor all in one bundle. But farm workers do feel the pinch both in their miserably low wages and in the rush of technology to replace them.

In short, the government farm income maintenance programs have aggravated the very problems, farm poverty and proportionately low returns to labor, they were intended to solve, while making the relatively wealthy farmers richer, at considerable expense to the public.

What should be done about farm programs? Varden Fuller is quite blunt: "Stop messing with markets." He would simply phase out farm programs over a period of five to ten years. (The farm economy has become addicted to regular federal transfusions; a sudden withdrawl would be disastrous.) Marion Clawson suggests that aside from abandoning price supports and production controls, the government could try, among other things, a system of pensioning small farmers to retire early on condition that they sell their land cheaply to the government. The government would then resell it cheaply to help remaining small farmers enlarge their operations. Such a scheme would both reduce the surplus of labor in agriculture and reduce the inflated price of land. However, whatever alternatives one may suggest (and there have been many), the present price support-production control-storage programs should be abandoned as an expensive disaster. "Section 32" programs (see above) with their "free" funding from 30% tariffs should likewise be abandoned. Sugar and wool programs will be more difficult to phase out because those industries are so dependent upon them. Nevertheless withdrawl should begin now.

The prospects for change are not good. The $55,000 limitation on payments will serve only to remove the lightning rod for criticism of farm programs. The limitation will apply only to the three commodities, wheat, feedgrains, and cotton supported by payments and will not affect loan support. Nor will it affect the sugar and wool programs. Furthermore, the limitation will be per crop and per farm owner. Thus a "farmer" with a wife and two children, growing all three crops, would theoretically face a limit of twelve times $55,000 or $660,000. In 1969, only twelve concerns received more than $660,000.

69-133 O - 73 - pt. 5B - 19

But the entrenched attitudes of the farm bloc will prevent any meaningful change until and unless the city congressmen become disgusted and secure seniority.

Indeed, farm bloc attitudes, as much as any possible maneuvering by the chief beneficiaries of the farm programs, go a long way both to explain the failure of the programs and their continued acceptance or even popularity with the majority of farmers. For farmers, with their vaunted "independence," like to believe that government programs simply ensure them fair prices for their goods. Thus, they "earn" government payments and loan supports. Likewise, if the government wants them to produce less, it must "pay" for the production they voluntarily give up; mandatory, effective controls would impinge on their freedom. Farmers who regard their government payments and loan support in this way as "earned" income can with perfectly clear consciences complain about "those lazy bums on welfare." They can also regard Boswell, Giffen and big companies as deserving of colossal payments. According to one ASCS official, "The big operators are better farmers. They have better land, better equipment, better management and better financing. So of course they should get paid more." (By the same line of reasoning, a man earning $500,000 a year should be in a lower tax bracket than one earning $5,000.) As another ASCS official added, "Besides, they're in such high tax brackets that the government taxes most of their subsidy right back." This, however, is not always the case, as the tax advantages described above imply.

B. THE LABOR SUBSIDY

Through periodic television exposes such as NBC's recent Migrant--an NBC White Paper, Congressional outcry, and propaganda from the grape strikers, the public has long known of the miserable conditions of farm workers. In California, of an estimated 486,700 professional farmworkers (arbitrarily defined as those earning over $100 per year in farmwork), 59%, or 285,000 earned less than $1000 in a 1965 survey. The median income of these workers from farm work was $763; their median income from all work was $1388.[33]

The public probably fails to realize that the plight of farmworkers does not result from inexorable economic pressures. Farmworkers do not receive so little because farm work requires no skill, as the grape growers discovered

---

* On the other hand, the value of the other functions of marketing orders, such as quality control, standardization of containers, collection of market information, funding of research, etc., has not been seriously questioned. About half of California's forty-four marketing orders have these kinds of provisions only.

when they tried to break strikes with skid row bums. Grape picking and packing requires considerable skill. Nor do farm workers endure such severe unemployment simply because the demand for agricultural workers fluctuates from season to season. Rather farmworkers suffer as they do because a powerful coalition of big growers has influenced or subverted State and federal law to successfully prevent them from obtaining most of the rights enjoyed by other workers.

In the American Southwest, California in particular, the growers have for generations assured themselves of a cheap, abundant and docile source of labor by importing large numbers of foreign workers, who depress the wages and prevent American workers from obtaining jobs. As Carey McWilliams bitterly puts it in his landmark book, Factories in the Field:

> The established pattern has been somewhat as follows: to bring in successive minority groups; to exploit them until the advantages of exploitation have been exhausted; and then to expel them in favor of more readily exploitable material.

Today's most readily exploitable material are Mexicans, imported by the hundreds of thousands in clear violation of the U.S. immigration laws. A California Farm Labor Panel commented on the extraordinary nature of this "subsidy" in 1965: "No other employers have had a special supply of imported workers at sub-standard wages and conditions, year after year."

Who pays for this subsidy? American farm laborers pay most, with their jobs, their health, and the education and opportunities of their children. City dwellers also pay, by providing welfare to support unemployed farmworkers. And, small growers pay. According to the 1964 Farm Census, 60% of California's 81,000 farms hire no outside labor while seven percent employ 75% of total farm labor. A small grower wrote Secretary of Labor Mitchell under President Eisenhower: "The cost of labor on the large farms pretty well determines the value of farm products I have to sell. A 70 hour plus week at fifty cents an hour is pretty rough competition to beat.[35]

Exploitation of farm labor began with the Spanish missions, which converted the native Indians, and punished them roundly for such "naughty" behavior as refusing to work or running away. The land grantees who took over the mission lands, took over the Indians with them, without, however, showing a great deal of concern for the Indians' souls(or even permitting them to remain in their villages). Until the mid-1860's Indians formed the prime source of labor on the great wheat farms of the time.

C. THE WATER SUBSIDY

Californians have long cherished a philosophy that water should be free, or as close to free as possible. Thus, naturally-occurring water in the State is free for the taking, or rather, free subject to the "rights" of those who took first. Likewise, the State of California and federal agencies such as the Bureau of Reclamation under the Department of Interior, generously give away water substantially below cost, at taxpayers' and power-users expense. State and federal agencies generally justify this policy in terms of "regional development," the theory that a water subsidy will return many times its value by stimulating a local economy.

Since growers who use 90% of the State's water benefit most from the "free" water philosophy, and since agriculture is the biggest industry in the State, few have questioned the justification for the water subsidy. In fact, however, not only does the public feel the effects of the water subsidy, but so do the growers themselves. First, the "free" water philosophy leads to wasteful and irrational use of water, ranging from pumping local water tables down "to China" to building such scandalous monstrosities as the State Water Project (see Chapter III). Second, the "regional development" theory leads to unjustified expansion of irrigated acreage, with resulting overproduction and drop in prices. Both these effects disproportionately hurt small growers, squeezing them out of agriculture.

or

D. THE RESEARCH SUBSIDY

> ...with few exceptions, growers aren't involved in their own research, relying instead on the university. And their contributions to the university are minimal. In the fiscal year ended June 30, 1967 (figures for fiscal 1968 aren't available, but they're expected to be quite similar), the university's State Experiment Station spent more than $25 million. Of this, more than $17 million was state funds, and nearly $7 million Federal funds. Less than $1.5 million was from industry.[51] (Wall Street Journal)

The University of California at Davis has spent twenty-five years studying the corrosion of fence wire. The University performs some of this research at the direct instigation of the growers on "Grower Advisory Committees;" in other cases, University researchers simply perceive a need before the growers do. The projects chosen emphasize increasing productivity and mechanization of agriculture--the kind of research that benefits the largest operators the most.

1. The Tomato Picker and Other Miracles of Modern Agriculture

Take the case of the tomato picker...

If you drive through the Central Valley of California any summer day, you will see these spectacular machines in operation. Rotating circular blades cut off the tomato vines at the ground and dump them on a conveyor belt. The belt carries the vines to the top of the machine where the tomatoes are shaken off. Then the tomatoes progress along conveyor belts one on either side of the machine, where workers standing in a row on a running board pick out and throw away green or over-ripe tomatoes. Finally, the remaining tomatoes cascade down a chute into a row of heavy brown wooden cases, labelled Hunt, Heinz, Campbell, or Delmonte, according to their destination. No less remarkable than the machine are the tomatoes, the product of over ten years of special breeding to develop the tough skins that can take this kind of treatment.

THE RESEARCH SUBSIDY *

by Polly Roberts

In September, 1968, the Wall Street Journal carried an article entitled "A Farm Subsidy You Don't Hear About". According to this article, the state universities, such as the University of California, run "a Tax-paid clinic for a major industry". For example, the Journal complains, the University of California at Davis had spent twenty-five years studying the corrosion of fence wire.[1] The university performs some of this research at the direct instigation of growers on "Grower Advisory Committees"; in other cases, university researchers simply perceive a need before the growers do. Furthermore, the projects emphasize increasing productivity and mechanization of agriculture -- the kind of research that benefits the largest operators the most.

The Journal article asks plaintively, "Couldn't and shouldn't agriculture foot more of the bill?" but,

> "But with few expections, growers aren't involved in their own research, relying instead on the university. And their contributions to the university are minimal. In the fiscal year ended June 30, 1967 (figures for fiscal 1968 aren't available, but they're expected to be quite similar), the university's State Experiment Station spent more than $25 million. Of this, more than $17 million was state funds, and nearly $7 million Federal funds. Less than $1.5 million was from industry."[2]

The Tomato Picker and Other Miracles of Modern Agriculture

Take the case of the tomato picker . . .

If you drive through the Central Valley of California any summer day, you will see these spectacular machines in operation. Rotating circular blades cut off the tomato vines at the ground and dump them

---

* Much of this section derives from a carefully documented pamphlet by Hal and Anne Draper, entitled the Dirt on California, Agribusiness, the University.

on a conveyor belt. The belt carries the vines to the top of the machine where the tomatoes are shaken off. Then the tomatoes progress along conveyor belts one on either side of the machine, where workers standing in a row on a running board pick out and throw away green or over-ripe tomatoes. Finally, the remaining tomatoes cascade down a chute into a row of heavy brown wooden cases, labelled Hunt, Heinz, Campbell or Delmonte, according to their destination. No less remarkable than the machine are the tomatoes, the product of over ten years of special breeding to develop the tough skins that can take this kind of treatment.

The machine, its matching tomato, and all the necessary changes in tomato production techniques, are the end products of over ten years of research during the 50's at the University of California's Davis campus, which spent about $1.3 million of state and federal money on the project. Blackwelder and other private firms then built and marketed the machine for an additional $2 million.[3] Today, the harvesting of virtually all processing tomatoes has been mechanized, saving the tomato industry an estimated $5.41 to $7.47 a ton.[4] On the other side, there have been social costs -- unemployment of displaced farm workers. The developers of the machine did not ignore this cost; on the contrary, they saw their endeavors precisely as an answer to the coming shortage of cheap imported labor. According to Jack Hanna, one of the developers, "I'd seen nationality after nationality in the fields; and I felt that some day we might run out of nationalities to do our hard work".[5]

Such a parochial view no longer holds total sway in the Agriculture establishment, for two agricultural economists in the Giannini Foundation of Agricultural Economics, David Sekler and Andrew Schmitz, are

publishing an article in which they try to calculate not only the monetary gain from this invention, but its cost to displaced farm workers. According to their calculations, the harvester returns between 929% and 1,288% a year on the original investment of some 3.3 million, -- a very high rate of return. (As Dr. Sekler told us, probably very little of this gain is passed on to the consumer, and not much goes to the growers; rather, the big processors like Hunt get most of it.)

But this gain is only half the equation, the other half being the loss to the displaced workers. For, according to a standard means of evaluating the desirability of economic and social changes, "It is a necessary condition to recommending a change that the gainers should be able to compensate the losers and still be better off. Strictly, this means that the gainers should be able to bribe the losers into voting for the change. It may be noted . . . that it is not sufficient that the bribe could be paid -- it must actually be paid if a change from the status quo is to be recommended".[6] Sekler and Schmitz then go on to calculate that the gainers from the harvester could have paid the displaced workers partial or even full compensation and still come out ahead. But, of course, no compensation ever was paid; therefore, "it cannot be concluded that society as a whole has benefitted from the invention of the tomato harvester".[7]

All this may sound a little abstract; after all, displacement of men by machines occurs throughout American industry. But, there are two differences. First, most American industry is unionized -- and one of the prime functions of a union is to extract compensation from employers for new labor-saving technology, either in the form of direct

cash payments, or indirectly, in the form of featherbedding or makework. As an example cited by Sekler and Schmitz, the International Longshoremen's and Warehousemen's Union receives approximately $3 million a year for "the men's share of the machine". Sekler and Schmitz calculate that were the tomato pickers compensated at the same rate (between 5 and 10% of the net savings from the new technology); they would receive between $2 and $4 million per year.[8]

Second, a point Sekler and Schmitz delicately refrain from discussing, the State and Federal governments do not normally help industries develop and finance labor-saving technology. On the contrary; most tax payers would consider it their government's responsibility to help increase employment, not decrease it. Imagine the furor should the Federal government grant General Motors money and skilled engineers to develop machinery that would eliminate auto workers! Yet the State and Federal governments routinely aid agribusiness in the elimination of farm workers. Not only aid but lead: the growers originally felt very little enthusiasm for the tomato harvester. Only the Davis scientists, forseeing "that some day we might run out of nationalities to do our hard work" undertook to develop the machine ten years in advance of the industry's need. "And lo", (as the Drapers put it) "a good working machine was ready, like Noah's Ark, to shelter them when the floods came."[9]

But the story of the tomato harvester does not end here. After the Blackwelder Corporation gained manufacturing rights to the harvester, there was "some unhappiness at the school with the handling of Cal's rights to the harvester", according to the Wall Street Journal article of June 17, 1968. For although the harvester was saving agribusiness

as much as 42 million dollars a year (by Sekler's figure of 1,288% on the original 3.3 million investment) and although the university put up 1.3 of the 3.3 million dollars for development, the university was getting back under 100,000 dollars. Regent Frederick Dutton complained loudly and publicly that the university was not getting a fair return for its work and money. After all such institutions as MIT earned many millions anually from their patent rights, while that year the university would get only about 200,000 dollars, half of which came from the tomato harvester. Dutton's complaints turned up further examples of the university's giving away its rights for little or nothing; as a result of the furor, the university ostensibly changed its policy on some items. For example, it began patenting university-bred plant varities.

Nonetheless, when the Drapers went to interview the Patent Administrator, Mark Ownes, Jr., he informed them that there was no competitive bidding for patent licenses. Rather, he negotiated the licenses informally with interested companies, for royalties ranging from 3% to 7%.

A particularly interesting case the Drapers discussed with Mr. Owens was the university's grape harvester. One Wallace Johnson, owner of a scaffold manufacturing company called Upright Inc., had asked for the license, and Mr. Owens had given it to him, at 5%. Upright had never made a farm machine before but Wallace Johnson also happened to be the Mayor of Berkeley. As Mr. Owens told the Drapers, Blackwelder (the company making the tomato harvester) "was rather mad about it", that is, about not getting a chance at the license.[10] Fortunately for the farm workers, the introduction of the grape harvester must of necessity

proceed very slowly, limited by the rate at which old vineyards can be replanted to fit the machine.

However, the grape harvester is just one of the many blessings the university bestows on the grape industry. Following is part of the project description for the project that included the grape harvester -- itself just one of many projects benefitting the grape industry, out of a total list of 674 current projects in the Division of Agricultural Sciences:

PROCESSING OF GRAPES AND GRAPE PRODUCTS

Leaders: H.W. Berg, V.L. Singleton, M.A. Amerine,
Viticulture and Enology, Davis

Objectives:
(1) To develop a system for mechanical harvesting of grapes.
(2) To develop a continuous grape processing system which will eliminate the present necessity for processing pomace in the winery. To achieve this requires the development of improved screening, pressing, sugar recovery, conor extraction and solids removal equipment.
(3) To study the fundamental aspects of microbiological metabolisms and to apply new metabolic information to commercial practice.
(4) To determine the processing and storage factors affecting wine aging, and the substances, mechanisms and reactions involved . . .
(12) To perform a needed and requested service for the wine industry by evaluating new equipment and additives pertinent to winery operation.

(Cooperative with Industry)[11]

Here is another typical project:

ECONOMIC GROWTH OF THE AGRICULTURAL FIRM

Leader: S.H. Logan, Agricultural Economics, Davis

Objectives:

(1) To identify and analyze the process of agricultural firm growth and the internal and external technical, economic, and institutional forces that influence firm growth.
(2) To study the impacts of incorporating risk and uncertainty into a poly-period growth model.

Then there are projects like this one:

FOODS -- FLAVOR, COLOR AND TEXTURE

Leaders: E. Heinz, F. Russell, Consumer Sciences, Davis

Objectives:
(1) To investigate the chemical and physical properties of foods as they relate to their desirable characteristics, as flavor, color, and texture.
(2) To study the chemical and physical changes which occur in foods during consumer utilization and handling procedures.
(3) To study the behavioral responses of the consumer to the color, flavor and textural properties of foods.[12]

It's hard to see what consumers would get out of this one, but perhaps the food-processing industry would be interested . . .

When the Drapers made their study of university agricultural research back in 1968 they asked,

> Considering all that the university has done and is doing for the growers, what has it ever done for the people who happen to comprise the majority of human beings living on the land, viz., the farm workers? Anything?[13]

The answer they found then holds true today: nothing. Indeed, out of the entire list of 674 projects, only four could be said to benefit directly even the general public: three studies of human nutrition, and one study of "insects affecting man and animals". Of the rest of the projects, a few are pure basic research, such as the "relation of protein structures to enzyme activity", while most of the remaining projects are more or less directly applicable to improving the productivity of agriculture, eg, "Codling Moth Population Management in the Orchard Ecosystem", and the profitability of agriculture-dependent industry, eg, "Consumption and Use Patterns for Dairy Products and Their Substitutes". Most of this research benefits only the large operator with the resources and economies of scale to apply it -- despite the fact that 78% of California farmers have a gross income under $40,000 a year. And of course the large number of projects like "Economics of Processing" benefit only the large, prosperous food and fibre processing

industry.

The final work of dishing research results out to agribusiness is done by the other half of the Division of Agricultural Sciences, the Extension Service. The Extension Service, a hybrid creature funded in part by the U.S. Department of Agriculture, the State of California, and the counties, and partly responsible to each. (Thus during the war years, Extension operated the bracaro programs.) Today, Extension chiefly performs what it calls "adaptive research". That is, for example, if the scientists at Davis come up with a new strain of wheat, the Extension agents will test it out on a number of "Cooperative test plots" all over the state, furnished by friendly growers. Last year, Extension operated about 5,000 such plots statewide.

Members of the Extension Service, possibly even more than their research brothers, consider themselves as primarily obligated to commercial agriculture. About half their $13 million 1970 budget went to promoting the twin goals of "Production Capacity", and "Efficiency", followed by about 20% for 4-H Club work, 12% for "Plant and Animal Protection", 7% for "Resource Conservation, Use and Development", 6% for "Family and Consumer Sciences", and 5% for "Marketing and Utilization". According to Dr. Win Lawson, Assistant State Director of Extension, in general Extension agents "work very closely with people who need information"; he cited as an example "the managers and research people on the big oil company farms". Dr. Lawson considers Extension politically neutral. "We don't take sides with anybody, union or grower. We're just employees of the University of California. Our job is to 'find the truth and tell it'."

Of last year's 13 million budget, 27% came from the Federal

Government, 56% from the State, and 17% from the counties. Federal law requires the state only to match Federal funds, but the state has always been more generous. According to Dr. Lawson, "There have been occasional attempts in the legislature to cut funds for Extension, but outcry from the farmers always stops it. I guess they figure it's a good investment".

The university scientists and Extension agents serving agribusiness are fully conscious of this bias in their work; in fact, they take a certain pride in serving only the "best" farmers and agribusinessmen. They justify their bias very simply. First, the benefits of new technology eventually trickle down to the small farmers. Second, the public as a whole benefits from more, better, and cheaper food.

There may have been some merit in this argument back in the days when a large part of the population were small farmers, and the supply of nutritious food was inadequate. But today, American agriculture suffers from chronic overproduction. This means that the only individuals who benefit from new technology are those that adopt it first, and they benefit at the expense of those who adopt it last. Thus university research in increased productivity and mechanization benefits big farmers at the expense of small farmers and farm labor. Second, overproduction means that public money invested in increasing productivity not only goes to waste, but generates the need for more expensive public programs to support the prices of overproduced goods. (One may also doubt that public support of industries like wine or tobacco contributes to public nutrition.) Finally, agriculture forms only a small part of American industry today; there is no compelling reason why its richer members should continue to benefit from such government

largesse.* The publicly supported universities should not be doing for agribusiness what other American industries can and do do for themselves.

Another kind of argument may also be raised to university research for agribusiness: while bigness may be the present trend in agriculture and may be most profitable in the short run, bigness in the form of mile after mile of the same crop is ecologically very unstable and invites drastic pest outbreaks which in turn require heavy doses of pesticides. Public resources should not be committed to a policy which in the long run may hurt everyone.

However, the research bonanza is only the most obvious part of the benefits the university bestows on big agriculture. The origin of these benefits makes a long and more than occasionally sorid story, beginning in the last century, and involving three main characters: the land-grant colleges, the USDA's Farm Extension Service, and the Farm Bureau Federation -- until recently perhaps the most effective lobby in this country.

The story[14] begins in 1862, with the passage of the Morril Act, setting aside government land for the endowment of colleges "for the benefit of agriculture and the mechanic arts". Then, in 1882, Congress passed the Hatch Act, establishing Agricultural Experiment Stations, to conduct scientific research on farming techniques. By 1900, the land-grant colleges, in alliance with the Experiment Stations, were putting

---

* Research on biological control of insect and other plant pests should be an exception; not because failure to control the pests will result in any food shortages, but because until these pests can be controlled by their natural enemies, farmers will continue to spray with dangerous pesticides -- to the disadvantage of the general public. Also, biological control research, unlike most of the practical research listed in the catalogue of projects, contributes substantially to the important science of ecology.

out all sorts of pamphlets on new methods, while their professors gave lectures the farmers were invited to attend.

Meanwhile, however, the famous educator Dr. Seaman A. Knapp, seeing that these early efforts helped marginally if at all, began an experiment in a new method of agricultural education. Instead of pamphlets and professors, Dr. Knapp believed that farmers would find successful demonstrations of new techniques most convincing. Therefore, with financing from the business community, he set up a system of "county agricultural demonstration agents". These men, "county agents" as they came to be called, worked with the "best" farmers, those most willing to try new techniques.

Not surprisingly, the land-grant colleges and their associated experiment stations turned green with envy at the success of Knapp's program; in 1909, therefore, they set up their own pale imitation of Knapp's organization, the "Extension" section, to "extend" agricultural education to those who could or would not spontaneously come and get it.

In 1914, the colleges and experiment stations got full control (or so they thought) of extension work with the passage of the Smith-Lever Extension Act, tying the county agent system to the colleges and providing federal financing and coordination with the Department of Agriculture. But if the colleges had thought to gain power by this bill, they were sadly mistaken; no sooner had the Act passed than they received a "memorandum of Understanding" from the USDA, to the effect that in order to receive the money, the colleges must spend no less than 75% of it on Knapp-type Extension work, and must submit to USDA supervision and control. But the colleges' loss of autonomy soon paled besides another ill side-effect of the Smith-Lever Act that only few foresaw. One of

these was Dean Eugene Davenport who grimly predicted at a 1913 convention of educators,

> "Given four or five thousand local agents scattered among the farmers of all the congressional districts and under the practical control of a department which depends for its very life upon annual appropriations by Congress, all operating under the interlocking scheme of the new Lever bill, and we should have constructed and at work the most gigantic political machine ever devised."[15]

The outlines of this machine soon emerged. For, as under Knapp, the now rapidly multiplying hordes of Extension agents began their work by setting up committees of the leading farmers and businessmen of each county. This approach was of course perfectly logical, as this way the Extension agents could disseminate knowledge of new methods and equipment the most quickly to the most receptive audience, namely, the well-educated and prosperous "pillars of the community". The Department of Agriculture soon came to term these quasi-official committees "farm bureaus" and urged the Extension agents to concentrate their energies on actively recuriting members to spread the good word further faster. In 1917, Secretary of Agriculture Houston even called on all farmers to join bureaus in order to "stop bolshevism". By 1924, approximately three quarters of the agricultural counties in the country had bureaus; in the meantime, the county agents had slipped from their original position as organizers to that of general manager and dues collector.[16]

Naturally enough, the bureaus began to federate, first on the state level. In 1920, the first national meeting of the American Farm Bureau Federation took place in Chicago, with delegates from thirty-one states present. After organizing itself, which included establishing a "Washington representative", the new Federation announced its policy: "to keep control of our food products", to "stabilize the nation", to

"put agriculture into proper relationship with the rest of the world".[17] Despite its educational origin, the Federation listed only one "educational" aim: "To create in the urban mind a better conception of the Farmer's relationship to other units in the social and economic structure".[18]

The "political machine" completed, the Federation commenced lobbying in Washington with a "vigor and effectiveness that have seldom been equalled".[19] The Federation lobbyist quickly created a "farm bloc" of 22 senators, drafted legislation, kept a close watch on individual voting records, and even passed out questionnaires on their views to suspect Congressmen. Alarmed by this agressive assault, Congress called an investigation. The ensuing hearings revealed the whole story of the Farm Bureau Federation's origin in the organizing efforts of the USDA's Extension Service. Much to the USDA's embarrassment, J.R. Howard, the Federation's first president, even testified that he regarded the Extension agent as only a "semigovernmental employee", responsible as much to the Farm Bureau as to the government or the colleges.[20]

But these revelations came too late. Henceforth, Congress would have to live with the monster it had created.

Thus commenced a powerful triple alliance. The land-grant colleges and agricultural experiment stations perform research for the benefit of the "progressive" farmers of the Farm Bureau, and provided "objective" academic witnesses to support the Bureau's point of view. The Extension agents acted as go-betweens, recruiters and advisors for Bureau farmers, administering local USDA programs as the Bureau saw fit. In return for these favors, the Farm Bureau lobbied vigorously in state capitals and

in Washington to provide the colleges with better funding and to increase the powers of the Extension Service at the expense of any other USDA organizations with local branches. In addition, of course, the Farm Bureau Federation virtually wrote the system of federal subsidies described earlier and secured numerous other special favors for its prosperous constituency. This alliance began to weaken only in 1953, under mounting Congressional pressure, when Secretary of Agriculture Benson ordered the official divorce of the Extension Service and the Farm Bureau. However, attitudes had changed but little; agricultural college and Extension personnel still by and large regard themselves as servants of the "best" farmers as represented by the Farm Bureau, and the big commodity organizations like the National Cotton Council.

The relationship between the colleges, the Extension Service, and the Farm Bureau has been particularly cozy in California. Until 1938, the California Farm Bureau Federation had its offices behind the ornate facade of Hilgard Hall, right on the Berkeley Campus of the University of California. From there, the California Bureau moved to a building on the edge of campus, and when the University purchased this building in 1961, the Bureau moved to its present location in the elegant white six-story California Farm Bureau Federation Building a few blocks away down Telegraph Avenue.

Of course the Bureau's symbiotic relationship with the Extension Service and the university's agriculture department did not continue absolutely uncontested by the more "liberal" on campus. Indeed, one of the more colorful episodes of the Bureau's life on campus was the running battle between William Brownell, editor of the campus newspaper, the Daily Cal, and the Bureau's friends in the university administration.[21]

As described in the Farm Labor Subsidy section p , the California Farm Bureau and the state Chamber of Commerce had joined together in 1934 to create the Associated Farmers -- the Ku Klux Klan type vigilantes who led the strike-breaking efforts of the 1930's. While this front kept the Farm Bureau, the Extension Service, and the university from direct involvement, they actually bear substantial responsibility for these disgraceful activities.

In some counties, university-appointed Farm Bureau secretaries simultaneously led local branches of the Associated Farmers. One of the founders of the Associated Farmers and its first president, S. Parker Friselle, operated the university vineyard in Fresno. In 1937, the Extension Service took to organizing county conferences of "people who assertededly best represented the agricultural thought of the county".[22] Out of these conferences came remarkably uniform and viciously anti-labor resolutions, eg, repeal of the Wagner Act. Many of the conferences even endorsed the Associated Farmers by name. These resolutions the Extension Service duly transcribed and published as "educational" pamphlets, leading then state chairman of Immigration and Housing Carey McWilliams to charge publicly that the university's Agricultural Extension was being used by the Associated Farmers to "sabotage civil liberties, labor, and even the state administration's own legislative program".

On September of 1939, William Brownell, editor of the Daily Cal ran an editorial about these charges entitled aptly enough, "Explanation Wanted". A few days later, after some baulking, the Dean of the College of Agriculture, Claude B. Hutchinson, finally answered the charges. The recommendations had been drawn up, he said, by "representative farm leaders" (who presumably by sheer coincidence all adhered to the

Associated Farmers' line). "If the recommendations the farmers chose to make were designed to sabotage civil liberties, it is outside the jurisdiction of the Extension Service which published and distributed the reports."[23]

Meanwhile, university officials attempted to force Brownell to retract his editorial, in one instance even drafting a retraction for him. Instead, Brownell went on to investigate the matter further, publishing details of Extension conferences and lengthy extracts from Extension publications. Finally, he offered the university Extension personnel a whole editorial page in which to answer the charges. But the university officials back in those days knew how to handle such "student protest"; they completely ignored it.[24]

Academic "Experts"

After the Associated Farmers faded from the scene during World War II, the university made itself useful to big Farm Bureau type growers in quite another way. The best illustration is the story of university economists and the Bracero program, as exhaustively documented by the Drapers.

The story rightly begins in 1958, with Pat Brown's campaign for governor. As part of his platform, Brown had promised farm workers a state minimum wage, state collective bargaining, and the extension of unemployment insurance to farm workers. But in 1959, after an attempt to push through a minimum wage bill, Brown suddenly discovered -- and announced publicly -- that the growers had the strongest lobby in Sacramento. Therefore, Brown passed the responsibility for farm labor to the Senate Fact-Finding Committee on Labor and Welfare, chaired by

Senator Cobey of Fresno.

This committee began exhaustive hearings on farm labor in 1959, continuing through 1961. Not surprisingly, the University's Colleges of Agriculture supplied many of the star witnesses and considerable help in putting together the ensuing report: "California's Farm Labor Problems". Not surprisingly either then, the recommendations supported the grower's lobby.

For example, Dr. George Mehren, then Director of the Giannini Foundation of Agriculture testified before the committee that "The increases in distributive shares to labor have been at least as high as increases in labor productivity rates" -- implying that farm workers received what their labor was worth -- or "There is no compelling indication of exploitation of hired domestic agricultural labor anywhere in any agricultural industry for any protracted period".[25] Yet a professor of sociology testified precisely the opposite, that farm labor is "underprivileged, underpaid, improperly fed, ill-housed, poorly clothed, inadequately socially protected". A report prepared for Governor Brown in the same period by two non-agricultural university men reached the same conclusion.

Then, the introduction to the Committee's report gave particular prominence to the statement of another prominent agricultural economist from the Giannini Foundation, Professor Varden Fuller. Fuller, who had served on President Truman's Commission on Migratory Labor in 1950-51, testified:

> "The people have not become poor from working in agriculture; they have become agricultural workers because they were already poor. Thus, in the sense of providing an opportunity for those not accepted elsewhere, temporary farm work may be regarded as ameliorating poverty rather than causing it."[26]

As Professor Fuller told one of us this summer, he meant by this extraordinary statement that agricultural work essentially provides a "subsidy" to the rest of society by acting as a "dump" for otherwise unemployable people allowing society to avoid its responsibility to take care of them. Nevertheless, while Professor Fuller's argument may not have been entirely intended to justify doing nothing for farm labor, in fact the Cobey Committee used it for just this. The Committee recommended against a state minimum wage for agriculture, against unemployment insurance, and against collective bargaining for farm labor. The Committee did recommend a bill to make growers provide toilets and hand-washing facilities in the fields as their lack endangered public health -- but the Farm Bureau successfully killed even this limited measure.

The Cobey Committee made one other important recommendation: that the Bracero Program be continued indefinitely. This program, under which the government supplied growers on demand with cheap Mexican labor (see Labor Subsidy chapter, p.), was then under increasingly sharp attack in Congress which ultimately voted a "final" two-year extension of the program to 1963. Thus the massive Cobey Committee report gave important new ammunition to the farm lobby defenders of the program in their drive to extend further the "final" extension.

The most respectable defender of the Bracero Program at the time was none other than Dr. Eric Thor, a prominent agricultural economist with the Giannini Foundation of U.C. at Berkeley and the Extension Service. Dr. Thor repeatedly predicted absolute catastrophe for California agriculture should the Braceros go. An article about Thor in the August 1963 Western Fruit Grower, a leading glossy agricultural

magazine which adheres strictly to the Farm Bureau point of view, aptly describes Thor's line of argument. Thor predicted that termination of the Bracero Program would produce a vast unmanageable influx of poor hungry farm laborers. According to Western Fruit Grower:

> "If you cringe at the thought of more farm labor shanties, barefoot and hungry children, the squalor of dusty tent cities -- this is exactly what Thor wants you to do. He fully expects a migration that could result in conditions similar to the thirties . . ."[27]

As this horde swept in, farm wages would drop drastically.

Of course, the newspapers duly cringed, headlining predictions of a new "Grapes of Wrath" era. Few observed the inconsistency: if a severe shortage of domestic farm labor (despite massive unemployment) made the Bracero Program necessary, as the growers claimed, then where would this appaling influx come from? Thor even carried his perverse argument one step further, stating that "the Bracero Program had been a weapon used by unions to force higher farm wages"[28] and predicted that the end of the Bracero Program with the resulting influx of poor workers would actually hurt union organizing! "Hungry workers are hard to organize."

On the other side, Thor appealed to taxpayers, as quoted in Western Fruit Grower: "We had no education or family health problems with Braceros, and we will certainly feel the load if we must start supplying them suddenly".[29] This line of reasoning of course ommits mention of the burden to taxpayers of unemployed farm workers on welfare, or of the multimillion administrative costs of the Bracero Program. It also sounds like the mandate the growers gave Parker Frisselle of the Associated Farmers in the 1930's, when they sent him to Washington "to get us Mexicans and keep them out of our schools and our social problems"

(see Labor Subsidy, p.).

The arguments of Thor and others like him helped the Farm Bureau extract from Congress one more "final" extension of the Bracero Program to the end of 1964. Then, when the program finally expired, Thor's drastic predictions of course turned out to be 100% wrong. No hungry hordes invaded California; and according to a report of LabSec Wirtz, by 1968 domestic farm employment had risen 15.5% and wages 25.2%. Unionizing began promptly when Filipino grape pickers in the Coachella Valley successfully struck growers who offered them only $1.10 an hour when the Braceros had been paid $1.40.

Admittedly, Thor and his colleagues didn't abuse their academic freedom in thus whole-heatedly arguing on behalf of the big growers, even though their arguments proved completely specious. However, other episodes during Thor's last stand for the Bracero Program reek of abuses of academic freedom.

The first such episode is the "Case of the Seventeen Missing Pages". At the request of the Brown administration during the campaign for the continuation of the Bracero Program, Thor, his colleague Dr. John Mamer and a number of other Giannini economists and Extension Service personnel produced a massive report entitled "California Agricultural Labor Requirements and Adjustments". This report, which systematically rejected all possible alternatives to Braceros, appeared at just the right time in 1963 when newspapers all over the state were already frothing at the fount that BRACERO LOSS PERILS STATE'S BILLION-DOLLAR FARM INDUSTRY (LA Times August 16). Thus the Giannini Foundation's GLOOMY REPORT ON BRACERO PROBLEM (SF Chronicle September 29) gave impartial scholarly support to the self-interested moans of the Farm Bureau

Federation and its allies at just the crucial moment and probably helped significantly in gaining that extra one year final extension of the Bracero Program.[30]

The Giannini Report did however receive a challenge from an unexpected and unwelcome quarter: in late 1964, Fred H. Schmidt of the Institute of Industrial Relations at UCLA produced a report entitled After the Bracero. On the basis of 664 interviews with unemployed workers in the Los Angeles area, Schmidt concluded what union officials had said for decades, namely, that ample domestic labor would be available to replace the Braceros provided that "the jobs [are] made more rewarding to the worker".[31] To make farm work more rewarding, Schmidt suggested a modest increase in wages, improved conditions, the extension of unemployment insurance to farm workers and training under the Manpower Development and Training Act. He also warned that the continued importation of Mexican workers "is likely to reduce the incentives for the growers to develop and participate in programs to increase the employment of domestic workers".[32]

The growers raised a predictable outcry. J.J. Miller, head of the Southern California Agricultural Producers Labor Committee called the report a "blueprint for disaster for California agriculture". He continued: "If California farmers were forced to follow the recommendations ... large segments of agriculture in this state would be wiped out. The economic shock waves of such a diaster would knock out many affiliated industries". Finally, he charged that the Schmidt report "was released without consultation with responsible people in California agriculture. It was released in such a way that agriculture could not prepare its rebuttal for publication in the same issue as the report.[33]

As the Drapers aptly put it, "The innocent bystander may well wonder why a university study was expected to be submitted before publication to an industry which it criticized, and why its targets expected the right to a simultaneous rebuttal". Some fine sleuthing by the late Ruben Salazar of the LA Times uncovered the reason.

It turned out the original Giannini Report by Thor, et al, had included a seventeen page section which contained conclusions identical to those of the Schmidt report. This section had been deleted sometime after the report went to Governor Brown, but before it had been released to the public and to the Senate Fact-Finding Committee on Labor and Welfare. Presumably big growers had grown accustomed to a "review" of publications of the Giannini Foundation; hence their outrage at the unapproved Schmidt report.

The other case of university suppression of research after "consultation with responsible people in California agriculture" as documented by the Drapers occurred a few years earlier. A member of the university School of Public Health, Henry Anderson, had been conducting field work on Bracero health. In 1958, Anderson tactlessly told the American Friends Service Committee that the Bracero program was unjust and should be abolished. Farm Bureau officials, on learning of these "allegations", reportedly complained to Vice President of the university, Harry Wellman of Agricultural Sciences Division background, threatening to attack the university budget in the State Legislature.

As a result, Anderson was forced to stop interviews and write up the report immediately. On completing it in mid 1960, Anderson mimeographed 100 copies and sent them out for comment. An Advisory Committee of professors then met which agreed the study was too "controversial"

to be published. As Anderson told the Drapers, "The chairman of the committee was quite candid. He said he had no intention of going through any more pressure from the Farm Bureau, over an issue not of his choosing, and which he didn't consider that important". Anderson was required to put together a Bowdlerized version, and to recall and destroy the 100 copies he had mimeographed, saving only one copy for himself.

Five years later, Anderson obtained an interview with President Clark Kerr. According to Anderson, Kerr admitted to knowing of the case, and even had read the American Friends Service Committee report which started all the trouble. That such a noted defender of academic freedom as Clark Kerr knew of this outrageous case, yet (by the most charitable interpretation) dared not intervene, amply demonstrates the power of the Farm Bureau Federation and its allies over the university.[34]

Against this background of political involvement with the agri-business lobby, the university's research bias becomes easily comprehensible. Indeed, the bias extends from agricultural research to the very management of the university itself. Thus during the current lettuce boycott, as during the former grape boycott, the university at Berkeley has steadfastly maintained a "neutral" position by serving non-union lettuce in the cafeterias. As a result of student boycott, the cafeterias now run deeply in the red, but the university administration remains adamant.

According to one member of the Division of Agricultural Sciences, the heat is now on in agricultural research to drop everything else and concentrate on mechanization in hopes that some crops can be completely mechanized before the Union turns its attention to them. Even the old lettuce picker has been dusted off. This machine, invented some ten

years ago, proved so successful that it flopped. A few hundred machines, it turned out, could pick the entire U.S. lettuce crop -- too miniscule a number to provide a profit for agricultural machine companies.

It is true of course that a few breezes of change have whispered through the Division of Agricultural Sciences. A number of the younger men we talked to do not share and even criticize the spirit of "industry cooperation" that still pervades the orgainzation. Extension has begun to devote somewhat more attention to the needs of small farmers -- to the extreme disgruntlement of more traditional members. For example, one D.C. Alderman, Extension Pomologist at Davis complained in an article in Western Fruit Grower[35] to the effect that "Extension's role is changing in a way that may benefit the diligent commercial grower a lot less than it does the inefficient and often poor farmer". As he told a meeting of leading fruit, grape and nut growers, "Efforts to solve the problems of the 'disadvantaged' in the rural areas would do little or nothing to solve the problems confronting commercial producers such as yourselves". Obviously.

Even more heinous in Alderman's view is the new nutrition program operated by Extension. This program, with a national budget of 50 million, 2 1/2 million in California, trains 400 aides from low income areas to in turn teach their friends and neighbors how to eat better for less money. Curiously enough, although Extension works almost exclusively in rural areas, with the exception of a small program in Tulare County, the nutrition program is strictly inner city. According to Dr. Lawson, Assistant State Director of Extension, "Congress just wanted it that way". (Presumably to keep any aid from getting to farm workers.) But, in Dr. Lawson's view, the program has been a great

success. The real strength of the program is that it doesn't give the poor what they want, a chance to bring themselves up. For example, it has taught them not to flush powdered milk down the toilet.

Interestingly enough, the nutrition program originated in the House Agriculture Committee in 1967 following the sensational discovery of "hunger in America". Originally scheduled for transfer to the Department of Health, Education and Welfare, the program has remained in Agriculture at the insistence of House Agricultural Appropriations Subcommittee Chairman Jamie Whitten. Whitten, who had been embarrassed by the discovery of starvation in his home county in rural Mississippi, apparently likes this program because it goes along with his philosophy that the poor are not starving because they are poor, but because they are ignorant.

Despite these hopeful signs, efforts like the following are more typical. On February 16, the Division of Agricultural Sciences sponsored a meeting in Sacramento headlined in the February 17th SF Chronicle as "An Attempt to Reassure the Public on Pesticides". According to the article, the meeting "was organized by representatives of the university, the Farm Bureau Federation, the chemical industry, the operators of agricultural aircraft and the State Departments of Health, Agriculture and Fish and Game".

> "The meeting was designed to point out America's intimate dependence on chemical progress for nutrition and health, and to weigh the hazards of pesticides and fertilizers in a balance scale of cost and benefit.
> "The experts marshalled an extraordinary array of facts and figures to support them:
> "Pesticides, they said, have accounted for at least 20 per cent of the nation's increased farm output in the past 30 years, and if the chemicals were banned right now crop and livestock output would be slashed by one-third.
> "Herbicides, like the controversial defoliants known as 2,4,5-T and 2,4-D, are essential elements of agricultural technology,

the experts maintained, and banning them completely would immediately cost American farmers nearly $300 million a year."

These facts and figures marshalled by "the experts" are indeed extraordinary: there is not a shred of evidence to back them up. The one-third drop in crop and livestock output is, according to a USDA economist, Velmar Davis, "a figure that has been kicking around the USDA for years. It's meaningless." No one has ever made such a calculation because the data is not available, however, the figure is certainly much too high. Likewise, 2,4,5-T and 2,4-D are not "essential", only a bit cheaper than alternatives.

In other words, in sponsoring this meeting, the University of California has lent a cloak of respectable academic expertise to what would otherwise have been a blantant exercise of agribusiness and chemical industry private relations.

The solution? Take agribusiness off the State welfare roles: make agriculture pay for its own research and public relations.

A footnote on the California Farm Bureau Federation. The Federation looks as healthy as ever. Its president, Allan Grant, is also president of the State Board of Agriculture and a member of the Board of Regents running the University. Nonetheless, according to observers in the University, the Federation has of late lost most of its teeth. Squabbles between producers of various commodities became so severe that the commodities finally went off on their own. Today the real power lies with such organizations as the California Canning Peach Association, Allied Grape Growers, Sunkist, Sunmaid, Sunsweet (prune juice), Diamond Walnuts, the California Almond Exchange, the Rice Growers Association, etc., etc. Propagandizing for all of them and in effect replacing the Farm Bureau Federation is the Council of California Growers, an association of the very large commercial growers. Nonetheless, the real power of agribusiness has if anything increased.

FOOTNOTES

1. Hal and Anne Draper, Dirt on California, Agribusiness, the University, p. 5.
2. Ibid, p. 6.
3. David Sekler, p. 14.
4. Ibid, p. 10.
5. Wall Street Journal, June 17, 1968, quoted in Dirt, p. 24.
6. Sekler, p. 15.
7. Ibid, p. 16.
8. Ibid, p. 20.
9. Dirt, p. 23.
10. Ibid, p. 26.
11. Cooperative with Industry, List #11, July 22, 1970, p. 37.
12. Ibid, p. 23.
13. Dirt, p. 7.
14. See The Decline of Agrarian Democracy, Grant McConnel, University of California Press, Berkeley & Los Angeles, 1959.
15. Ibid, p. 35.
16. Ibid, p. 46.
17. Ibid, p. 51.
18. Ibid, p. 52.
19. Ibid, p. 57.
20. Ibid, p. 53.
21. Dirt, p. 3.
22. Ibid, p. 3.
23. Daily Cal, September 25, quoted in Dirt, p. 4.
24. Dirt, p. 4.

69-133 O - 73 - pt. 5B - 21

25. Dirt, pp. 11 - 12.
26. Ibid, p. 8.
27. Ibid, p. 13.
28. SF Chronicle, August 11, 1963, quoted in Dirt, p. 14.
29. Dirt, p. 13.
30. Ibid, pp. 14 - 15.
31. Fred H. Schmidt, After the Bracero, 1964, p. 28.
32. Dirt, p. 17.
33. J.J. Miller in the LA Times, October 26, 1964, quoted in Dirt, p. 17.
34. Dirt, p. 32.
35. Western Fruit Grower, April 1969, p. 13.

EFFICIENCY AND AGRICULTURE

by

Michael Perelman

A cynic might even assert that the family farm is an institution which functions to entice farm families to supply batches of labor and capital at substandard rates of return in order to supply the general economy with agricultural products at bargain prices.

Glenn L. Johnson

Economics Department
Chico State College
Chico, California

Americans are much more willing to praise the small farmer than to help him; but small scale farming is not even praised; the farms we really admire are the large, capital intensive operations. Clifford Hardin reflects this basic attitude when he writes:

> Using a modern feeding system for broilers, one man can take care of 60,000 to 75,000 chickens. One man in a modern feedlot can now take care of 5,000 head of cattle. One man, with a mechanized system, can operate a dairy enterprise of 50 to 60 milk cows.
>
> Agriculture, in short, does an amazingly efficient job of producing food.[1]

Yes, if we measure efficiency by output per farm worker, then we must agree with Secretary Hardin's analysis; and in that case, we should get on with the job of clearing the land of the inefficient small farmer to make way for the large modern farms which are capable of using the newest technology.

On the other hand, we could ask ourselves why we should measure efficiency by output per manhour. After all, no man alive can really feed 75,000 chickens by himself. In reality he is aided by many other men who have made the cages and grown the feed. But we don't see these other men at the broiler factory; in fact, some of them might have never set foot on a farm. Yet they are farmers nonetheless, for without these men producing the capital and other inputs, the modern farm would wither away.

Since we cannot measure the physical contribution of these men, we use a different measure of efficiency; namely, profitability. Here again, the large, modern farms come out on top because they are very profitable; otherwise major corporations would not be investing in these farms. However this efficiency owes a great deal to their tax accountants and attorneys: Moreover, "high leverage and capital gains on the scale experienced over the past decade can convert a nominal rate of return on total

investment OF ONE OR TWO PERCENT into an effective rate of return on equity of eight to ten percent or higher."[2] These advantages give the corporate farmer an edge over the small farmer. Furthermore, the profits of the large farmer are due in large part to government subsidies. According to a study by the Legislative Reference Service, large farms with over $40,000 sales per farm would face greater financial difficulties if price supports were discontinued. In fact, had price supports been absent, expenses on the average would have exceeded receipts for those farms with over $40,000 sales.[3] So profit cannot be considered an accurate guide to efficiency in the farm sector.

Larger farmers have other advantages, over and above government policy. In the first place their buying power gives them leverage in the marketplace. They get cheaper inputs and lower interest;[4] however these advantages could be neutralized if small farmers pooled their buying power so that their weight would also be felt. A second advantage of the large farm stems from a sometimes difference between the goals of larger and small farmers. To see this you must understand that some large farming operations are very interested in land speculation. As Simon Askin, Tenneco's Executive Vice President for Agriculture and Land Development, says, "We consider land as an inventory, but we are all for growing things on it while we wait for a price appreciation for development. Agriculture pays the taxes plus a little."[5]

As more and more of these well off farm interests go into farming the price of land is bid up and the market for farm products becomes glutted: Thus the price of farm products falls or fails to keep up with the prices of other goods. But the land speculator doesn't mind. In fact, it is to his benefit at tax time to be in an industry with a low

rate of current earnings while his equity rises with rising land values.

On the other hand, the small farmer needs his income today to meet his current expenses. He can benefit from the rising land values only when he sells out and ceases to be a farmer.

Now we come to the heart of the paper in which we go into some economic, ecological and social reasons for the superiority of the small farm. Our arguement is grounded on one historical fact: that until the age of industrialisation, all societies had to work harder to feed themselves as their population grew; that is, a one percent increase in population meant a larger than one percent increase in the effort required to feed everyone. You can find a very nice documentation of this fact in Ester Boserup's The Conditions of Agricultural Growth.[6] We have reversed this trend with industrialisation only be means of harnessing the energy of fossil fuels. This stored up energy made it possible for the farmer to cut the soil with steel plows, to harvest with sophisticated machinery and then to take his produce to cities hundreds or even thousands of miles away.

The most dramatic form of mechanization was the tractor. As late as 1920, more than 20 million horsepower was provided by horses and mules. These animals had to be fed from the land.[7] With the adoption of the tractor, this land was freed to produce food for humans instead of horses and mules. A tractor feeds on oil. Not only was land freed by the tractor; labor was also freed because one man plowing with a tractor could do the work of several men plowing with a mule. The net effect of mechanization is shown in Table I.

TABLE I*

How Mechanical Power Replaces Human Power

YEAR	TRACTOR HORSEPOWER MILLIONS	MAN HOURS OF FARM WORK MILLIONS	COST OF OPERATING AND MAINTAINING FARM CAPITAL MILLION DOLLARS
1920	5	13,406	
1950	93	6,922	5,640
1960	154	4,590	8,310
1969	203	3,431	11,500

*Source: Changes in Farm Production and Efficiency, A summary Report, 1970, United States Department of Agriculture, Statistical Bulletin, No. 233, Washington, June, 1970.

The displaced workers left the farms to go to the cities where they produced inputs for agriculture as well as the goods and services which constituted our GNP. But as we produced more goods, we consumed more and more of our stored up energy. For instance, farmers use the average tractor 400 hours per year.[8] Since the average tractor is about 40 horsepower, we can estimate that each tractor represents about 16,000 horsepower hours of use.[9] Assuming that the average tractor consumes about .1 gallons of fuel per horsepower hour, then its use represents 1600 gallons of fuel per annum.[10] Since we have about 5 million tractors in the U.S., we can estimate that tractors alone consume about 8 billion gallons of fuel.[11] But tractors are only a portion of agricultures drain on our energy supplies.

To show what high levels of energy consumption mean for agriculture Fred Cottrell tried to compare the energy budgets of Japanese and American farming.[12] He found comparable statistics for two rice farms, one in Japan and the other in Arkansas. In Japan, an acre could be cultivated

and harvested with about 90 man-days which is equivalent to 90 horsepower[5] hours. On the Arkansas farm, more than 1,000 horsepower hours of energy were used just to power the tractor and truck. Moreover, the consumption of electrical energy exceeded 600 hp-hours. Cottrell did not even include the energy required to produce the tractors and equipment. In fact, some authors believe that the 'efficient' American grain farm consumes more than one calory of fossil fuel energy for each calory of food it produces.[13] If we are facing an energy crisis then this type of farming is absolutely irrational.

Of course we did not feel any pinch; energy was still cheap and abundent. Still we could count upon reserviors of energy from Arabia, Venezuela and the other corners of the world. Moreover, the prices of other raw materials fell making mechanization still cheaper, at the same time that a rising standard of living made men expect more for an hours worth of work. Mechanization became economically irresistable, but what was irresistable in the past might be unfeasable in the future. More and more people are populating this planet and most of them are demanding some of the comforts which we Americans enjoy. This increased competition for a diminishing or constant supply of raw materials will force up the prices in the future. (Besides part of the Cheapness of some of our raw materials rests on our military and economic influence over the weak nations which export them; that is, some of their cost is hidden in our military and foreign aid budgets.) What is most crucial is that the type of technology which is profitable with falling raw material prices is not the type which will be most profitable when these prices increase.

We are also facing a population explosion which means that we do not have to worry about economizing on labor; we will have a labor surplus economy. In fact, our nation already has a labor surplus economy so long

as millions of men cannot find work. Yet we call our farm sector efficient while it brags about how few men it employs. We need to think about labor absorbing agriculture.

Of course, we could use much more labor to care for our natural resources. But care is unnatural to large scale farms; it is expensive and uneconomical. It is cheaper to pollute our water with pesticides and nitrates; it is cheaper to dessicate our topsiol. As a result our natural resources are wasted, and the quality of our food suffers. Moreover, our yields are not very high even though we have some of the finest agricultural soils in the world. For instance, Japaneese peasants are able to harvest 1,100 more kilograms per hectare than an American farmer. Yet the Japaneese have a considerable worse climate and much poorer soil. Moreover, five percent of the Japanese rice land is not irrigated.[14]

In the Orient, however, care of the land is a fine art. Although much of their land is marginal, they have been able to farm it with yields comparable or higher than our own. Yet this land has been farmed for forty centuries.

One example might help to explain how the Chineese, for instance, have been able to maintain their resources. In the part of the United States where I live we clear our lands of rice stubble by burning the fields: In China, rice stubble was used for all sorts of purposes, but it was also burnt as a cooking fuel. The heat from the stove was drawn off through pipes and led to large black blocks of subsoil which absorbed the heat. These blocks made nice, warm beds for the Chineese. Sooner or later, the beds began to crumble; the heat and the nutrients from the smoke had opened the blocks up to microbial life. So the crumbling beds were returned to the fields where they made excellant fertilizer. Everything was used and nothing was wasted. According to some, Chairman Mao

is maintaining this ethic in China today.[15]

However we have no such ethic, and because we do not care for our natural resources, neither our yields nor the quality of our food is very high. The history of our corn crop is instructive here;

> American soils have been almost legendary for their fertility. One commentator was only slightly exaggerating when he said, that our soils are so rich that "if you tickle them with a hoe, they laugh with a harvest".[16] We were so mindless about protecting this fertility that we have spent much more effort worrying about farm soils themselves. Part of our carelessness was understandable; we seemed to have a boundless supply of land and so long as there was new land to put under cultivation, the effects of soil depletion would be less striking. For instance, between 1870 and 1902 corn yields remained constant, but about two-thirds of the increased acreage was located in eight cornbelt states where the mean yield was twenty percent higher than the United States average. Then between 1902 and 1925, yields were able to increase slightly, but this increase in yield was made possible because less fertile land, like that found in Texas and Oklahoma, was taken out of production. Soon after the beginning of the 1920's yields began to fall and although acreage remained constant until the early 1930's, production began a downward trend. Then from the 1937 low, yields rose to 74% above the ninty year mean for the period 1870 to 1960. One part of the explanation is that production was discontinued on more than 17% of the 1937 acreage in the relatively low yielding southern states. This land was probably taken out of production because the soil was too depleted to continue further cultivation of the corn. Another reason for

the rising yields of the late 1930's was the introduction of high yielding hybrid corn.[17] The more extensive roots system and aggressive feeding characteristics of the hybrids, enabled them when first introduced, to extract fertility which was inaccessible to open polenated varities. That is, hybrid corn sped up the rate of soil depletion. But there was another reason why the hybrid corn produced more. The increased yields were bought at a cost of lower protein content.[18] The agronomists refer to what they call the inverse nitrogen law which says that the more nitrogen we find in a crop the less we can expect its yield to be. And similarly the higher the yield the less percentage of nitrogen we can expect to find. Nitrogen is found in all proteins and may be taken a rough proxy for the protein level of the corn. For example, low yielding Indian corn has shown a protein content of from 12 to 15%; over the years we selected those seeds which produced more until the protein content fell substantially. But even before the advent of hybrid corn it was still possible to raise hogs on an exclusive diet of corn.[19] Then in between 1937 and 1947 the average protein content of corn fell by more than 10%.[20] At first livestockmen complained about the value of hybrid corn as a feed,[21] but we don't hear much about that anymore, because feed today is supplemented with heavy doses of fish protein. Most of this comes from fish caught off the shore of Peru where the people suffer from protein deprevation. The United States imports enough fish protein to wipe out one-half of the protein deficiency in the entire continent of South America.[22] That is, our corn crop required foreign protein subsidies to make it into a sufficiently nutritious animal feed.

Perhaps the most important property of hybrid corn is its regularity; because all the hybrid corn plants are just about the same height on the stalk, mechanical harvesting becomes a simple matter. Thus hybrid corn helped to speed up the mechanization of agriculture. And perhaps most of all, hybrid corn demonstrated the productivity of 'efficient' agrigulture.

However our technology weakens our crops and makes them more susceptable to disease; witness the recent Southern Corn Leaf Blight Epidemic. The chemicals we use to aid in farming are dangerous to many different life forms; birds, pets and even humans. Yet all this is considered efficient.

Many people grant that the small farm has ecological as well as social advantages over the factory farm, but then they ask if the small farm could feed America. The answer is that it could and would. In fact, small farms have higher yields than larger farms. The yields reflect in part, the more intensive care which the small farmer gives his land. Moreover, it is logical that we would produce more food by putting more people to work on the land.

But then would people want to return to the land? Young people today are giving us the answer to that question when they do go back to the lands and farm communally. They are fed up with the city; with its pace and with its tensions and with its intolerance.

But what about our standard of living? The true measure of our standard of living is the happiness of the people and judged by this standard America appears to be a poor nation. A return to the land might mean a return to sanity.

I am not saying that everybody or everyone must take up a hoe at

once. Not at all. But access to the land is imperitive. A first step would be to end the government policies which encourage large scale farming. End the tax and subsidy advantages to large scale farms. Next we must shift our support to those farmers whose technology is more in harmony with nature. End the wasteful consumption of our natural wealth, raw materials and people. Guarantee that men who actually work the land get a decent living. After all the labor cost of our food is only a small fraction of our total food cost.

Michael Perelman
Assistant Professor
Department of Economics
Chico State College
Chico, California

UNFAIR COMPETITION IN AGRICULTURE

We can read in the Agricultural Act of 1961 that "It is hearby declared to be the policy of Congress to:

". . .Recognize the importance of the family farm as an efficient unit of production and as an economic base for towns and cities in rural areas and encourage, promote, and strengthen this form of farm enterprise."[1]

In spite of the rhetoric about the family farm, our society is geared to grind up the family farm. In this paper we shall examine some of the mechanisms which contribute to this process.

We shall begin with the tax structure of our economy. In 1963 Secretary of the Treasury told the House Ways and Means Committee that tax farmers "create unfair competition for farmers who may be competitors and who do not pay costs and expenses out of tax dollars but who must make an economic profit in order to carry on their farming activities."[2] In the same vein, Orville Freeman said when he was Secretary of Agriculture that "there could be real trouble if (the conglomerates) move into agriculture . . .They already have contributed to the building up of land values. They can go in and farm and write off their losses as a tax deduction on a very profitable operation elsewhere. When this happens, dangerously unfair competition takes place."[3]

A second reason for corporations entering into agriculture is real estate speculation. Land will, in all probability, continue to escalate in value. Corporations know this and they also know that they can invest in agriculture as a form of land speculation; so long as appreciable cap-

ital gains can be made from the sale of land, the corporation can accept a low rate of return on its agricultural activities per se.

Here is what an agricultural economist with the Federal Reserve Bank of Kansas had to say on the subject:[4]

> Past rates of appreciation on farm land and rural real essate have been impressive. Although there is no assurance of continued increase in land prices, acquisition of farm land remains an attractive inflationary hedge for firms with adequate liquidity. Because of other considerations such as rapid transportation, urban sprawl, population growth, and expanding recreation needs, land may be acquiring a renewed investment appeal.*

The effect of land speculation in agriculture is very dangerous to the small family farm.

As the same agricultural economist said: "A study of the rates of return on farmers' equities in California. . .suggests that returns are low and apparently decreasing. Yet farmers (including corporation farmers) continue to invest their savings in agriculture."[5]

Table I shows that Net Farm Income for U.S. farmers has barely risen between 1949 and 1968; for California's farmers Total Net Farm Income has risen during the same period, but this rise is not enough to compensate for the inflation which has eroded the purchasing power of this income. In short, farmers have lost ground income-wise. Table II gives the other side of the balance sheet. This table shows the rapid rise in the average value of an acre of agricultural land. These values have more or less tripled during the period in question. Table III shows the average value of an acre of irrigated land used for orchards and groves in California and in the San Joaquin Valley. While the values of such land for the state as a whole have gone up, this rise has not been nearly so spectacular as the rapid increase in the values in the San Joaquin Valley.

To understand the importance of the potential gains to the farmer

TABLE I

TOTAL NET FARM INCOME
MILLIONS OF DOLLARS

Year	California	U. S.
1949	735	12,780
1950	846	13,673
1951	1,084	15,987
1952	1,100	15,051
1953	974	13,088
1954	941	12,503
1955	1,007	11,464
1956	1,072	11,444
1957	968	11,355
1958	963	13,500
1959	1,048	11,454
1960	971	12,079
1961	919	12,987
1962	1,010	13,215
1963	913	13,206
1964	1,073	12,266
1965	984	14,987
1966	1,058	16,253
1967	970	14,735
1968	1,157	14,675

Source:

Farm Income--State Estimates, 1949-1968, USDA, ERS, August 1969.

TABLE II

REAL ESTATE VALUES:
U.S. AND CALIFORNIA

Year	California	U.S.
1950	58	65
1960	109	106
1965	160	139
1969	186	179
	(1957-1959 = 100)	

Source:

Farm Real Estate Market Developments, 1965-March 1969, U.S.D.A., E.R.S., Appendix, p. 6.

TABLE III

AVERAGE VALUE OF AN ACRE OF IRRIGATED LAND USED
FOR ORCHARDS AND GROVES IN CALIFORNIA
AND THE SAN JOAQUIN VALLEY

Year	San Joaquin Valley	California
1965	1230	2160
1966	1832	3103
1967	1875	2850
1968	1775	2800
1969	1900	2850

Source:

California Agriculture 1969: A Report on California's Principal Crop and Livestock Commodities, California Crop and Livestock Reporting Service, Sacramento, California, May 1970.

69-133 O - 73 - pt. 5B - 22

as a real estate speculator we must understand that ". . .the net capital[5] gains on California farm real estate would have totaled about $12.3 billion between 1950 and 1966 had farmers sold out at values used by the USDA in computing the January 1, 1966 Balance Sheet for Agriculture. This figure is net of an estimated $1.4 billion invested by farmers in land improvement and irrigation development.

"During this same period net farm income, which varied from a low of $846 million in 1950 to a high of $1.1 billion in 1952, totaled only $15.8 billion for the 16-year period."[6]

An example might help us to understand what all of this means to the small family farmer. We saw that the tax laws encourage wealthy individuals and corporations to buy farms. Furthermore the rapid build up of land values encourages investment in farming as a form of land speculation. As these investors buy up the farm land, they confirm the correctness of the judgement of the speculator and thus add fuel to the fire. The speculator-farmer and the tax dodge-farmer can and often do produce crops, but they do not depend on the revenue from these crops as the sole source of support for their families. Just as an urban speculator can call a parcel of land a parking lot. As long as he gets enough cars to pay more than the wages of an attendant, he profits from the parking lot business. But imagine another parking lot owner down the street, one who intended to stay in this business for ever. He would expect his lot to support his family. If it could not, he would have to sell out. Such a parking lot owner would suffer if so many speculators called their land parking lots, that the price of parking would be driven way down. The reduction of income might be sufficient to drive him out of business. Only those with sufficient resources so that they really don't need the revenue from their parking lots for their day to day existance would be able to survive.

At the same time that speculators and tax-dodge farmers drive up the price of land, they depress the amount of money a farmer earns from his crops because they flood the market with more food than the forces of supply and demand would call for under a free market system.

In the first place, the low returns to ordinary farmers means that the price system is signaling that too many resources are devoted to agriculture. Yet, as we have shown, large scale farms are ignoring these signals and investing heavily in agriculture contrary to the normal logic of the market place.

Secondly, large corporations have the political clout to move the government to open up new lands to agriculture through large scale reclamation projects, especially in the arid West, where these corporations own large tracts of land. These lands, when irrigated by even very expensive water, can turn a handsome profit by growing high priced crops like grapes and tree crops.

Because the total acreage devoted to speciality crops like grapes and tree crops is so small, what might seem to be an insignificant increaae in acreage can glut the market. One economist, James Bonnen, who studied the effects of federal reclamation projects concluded that "increased production on reclamation-served land . . . has reduced non-reclamation farmers' income."[7] A recent study of the effect expected from the San Jauquin West Side Development studied several crops and concurred with Bonnen. According to this study, the project will depress the price of deciduous fruits from 5 to 7%, almonds from 4 to 8%, grapes from 9 to 17%, cantalopes from 7 to 17%, other vegetables from 4% to 7% and early spring potatoes from 42 to 80%.[8]

Who is going into these specialty crops? Tenneco Oil has 3,800 acres of grapes; 1850 acres of almonds; 1000 acres of citrus; and

almost 900 acres of peaches and plums.[9] Kaiser Aluminum expects to be the world's largest producer of walnuts.[10]

In short, the effect of the large corporate farm has been to depress the price of current production and to increase the price of land. We can, if we want, view these capital gains on land as a substitute for current savings and investment; but, on the other hand, the family farmer doesn't have much choice about this saving. And worse yet, the small family farmer often has difficulty in transferring this saving (i.e., real estate value) into cash by borrowing. So when the need for quick cash comes, he can only raise money by selling his farm. Listen to what the President of John Deere & Co. has to say about the availability of credit to the small farmer.[11]

> To us credit is a sales tool. We provide it because we must (because banks do not)... The paper we accept from dealers carries higher rates than the banks charge forsuch paper and our rates are as low as any in the industry. Even so the amount of retail paper our company had on its hands last October 31 (1957), the end of our fiscal year, approximated $100 million, 200% more than three years ago. Surely the limited availability of credit from other lower cost sources must be a factor in the situation.
>
> We do not attract this business by taking excessive risks. Our credit standards have been high... (and) our losses have been minor.

The large farmer gets a break on other inputs besides credit. Table IV shows the differences between what large and small farmers pay. Still more important than the volume discounts available to the corporations are the benefits of market manipulation. As a corporation like Tenneco goes into the almond canning business, it can use its leverage from its large production of almonds to force down almond prices. The losses to Tenneco-as-a-farmer are more than compensated by the gains to Tenneco-as-a-buyer-of-almonds.

Corporations which sell to agriculture also benefit from farming.

TABLE IV

RELATIONSHIP BETWEEN FARM SIZE AND COST OF CAPITAL AND OTHER PURCHASED INPUTS

Farm Size (acres)	Interest on Operating Capital (6% norm)	Volume Discounts			Total difference from Base Cost per Acre.
		Fertilizers	Insecticides	Crop Dusting & Areal Spraying	
80	6.88%	0%	0%	0%	$ 0.56
160	6.52%	4%	0%	0%	-.25
320	6.47%	4%	5%	0%	-.53
640	6.47%	4%	5%	12.5%	-1.27
1,280	6.15%	10%	8.5%	17.5%	-3.96
3,200	5.90%	10%	14%*	25%	-6.62

*Denotes only one observation behind the data.

Source: J. E. Faris, and D. L. Armstrong, Economies Associated with Farm Size, Kern County Cash Crop Farms, Giannini Foundation Research Report No. 269, 1963, pp. 73-96.

In an article in Doanes' Agricultural Report, entitled "Big Corporations Invest More in Agriculture", Peter Grace, President of W.R. Grace, is quoted as saying in 1967:[12]

> ...U.S. nitrogen plants are operating at only 78% of operating capacity in 1968.

The article continues by noting that:[13]

> Most firms supplying petroleum products and ag chemicals are being forced by the competition to offer credit (like John Deere & Co.). They would prefer not to do this, especially with today's high cost of money...
>
> During the struggle for control of Kern County Land Company last summer, more than one fertilizer firm was interested in acquisition, from the standpoint of guarenteeing an outlet for a large amount of their products on the company's huge irrigated crop acreage.

The article concludes that "it is our opinion that corporate farming will increase. It's a matter of how fast."

The last statement does seem correct. Corporations are taking over agriculture. Some farmers will survive, but they will be the farmers who are willing and able to grow to a size large enough so that they can play the same game as the corporate farmers.

Rudolph A. Peterson, ex-President of the Bank of America, says that based on facts and trends "what is needed is a program which will enable the small and uneconomic farmer- the one who is unwilling or unable to bring his farm to the commercial level by expansion or merger-to take his land out of production with dignity".[14] A spokesman for Gates Rubber Corporation was a little more blunt: "The economists say that forty percent of the people in agriculture are going to have to leave the farms eventually-we're just helping some of these to make the change".[15]

*A further reason for conglomerates to invest in agriculture has to do with their financial machinations. "Most agribusiness companies don't sell at near the P/E (price to earnings ratio) of the non-agricultural companies. In other words, a non-agricultural firm earning $100,000 per year might be expected to sell for around $2 million. On the other hand, an agricultural firm earning the same amount might be expected to sell for $700,000 to $1 million, or at a much more favorable P/E ratio. What this means is that the company acquiring the agribusiness firm gets an immediate improvement in its share earnings." (See Henry Fiola, "Interview with Walter Minger, Vice President, National Division, Balk of America, S.F.: Corporate Acquisitions: What they are all about and why they take place", Western Fruit Grower, July 1969, p. 18.)

FOOTNOTES

1. From a speech by ~~Senator Lee Metcalf~~ Angus McDonald before the House Ways and Means Committee, Tax Reform, 1969, March 10, 1969, p. 2013.

1a. Supra 1. Senator Lee Metcalf, p. 2070.

2. Quoted in Robert Dietsch, "The Merger Boom, Who Owns What?", New Republic, February 22, 1969, p. 15.

3. Gene L. Swakhamer, "The Growth of Corporate Farming," in Monthly Review of the Kansas City Federal Reserve Bank, May 1968, p. 15.

4. Ibid.

5. Franklin J. Reiss, "Is $900 per Acre too Much for Farmland?" Illinois Agricultural Economics, July 1968, p. 23.

6. John A. Hopkin, Vice-President Bank of America N.T. & S. A., "Some Implications of Long-Term Outlook of California Agriculture on Capital Requirements," delivered to the Agricultural Economists of the Federal Reserve Banks, May 24, 1967, p. 17.

7. James Bonner, "The Absence of Knowledge of Distributional Impacts: An Obstical to Effective Public Program Analysis and Decisions," in Analysis and Evaluation of Public Expenditure: The PPB System, Joint Economic Committee, p. 435.

8. Gerald W. Dean and Gorden A. King, Projections of California Agriculture to 1980 and 2000: Potential Impact of San Joaquin Valley West Side Development," p. 120.

9. "Personnel: One of the Basics at KCL," Western Fruit Grower, October 1969, p. 15.

10. "Kaiser Plan for Walnut Production," Western Fruit Grower, August 1969, p. 5.

11. Wm. A. Hewitt, from speech in Board of Governors, Federal Reserve System, Financing Small Business, U. S. Government Printing Office, 1958, p. 364.

12. "Big Corporations Invest More in Agriculture," Doane's Agricultural Report, January 1968.

13. "Big Corporations Invest More in Agriculture," Doane's Agricultural Report, January 1968.

14. "Farm Policy Question," in Agri Finance, Jan/Feb. 1969, p. 42.

15. Said to the Select Committee on Small Business of the United States Senate, Subcommittee on Monopoly in hearings held in Omaha, Nebraska, May 20, 1968, p. 11.

ORIGINS AND GROWTH OF MIGRATORY SEASONAL LABOR IN AGRICULTURE

by

Paul S. Taylor

Great bales of ticks and bedding; old trunks, boxes, and barrels of clothing; bags of stale bread, macaroni, and peas; clanging bundles of cooking utensils; occasionally a stove; very often a few baby carriages, a huddle of children and confused parents, await the great hay wagons that drive up and carry them off by the wagon-load--luggage, baby carriages, and all--to their four-weeks' quarters on the berry farm.

--United States Immigration Commission, 1910.

In the harvesting of most truck crops and all fruit crops a large amount of hand labor still is necessary. To meet this need we have thousands of itinerant harvesting and packing crews in the fruit districts picking the fruit from the trees and performing every operation in the packing house, in the vegetable districts selecting and picking cantaloupes, or tomatoes, or cutting the properly matured heads of lettuce, cauliflower, or cabbage. Mass production has thus brought about what may be called the mechanization of the human element in the industry. The harvesting gangs are called in when wanted just as the tractor and gang plow are brought out of the sheds when needed. These waves of itinerant labor ebb and flow with the seasons. Almost every district of important specialized commercial production counts upon them as it counts upon the succession of the seasons.

--Wells A. Sherman, chief marketing specialist of U.S. Bureau of Agricultural Economics, 1929.

For thousands of years nomadism has been a way of life for whole peoples. Our cultural heritage has been enriched by its traditions, for there is something deeper than glamour in the simple life of roving peoples. Even today tribes of Asia follow grass rhythmically like their

ancestors. Folding their tents and driving their flocks and herds, they move en masse, keeping close to the basis of sustenance as its locations shift periodically through the seasons. Nomads have ever remained aloof from tillers of the soil, maintaining their own culture, and resisting settlement.

Migratory farm labor also moves restlessly and lives a simple life with ways of its own, different from that of the settled folk among whom it moves; but beyond this it shares little of the tradition of the nomads. Migratory labor in its most fully developed forms becomes a proletarian class, not a people with a separate developed culture. It is forced to till the soil for others. It lives in material poverty. Largely indispensable, nevertheless it is commonly exploited and substandard. It slips through stable and often rich communities, of which it is never an accepted part. It offers a breeding ground of social unrest. It migrates reluctantly, seeking a foothold on the land which it seldom gains. It lends itself readily to the development of a form of agriculture which is not a way of life, but an industry. Thus it becomes an unwitting instrument in the breakdown of the traditional American ideal of the family farm.

The roots of migratory labor lie deep in the processes of nature. In the rhythms of their growth, plants require more human care at one season than they do at another. But more even than in the natural processes of plant growth, the roots of the system of migratory labor spring from the decisions of men. To "grow a crop" is to devote a field to a single species of plant so as to obtain uniform produce. In this way the critical seasons when extra labor is required to plant, to cultivate, and to gather the harvest from that field are synchronized as well. If, within a locality, the fields which are planted to single crop or to crops with common seasonal rhythms become numerous, then the rhythms of seasonal labor are greatly amplified. When specialization of plantings reaches the point where it creates seasonal needs for more hands than the community can supply, then additional hands are invited to emigrate from without. Migratory labor is but the natural extension of seasonal labor drawn originally from within the locality.

The success or failure of the efforts of farmers to specialize, depends upon whether or not sufficient laborers can be persuaded to move in for the season. As early as 1900 the United States Census warned that inability to obtain sufficient seasonal laborers places a limit upon the economy of production of some vegetable crops. "At a distance from centers of population this transient labor is hard to secure, and even fancy wages sometimes fail to attract a sufficient supply," it said. "Under these circumstances a large number of laborers must often be kept the year round, at a proportionately increased expense."[1] It is for the very purpose of avoiding such an overhead cost of employing laborers steadily that growers customarily are ready to go to whatever lengths appear to be necessary to recruit migrant workers.

In the perspective of American history, these processes by which patterns of migrant labor are formed, unfolded as in slow-motion. Demand for extra laborers to assist farmers at critical seasons appeared first in the earliest settlements of New England. Temporary requirements of this nature were met sometimes in one way, sometimes in another--by the help of those members of the family who did not participate in field work at other times, by an exchange of labor between neighboring farmers, by the assistance of nearby settlers from small or undeveloped farms of their own, and by drafts upon nearby townsfolk. These drafts were reinforced, when the colonists deemed it necessary to assure sufficient additional laborers to bring in the crops, by the compulsions of law.

From simple seventeenth century beginnings such as these, more variegated patterns were developed to meet the regularly recurrent labor emergencies of farmers. At the end of the eighteenth and the beginning of the nineteenth centuries, the growth of towns and the improvements of transportation were beginning to expand the market and thereby to invite farmers to raise surplus crops beyond their own needs and to specialize. In the manner already described, specialization in a crop or two increased the required number of seasonal laborers until the insufficiency of resident laborers compelled farmers to attract others from whatever distance necessary to obtain them, and so finally to develop a migratory labor pattern.

During the past generations, the emergence of a migratory labor pattern in any community was usually slow; it unfolded only gradually following after a pattern of local seasonal labor. Under conditions of advanced mechanization, however, it is not uncommon to create a pattern of migratory labor--full-blown in the course of a single season, in communities that never had it before--by deciding to plant a specialized crop not previously grown.

The ultimate stage in development of migratory labor is reached when specialization becomes so general that men and families devote themselves wholly to serving its needs wherever they may arise. Thus the specialization in crops begun by farm operators finally comes to characterize even the laborers who specialize in performing the work. By the end of the nineteenth and early twentieth centuries, specialization in fruit and vegetable crops was beginning to induce laborers to specialize in work migrations patterned by the seasonal employments in one area after another offered successively by one crop after another.

Hay was probably the first American crop to produce regularly recurring seasonal migration of laborers. "For farmers close to markets, hay became a speciality," reminisced a speaker on early history before the Essex County, Massachusetts, Agricultural Society. "It is the money crop on which many farmers rely principally for a cash return to meet the outgoes of the season's work." In support of an increasing production of live stock, hay fields were made larger and larger until local

harvesters no longer were sufficiently numerous. "There are many disadvantages incident to the haycrop, especially when it forms a large proportion of the produce of the farm," continued the speaker. "It is bulky, and requires a large force to make it; the time for harvesting it in proper order is short, making it difficult to procure sufficient labor at the right moment to secure it in good condition."[2]

When these words were spoken in 1854, farmers in New England and New York already had been facing the problem for a generation, and had solved it. By the first or second decades of the nineteenth century French Canadians were crossing the border regularly in summer to help with haying. A letter published in the *New England Farmer* described in retrospect the prevalence of this seasonal influx which had begun decades earlier. "The Lower Canadian, in many places, leaves his home regularly every season, works for farmers in Vermont and New York during the haying season, and returns in time to secure his own small crops," it said.[3] Nearly twenty years later the *Genesee Farmer* of 1856 carried a paragraph of reminiscences about the same migration:

> These now comparatively wealthy farmers relate their early toils and privations with the greatest satisfaction. For years they struggled in the forest, deprived of all the luxuries, and many of the necessaries of life. Their only means of raising a few dollars to pay taxes or interest on their land, was to leave their farms and go into the States, or the more cleared parts of Canada, and working during the harvest, leaving their wives and children to take care of their own small crops.[4]

The incentive for farmers to enlarge their hay fields soon reached a limit, not for inability to attract a sufficient number of seasonal hands, but rather because hay could not meet the requirements of economical transportation to distant markets. Hay was not like corn, which could be distilled into whisky and carried overland to seaboard cities or floated down the Mississippi to New Orleans, nor was it like wheat, whose value was concentrated in small kernels which could be transported cheaply to the ends of the earth. The value of hay was in the entire plant which was bulky, and therefore costly to move far. So the enlarging hay fields soon became big enough to provide for farm uses and for feeding all livestock in the vicinity.

Demand for help from the outside for haying was persistent, even though it failed greatly to expand. Even the adoption of mechanical mowers to replace hand mowers who swung the scythe did not reduce it enough to end the seasonal migration, for in haying much hand work remained to be done, and the drain of farm boys to the West and to cities was removing many from the local supply of laborers. As the twentieth century opened, the original seasonal influx of French-Canadians to "the central and other counties" of Maine "for the hay harvest" was still noteworthy.[5]

The system of agricultural enterprise represented by the farm, as distinguished from the plantation, is based upon family labor, with hired help as auxiliary only, not as the main reliance. Consequently, any division of interest among those engaged in the enterprise is slow to arise, and is adjusted easily. When it appears, its customary aspect has been that of a family difference of opinion, not that of a labor dispute. A dissatisfied son simply has left home, or a discontented hired man has changed farmers the next season, or has gone elsewhere. But when numerous hands have been employed for a brief season, whether these were migratory or not, division of interests has appeared more readily and has stood out more clearly. The participants became aware of frictions and of cleavages beyond the personal. Once the sources of seasonal help were no longer local, the personal ties between farmer and harvest laborer had disappeared.

Seasonal laborers drawn from the vicinity were often other farmers and their sons, or nearby townsfolk, all members of the same community. But those recruited at a distance were simply laborers for wages; the bond between farmer and laborer had become cash, and little else. As early as 1829 farmers on Long Island looked hopefully to unemployment in cities as a creator of an available source of harvest labor. Anticipating "a want of laboring men to gather in the approaching abundant harvest," the *Long Island Star* noted that "As the cities and large towns are now complaining of dull times, it is believed that there are many men who might help this dullness by a little well-timed labor in the field."[6] This simple item, by its tone even more than its facts, signals the changing attitude. One did not ask of the unemployed of the cities that they come to the aid of their farmer-neighbors needing help; nor was the offer of wages for farm work made in any neighborly spirit of helping the unemployed out of their distress. The harassment of unemployment was simply a fact, to be used as a spur for whatever advantage could be wrung from it.

Among the occasions for friction on farms, temporary harvest employment stands conspicuous. Irritation, dispute over wages, and the jockeying for advantage implied in the early item from the *Long Island Star* became more common. Thus the *Rural New Yorker* noted in 1857 that "A frequent, and we might add, universal complaint among farmers during 'haying and harvesting' is the scarcity of laborers and the exorbitant prices demanded by them 'for services rendered.'"[7] Next year the *Genesee Farmer* reported attitudes of conflict at harvest which are familiar today. A correspondent wrote:

> I once asked an astute farmer, who was cutting a very large meadow of heavy grass on a Buffalo Creek bottom if he found a machine profitable, expecting an affirmative reply, as the machine did perfect work on that stoneless alluvial flat, but his reply was "no, if we could get such help as we once got; but," explained the farmer,

> "there is no dependence on men now, for when you bargain with them and think you have them fast, you have to run after them and hire them over again at higher wages, and [they] don't work as many hours or as well as they used to at lower wages. But with my machine," said he, "I am independent of the rascally mowers, and common foreign help is plenty and cheap!"[8]

Likewise, the *New York Evening Post* of 1866 reflected the rise of a divided interest between farmer and seasonal hand which each was quick to sense, when, in urging farmers to use mowing machines and horse-rakes it gave the fact that they would harvest "without 'groaning'" as added incentive.[9]

Coincident with the appearance of friction between farmers and harvest help, friction arose also between farmers over which among them were to obtain help when the supply of hands was limited. When the *New England Farmer* of 1831 protested drunkenness among harvest hands, it complained that competition among farmers at harvest time was the cause. It said:

> Too many of the laboring part of the community are, at this season of the year, more like drunken savages than members of a civilized community. This evil does not spring either from benevolence or hospitality in their employers. Avarice seems to have been the first moving cause of this enormity. In direct opposition to the laws of God, and the reason of man, this contemptible selfish principle, *induced many to outbid their neighbors by a more plentiful supply of ardent spirits.*

The remedy, advised the editor, was to make payment in money "in lieu of whiskey."[10] But as years went on, the advice of farmers to each other on this point--not always followed, to be sure--was to be drafted in terms less liberal to the hands, namely, by offering them neither more whiskey nor more wages, i.e. for farmers to stand together as employers, and not to compete at all.

Besides hay, other nineteenth century crops were beginning here and there to create occasions that required laborers to move about for a season's work. In 1847, the *Cultivator* noted that the harvesting of broom corn and manufacture of brooms on a 300-acre farm near Schenectady were producing a seasonal movement of 80 to 100 workers, male and female, "mostly Germans, who came here with their families during the broom corn harvest and leave when this is over."[11] According to the *Country Gentleman*, the broom corn harvest was producing a similar gathering of women and boys in Illinois as early as 1870.[12]

Growing of hops had the same effect. In eastern hop yards it was the custom to assemble women and boys for the picking. As early as 1853 the *Country Gentleman* carried a description of early gatherings of

harvesters from the vicinity which were social in nature, as well as for purposes of rendering labor for hire.

> The time having arrived, and all hands being engaged for weeks or perhaps a year before, a merry time to all but the poor hop-grower and his family, now begins. One might suppose it would be difficult to obtain the necessary help at all times, and especially as all want it at the same time, in districts where so many hops are grown as in many parts of Otsego. But there is no lack of assistance in hop time (as it is familiarly called). I have often heard the remark, and experienced the truth of it myself, that forty girls could more easily be obtained to work in the yard, than one in the kitchen, or to nurse a poor sick woman. I will here remark, that our hops are all picked by females, many of whom spend weeks in preparation making dresses, sacks, bonnets, gloves, etc., thinking nothing of the time thus spent, if only they can have a good time in picking.[13]

Pickers were paid sometimes by the week, but more often by the box or bushel. At this stage, hop-picking was clearly as much a social occasion as one for rendering labor for hire.

The following decade the same crop was creating a similar pattern in southern Wisconsin. There, says Hibbard, "during the last of August there was a general rush of girls and boys, mostly the former, from distances of a hundred miles to the hop field."[14] "Every passenger car is pressed into service," reported the *Madison Democrat* in 1868, "and freight, and platform cars are fixed up as well as possible for the transportation of the pickers." Since hop-growing operations in Wisconsin were on a small scale, relations between farmers and harvesters remained personal in respect to supervision in the field, and the work held some of the aspects of a vacation. "Every train," said the *Democrat*, "has the appearance of an excursion train on some great gala day, loaded down as they are with myriads of young girls. The most of them have their places of labor engaged in advance." Hop growing proved to be a short-lived venture in Wisconsin, and the seasonal migration which it required disappeared with the crop.

Northern agricultural employers perceived early that a system of seasonal labor freed them from the overhead cost of paying employees year-round through periods of slack as well as of heavy work. What the northern hop-growers understood was communicated quickly to the cotton belt, the moment that emancipation of slaves ended the planters' legal responsibility for, and their property interest in year-round care of laborers. In 1867 the *Southern Cultivator* carried a letter on this point which originated in Waterloo, New York, by way of suggesting to its readers that southern cotton growers consider and perhaps adopt it. Under the headline "From a Northern Standpoint," the letter said,

"I should suppose that by the aid of gang plows, and other improved farming tools, the cotton planter could get along with a very few hands until cotton picking time, then he could do like our hop growers, hire girls from the villages."[15]

A few planters occasionally had engaged extra nearby help for cotton picking, but this practice was not general. Until the end of the second or third decade of the twentieth century, the northern hop-growers' suggestion from experience remained practically unused in the older areas of cotton production, and certainly was undeveloped until later. However, when cotton growing was extended into fresh areas not already populated heavily with slave laborers, the pattern of migratory seasonal labor appeared quickly. Thus when the War between the States cut off northern mills from their usual supply of raw cotton, the growing of cotton was stimulated in southern Illinois. There, in the absence of established plantations well-supplied with pickers, families for harvest were secured "from the South," meaning probably from west Tennessee.[16]

These fragmentary early records suffice to make clear that whenever and wherever men began to grow a crop with an acute seasonal harvest labor requirement, harvesters were sought from whatever distance necessary to obtain them.

The list of crops which have occasioned migration of laborers to serve their seasonal needs is long, and the migrations which they produced vary greatly in volume, in distance, and in the details of pattern. Seasonal movements of laborers to serve hay and broom corn never became very extensive. Wherever hops have been grown, they have given sharp stimulus to migration. Important as hop-growing in East and Middle West has been at times and in places, finally in the early twentieth century it became localized almost entirely in a few far western spots, principally in Oregon, but which extend from the Sacramento Valley in California to the Yakima Valley in Washington. Middle Western specialization in corn-growing has produced a minor seasonal migration, its sources principally in the farming areas of poorer soils along the southern fringes of the Corn Belt and, later, the cities of the region. The characteristic of this migration is rather a suffused northward drift and return, than well-defined streams flowing through channels.

Between the close of the War between the States and the end of the nineteenth century, a growing specialization in berry crops, fruits and vegetables to feed the demands of expanding urban markets was laying foundations in many localities for patterns of migratory seasonal labor. As early as 1853 a traveler reported seeing between 110 and 200 pickers assembled in a fifteen-acre strawberry patch near Norfolk, Virginia, which was becoming a source of garden truck for northern cities. By the 1860's a concentration of commercial strawberry and other berry crops appeared in the vicinity of Hammonton, New Jersey. First searches for

harvesters brought German farmers from nearby for the season. Then as the berry-producing area spread quickly and included these Germans also as growers, the Hammonton growers began to go farther for pickers, and came back with principally Italians from Philadelphia. As many as perhaps 2,000 came annually in special trains during the early nineties. In later years, this influx of migratory laborers would have been reduced by the falling demand for New Jersey strawberries except that the strawberry acreage was replaced by other berry crops which also required numerous pickers.

Elsewhere over the country in places as far separated as Virginia and Michigan, wherever commercial berry crops were being produced, migrations appeared similar to those which converged annually upon southern New Jersey. Pointing out that berry districts "must not be too remote from labor centers, if labor is to be retained at a reasonable cost and in a necessary amount," the Census of 1900 proceeded to describe the contemporary migration in the region of the Great Lakes and along Chesapeake Bay:

> Trains of flat cars, loaded with people, and especially with women and children, run from Chicago, Detroit, and other large cities every morning, and back every night during the berry season. Steamboat lines carry thousands of berry pickers from Chicago to the strawberry fields about St. Joseph and Benton Harbor, Michigan; and Baltimore every year sends thousands of berry pickers out into Anne Arundel and other strawberry counties of Maryland.[17]

Migration to the area of berry production in southern New Jersey attained an impressive scale and character. A field agent of the United States Immigration Commission described in 1909 the seasonal arrival of berry pickers in the vicinity of Hammonton, New Jersey:

> In the early nineties something like 2,000 came yearly in special trains. . . . At the present time [1909] there seems to be no farmer who uses more than 70 pickers. . . . There is a general complaint that laborers are scarce, exacting, and not very efficient this season. The cause of the scarcity is given as the more numerous opportunities for finding employment in the city. The strawberry season is short. . . . These pickers nearly all come from Philadelphia and Camden. . . . The farmers obtain these Italians with the help of padrones. . . . The work in the country appeals to men with families of young children; almost any youngster can pick or carry boxes and trays to the berry house. One sees children of 5 or 6 years trudging back and forth with trays or gathering a few berries. In a good year large families have been known to earn from $400 to $600 for a full season. The "boss" charges the prospective pickers 50 cents or $1 each for finding places for them. . . . Another growing source of supply . . . is . . . local. . . . A number of the large growers . . . secure all the pickers they need

in the village or near it. . . . Having finished the strawberries, the contractor moves his gang northward . . . for the first fruits of the red raspberry and early blackberry crops. . . . Thus there is an itinerary of men, women, children, and household goods covering a large part of south Jersey and spanning a period of nearly or [not] quite five months. It is the real work of a great body of laborers, not an incident, but a vocation. . . . A fair percentage come simply for the fresh air and the outing. To them the berry fields stand for the seashore or mountains, and the whole excursion is for recreation. The younger people sometimes insist on giving that impression and seem to feel that some explanation or apology is necessary. . . . To society, this body of children, leaving school a month before the year closes and coming back after school opens, presents a problem. . . . The morality, health, and general well-being of these workers seem not to appeal at all to the grower. Although he may speak with disgust of their filth and low standards, it never occurs to him to ameliorate their condition or study their well-being. Every added comfort or decency is to him only an added expense. "Every year they ask for more improvements, they'll want beds next," said one wealthy grower who refused to furnish mosquito netting for their windows. Labor to many of these men is merely a commodity. The human element rarely enters. It is not likely that any great change will come except as the workers themselves demand it. A pickers' union would accomplish much, but the provincial jealousies must first be overcome. Some of the charity associations have looked into the matter with no direct results. . . . On the other side, there is no doubt that the presence of a gang of more or less unreasonable pickers is a source of irritation to the grower. . . . Everyone heaves a sigh of relief when the pickers have gone. . . .[18]

The agent quoted, who witnessed the arrival of the berry pickers, was reminded, he said, of "a train load of incoming foreigners unloaded at some small water-tank station in the Northwest, with children, food, bags, bedding, and belongings dumped in a promiscuous heap at their feet."[19] Doubtless appearances of the two scenes were much alike, but the resemblance was superficial, for the foreigners streaming to the Northwest were landseekers, not seasonal laborers. Most of them would buy land at once, and the rest would become landowners after a short period of labor and perhaps tenancy; Those bound as berry pickers for Hammonton had little or no prospect on the land beyond a season's work for wages. They constituted a distinct type of laborer in agriculture, a type now well-developed, and recognized as inseparable from, and indispensable to the conduct of most specialized agricultural enterprises. This is stated succinctly in another field agent's report on similar seasonal labor in Oneida, New York:

> The farm managers say that if it were not for the opportunity to employ immigrant labor it would be impossible to carry on the business on its present large scale. All immigrants interviewed expressed themselves as being contented and declared their intention of returning next season.[20]

Through the period between the world wars families have continued to come to southern New Jersey for the strawberry, raspberry, and blackberry harvests, and for potato picking, oyster shucking, and fruit picking as well. Together, these crops draw migrants from virtually every state lying southward along the Atlantic Coast. Prominent among the pickers are Negroes who come all the way from Florida in considerable numbers. Today the motor truck and passenger automobile have replaced the train as principal vehicle for transporting the migrants.

Cranberries are produced in a few small spots prepared usually by heavy capital investment. "To one who has had little experience in small-fruit growing or in intensive commercial farming, a cranberry bog is an interesting revelation of the possibilities of capitalized agriculture," observed the United States Immigration Commission in its 1910 report. Bog lands represented investments of $500 to $800 for every acre in full bearing. "The best bogs represent an outlay of $800 an acre; in fact owners capitalize them for investment purposes at $1,000 an acre and expect 10 percent on the investment."[21] Essentially, this is factory production. It creates sharply defined seasonal movements of laborers to harvest the crop, and its commercial success is dependent upon the continued annual coming of sufficient pickers.

On Cape Cod in New England cranberries have been raised as a commercial crop from the eighteen-fifties, and have been produced there on a large scale since the 1880's. The growth of a pattern of migratory seasonal labor as it unfolded step by step with the expansion of cranberry production on the Cape has been recorded in illuminating detail by the United States Immigration Commission. It was more than growth in numbers and extension of distance; it was a process which included qualitative change as well, as one nationality replaced another among those who migrated. The first pickers of cranberries on the Cape:

> were Americans from the neighborhood or from towns not far distant. Frequently a good many mill hands, as well as farmers' families, came out to help. When this source of supply became inadequate, owing to increasing acreage and disinclination of Americans to do this sort of labor, the growers sought other pickers. The employment agencies sent out Finns and the Padrones brought out gangs of Italians.[22]

Later the Finns moved westward to mines in Wisconsin and Michigan, and the Poles, who also had been employed as pickers at the close of the century, left for work in the mills or for steady employment on farms. By

1909, when the Immigration Commission made its own field survey of the cranberry bogs, the predominant nationality of pickers had changed once more. About 3,000 of them, or two-thirds of all pickers at the time, were black Portuguese "Bravas" from the Cape Verde Islands. These came annually for the season from the coast cities, and some of them even from their native islands to which they returned at the end of the harvest.[23] Those of the Portuguese who remained over the winter in Massachusetts filled the period between cranberry harvests with such intermittent work as they could find at miscellaneous employments. Portuguese "Bravas" in the 1940's still constituted a large part of the seasonal labor supply for Cape Cod cranberry production.

A close relationship was recognized between the degree of dependence of particular cranberry growers upon outside laborers and the scale upon which they produced. The Immigration Commission observed:

> The large growers--those with from 6 to 100 acres in a bog--are the principal employers of outside Portuguese. On the small bogs it is often quite possible to obtain a number of pickers in the neighborhood, and white families from the towns come out to earn a little money on the bogs near at hand.

Significantly, the witness who told the Commission that "the black Portuguese are the only dependable supply of labor that we have; no other sufficient supply remains," was superintendent of one of the largest bogs on the Cape.[24] This relationship made note of about 1910 in the cranberry bogs of Cape Cod--that the greater the size of the individual enterprise, the greater the dependence upon migratory labor--prevailed generally in the forties in whatever forms of agriculture which required seasonal labor.

Around the end of the nineteenth century the bogs of Wisconsin also became areas of intensive cranberry culture. Step by step with production arose new requirements for laborers to make the harvest. A field agent of the Immigration Commission has described the growth of the Wisconsin migratory labor pattern. Local pickers, frequently farmers who worked seasonally for the smaller cranberry growers, were not sufficiently numerous. Additional pickers came for the harvest of five or six weeks' duration from distances up to twenty-five or thirty miles. These generally were Polish farmers, or farm laborers, and their families supplementing other employment. "It all goes to aid him in eking out a livelihood," said the Commission. Usually these were recruited in gangs under an overseer; transportation and housing were furnished by the growers. The larger bogs employed principally Indians who came in family groups by wagon and buggy if from shorter distances. If attracted from longer distances, they came in gangs by rail, their transportation paid by the growers. The field agent summed up his impressions of the Indians

by saying that "for four or five weeks the family picks berries during the day, gambles in the evening, and sleeps until the dew is off in the morning."[25]

The same force of expanding markets which was stimulating specialized production of berry crops and creating recurrent migrations of laborers to harvest the berries was producing similar effects in the production of fruit. At places along the Atlantic Coast, from the valleys of Georgia northward to those of Virginia and New York, and on the Eastern Shore of Chesapeake Bay, men were planting commercial orchards. One of the very earliest descriptions of fruit harvest labor migrations to the Eastern Shore is from a correspondent whose letter was published by the *Country Gentleman* in 1881 under the title "Peach Plucks." The Maryland author wrote:

> This name may be new to many of your readers, but being a very valuable institution for a few weeks during peach season, to our farmers, it may interest some to know who they are and where they come from. Few people watch the reports regarding the prospects of peaches with more interest than they do, and if this meets the eye of any, and I am sure it will, for all classes seem to read the COUNTRY GENTLEMAN, from the preacher to the regular bummer, I will say to him that there is a very poor prospect for work this season, as the crop will without doubt be a small one, and in some sections an almost entire failure. I hear, however, that in our county there will be a moderate crop of certain varieties.

Evidently from the beginning, migrants have watched the farm journals and newspapers for crop reports, as guides and time tables for their own movements. The letter continued:

> The "plucks" begin to move towards the Eastern Shore about the middle of May, and when assembled on a farm for work at picking peaches, where fifteen or twenty thousand bushels are to be marketed in a few weeks, they represent the world on a small scale. . . . In some orchards regular sheds are erected, with berths in them, and in other cases barn lofts and other outbuildings are used for sleeping in.

The attitude of the writer of the letter, who, if not an orchardist himself, evidently was well acquainted with those who were, is curiously revealing. In face of the plain fact that the planting of orchards produced this migration, the author looked elsewhere to find the cause and found it in liquor. "What has brought about this migrating army of peaches plucks, with all the misery and degraded manhood that follows such a condition?" he wrote; then answered, "Foul whiskey tells the tale." His own assurance of the validity of his answer, however, was something less than complete, for he continued, "yet it is a fact that some will

not touch it while the season lasts, even refusing the usual free drink in the morning that some dispense as an inducement to be on hand as the sun peeps up; but few, very few, are among the missing."

It is clear that the correspondent was greatly impressed with the extent of the use of liquor, the card gambling, and the sabbath-breaking among the migrants, yet he did not fail to record, with a suggestion of awareness of the inconsistency, such facts as might disturb confidence in the validity of his own conclusions. He wrote:

> There are few countries but what are represented, and all classes of society. One is reminded of the saying that extremes meet, for in a peach orchard all characters can be found; some who bear evidence of refinement, education and culture, and others just the reverse. Some will be seen during idle moments taking notes, or recording their passing thoughts in their dairies; others playing cards, and of this class there are many who will work hard all the week, and before the Sunday passes every cent will be in the hand pockets of the successful gambler. Others will leave for the city, spend their money for whiskey, and return without a cent. Another portion will stroll to some retired place, and quietly sit for hours as if in deep meditation about their homes, or perhaps their distressed families. A few will carefully save every cent as closely as a miser, promising themselves to be reformed men, and I have no doubt entertain a fond hope of a reunion with some loved wife and children, and yet may fail when within sight of the desire of their heart. . . . It may seem strange, yet I have been told that as a general thing these plucks are honest--at least that nothing is ever missed, although every chance is offered for stealing. . . . With many, Sunday is dreaded, as they would prefer working; but our farmers, as a rule, forbid work on the Sabbath. With those who would prefer working, the day is a dull one, but they will select some retired place and play cards all day, blacks and whites mingled together. Others under no circumstances would touch a peach or card on Sunday.

The orchardists' pleasure in the skill of the "plucks" upon whom they depended appears in the concluding sentence of the letter, a sentence of unstinted praise such as one still hears where fruit is picked and packed by migratory workers. "It is amusing to see with what expertness some of them will assort peaches," he wrote; "a defective peach seems to stick to their fingers as if by magic."[26]

Vegetable production for market was expanding step by step with berry and fruit growing and, for the same reasons, wherever vegetable production appeared the amount of labor employed for a season was increased and the traditional practices of farmers were altered. Indeed, the alteration was so pronounced that the special name "market gardener" was applied to them more often than the older term "farmer."

The great amount of care required for intensive production of vegetables soon led market gardeners to abandon the farmer's traditional maxim that he should do all his own work. They began promptly to employ for the season all the hands they could use with profit. If the producing area was close to cities, market gardeners staggered their plantings in order to achieve as nearly as possible a continuous flow of one kind of produce or another to market throughout the growing season. They sought even to lengthen the season by construction of hothouses. For the laborers, a longer season of employment was the result.

In areas distant from centers of consumption the difficulty and high cost of transporting fresh vegetables to market prevented, or seriously limited, competition with local growers adjacent to market during the season when climate permitted the latter to produce. Plantings in distant areas, therefore, were arranged to place fresh vegetables on the market during local off-seasons. Frequently this period of advantage for any one distant producing area was very brief. As a consequence, the growers' best method of profiting was to move the greatest possible volume of vegetables within his period of advantage. His best method of growing was to assemble for an extremely brief employment far greater numbers of laborers than could obtain work in the locality at any other time. William Gilmartin wrote:

> The development of specialized truck crop production distant from market created a changed attitude toward vegetable farm laborers by growers. The problem became one of obtaining a large labor supply during a short season and of avoiding the cost and responsibility for maintaining this labor the remainder of the year.

When enough seasonal workers could not be obtained locally, they had to be brought from elsewhere, or the industry could not operate on the chosen pattern. Gilmartin wrote in 1942:

> To the large-scale corporate vegetable enterprise, labor is an impersonal element to be used in the production of merchandise. The farm worker is an essential tool just as is the tractor and the grading machine. The interest of the enterprise in its labor comes to a focus on the balance sheet of the company and accounting calculations set the tone for all aspects of labor relations. . . . Organized truck farming interests have participated in labor relations activities directed toward (1) maintenance of a large labor supply through immigration encouragement and labor recruiting programs, (2) prevention of the extension of social legislation to agricultural workers, (3) disruption of organization movements among farm workers, (4) resistence to the establishment of mediation and arbitration for the conduct of agricultural labor relations, and (5) opposition to governmental relief and welfare programs for farm workers during period of labor demand.[27]

The Bureau of the Census reported in 1900:

> In highly specialized districts, where one, two, or three crops comprise substantially the entire output, the labor required for the one or two months during which these particular crops must be gathered and put upon the market, is much larger than that needed at other seasons of the year. This is especially true in districts where small fruits or green peas, or other crops similarly difficult and tedious to harvest are grown in large quantities; hence where transient labor is readily procurable, one man can handle a much larger quantity of land in truck of this character at a relatively small increase in cost with proportionately increased profits.

During the second half of the nineteenth century, production of vegetables for northern markets expanded down the Atlantic coast, first around Norfolk, Virginia, then into South Carolina and Georgia. As it spread, it encountered at first a labor condition which differed completely from that which prevailed in the North. Instead of using free white laborers on general farms, the chief labor supply along the southern coast was provided by plantation slaves. Slavery required the owner to maintain the slave during times of idleness as well as of labor. This was the very burden which the short season truck grower could not afford to carry. Thus security of the slave stood as an obstacle to the extension of vegetable production. No one saw this more clearly than the masters. Twenty years after emancipation, an ex-slaveholder, named A. Oemler, pointed out this previously unsuspected advantage of free labor. In his history of truck-farming in the South he wrote:

> The death of slavery was, so to speak, the birth of truck farming on an extensive scale in the South Atlantic and Gulf States; indeed it would otherwise have been impossible. I was probably the largest slave-owner, engaged in vegetable culture, in this section; but of forty-five grown negroes, twenty-six only were available as field laborers . . . and at no time could I have controlled more than that number of hands, and few, or none, could have been hired. At the present time [1884] there are in the vicinity of Savannah many truck-farmers who employ one hundred to two hundred laborers during the picking season.

These seasonal laborers were drawn, he said, from "the better class of negroes who collected on the outskirts of towns after emancipation, those willing to do some work."[28] Thus slavery retarded the vegetable industry in the South until, as Gilmartin says, "emancipation neatly solved this problem."

* * * * *

The expansion of sugar beet culture, stimulated by passage of the Dingley tariff of 1894, promptly produced seasonal movements of laborers to and from virtually every area where beets were planted. Many new workers were needed at once to perform the hand operation in late spring of blocking and thinning fields to a proper stand of young plants, and again in the fall of topping the beets with a machete-like knife. The movements of labor which this crop set up in various parts of the United States were twofold; a seasonal migration in and out of each area to meet seasonal peak requirements; and a steady accretion to the resident supply of laborers which expansion of this form of intensive agriculture invited.

The work operations that required seasonal laborers involved several elements which, together and in varying degrees, distinguished beet work from usual farm labor. In general these were arduous, performed by hand, required very long hours, and utilized women and children in family groups. Usually they were paid for on contract at piece rates by the acre or ton. They were founded upon an employer-employee relationship; they frequently introduced new nationalities into old farming areas; they were part of a highly industrialized form of agriculture, controlled at many points by the processing plants which financed production, recruited labor, supervised production in the field, purchased the product--beets--and manufactured these into sugar. Except in places such as Morman settlements of Utah, where beet fields remained small and local supplies of family labor were large, this combination of elements stamped sugar-beet employment at once as a "different" kind of farm work.[29]

"The average farmer does not like to do it," said the president of a New York sugar company about beet thinning. "Are most of the farmers in your vicinity native Americans?" the sugar company president was asked by a commissioner. "Yes," came the reply, "and that is not conducive to beet raising." Question: "Why not?" Answer: "Because they do not like to get down on their knees. The most successful beet raisers we have are the foreign element that are not afraid to work."[30] "The average man does not like to do it," he added; "Why, you know there is hardly any machine today but the man rides." The director of the Michigan agricultural experiment station estimated that an acre of beets is equivalent to a row five and one-half miles long, then observed that "for a boy or woman to get down on the knees and creep 5-1/2 miles is a rather onerous undertaking."[31] "In the sugar-beet fields, for weeding, hoeing, etc.," wrote the Michigan Secretary of State, "the Germans, Polanders, and Russians seem to be the most effective."[32]

In summary of national experience with sugar-beet work a decade earlier, the Industrial Commission of 1901 had declared:

> The sugar beet industry, wherever it is started, offers especially favorable opportunities for foreign farmers and laborers. There are now . . . 3 factories in the [New York] State, with a nominal daily capacity of 1,000 tons of beets; but the success of the industry largely depends on securing farmers to raise the beets and laborers to work at their culture. A prominent maker of beet sugar in the State gives it as his opinion that Americans are not suited to this work; that the prevalence of American farmers in a neighborhood is a drawback to beet raising, and that the tedious hand culture required for the crop the American laborer will not give. . . . So that beet-sugar makers are perforce obliged to turn to the foreign element who are accustomed to and willing to do this class of work. It will be noticed in accounts of the beet industry in the different States that in all of them foreigners are assisting in carrying on the industry, and are succeeding well.[33]

In some localities it was possible during the first year or two of beet production to recruit sufficient local labor to avoid importation of seasonal workers from a distance. Thus a factory president in New York told the Industrial Commission in 1900:

> You can get all the help you want in Binghamton. The way I did last year was to establish a tent on the bank of the river and board the help, and it was sort of a picnic for the boys to come out there. I could get three boys to come out and live in the tent and work in the beet fields, where I could hire one and send them back home at night.[34]

In the South Platte Valley of Colorado, as in Utah, the greater part of the beet work was done in very early years by local boys and girls, and by the farmers themselves. This was possible so long as the beet fields were small.[35]

But the necessity, if sugar beets were to be raised, for inducing seasonal laborers to migrate to areas producing beets appeared almost immediately. In Michigan, the Industrial Commission found:

> It is very difficult to get the labor needed. This is partly due to the fact that this factory was located in a district already given up to peach growing, which requires much labor at the same time that the beet crop requires it. Russian Jews and other foreigners are brought over from Chicago during the two busy seasons.[36]

The Commission, reporting barely four years after the tariff act, found in Nebraska that "The sugar-beet industry in this State is opening up opportunities for immigrants. One large corporation is making especial efforts to bring to its farm laborers either from rural districts or from cities."[37] The general manager of a Nebraska sugar company wrote:

We are making a strong effort to bring to this farm laborers either from rural districts or from cities. We are continually bringing people from cities in this State--for instance, Omaha, Lincoln, and other points--to our farm. . . . Our success in developing an elaborate agricultural enterprise depends, in my opinion, largely upon our ability to collect these people, and especially those having large families, and giving them profitable employment. . . . There is now, although the industry has only made a beginning, a strong and growing demand for farm laborers and tenants, and in a degree to bring factories in competition with one another to secure such labor. For instance, on one or two occasions factories in Colorado have competed strongly with factories in Nebraska for Russian labor, which centers about the city of Lincoln. The Russian labor of which I speak is that of Russian Germans--the people are Teutons, not Slavs. . . . We make so strong a point of getting men with large families that we refuse employment, as a rule, to those with small families.[38]

The difference between slack employment on the company farm in February 1900, and the peak employment of June, was the difference between 204 and 1,217 persons on the payroll. This difference is a gauge of the pressure for mobilizing distant laborers.

Repercussions on the farm labor pattern followed wherever beet sugar factories were built at the end of the nineties and in the early years of the twentieth century. At Idaho Falls, five years after the factory was built, the Immigration Commission found that of the hand labor operations, "the Japanese do much the greater part and the German-Russians do most of the remainder. The white persons, other than German-Russians, employed are chiefly members of the families of the growers and school children. A few transient white laborers are also employed."[39]

Beet work around small factories established in Oregon and Washington in 1898 and 1909 was performed mainly by Japanese.

The settlement and cultivation of the land in many cases has followed the introduction of an irrigation system. The population is sparse, and agriculture is conducted, for the most part, on a large scale. As a result the problem of farm labor has always been pressing, especially in the sugar-beet industry, where the tracts of land devoted to the growing of beets are very large.

During the first year or two of the industry the sugar company and other beet growers relied on so-called "hobo whites"--a term applied to transient white laborers--to do the hand work of the beet fields. The results were very unsatisfactory. The men could never be depended upon to remain throughout the season to finish their work, and such work as they did do was of poor quality. Finally the company turned for relief to a Portland contractor, who agreed

to furnish a sufficient number of Japanese to do the work. This arrangement was maintained for a few years, until local contractors appeared and offered to supply hand workers, who in 1909, were secured entirely from three local Japanese "bosses."[40]

In Wisconsin sugar-beet factories promptly began the practice of bringing immigrant labor in order to secure larger production of beets to manufacture. In 1908 Belgians, Russians, Germans, and Bohemians constituted about 90 percent of the immigrants employed. A small sprinkling of Poles, Magyars, and Japanese--the latter brought from Colorado--were also employed. These European immigrants were recruited mainly from cities in northern Illinois, but also from as far as St. Louis, and from Akron and Cincinnati in Ohio.[41]

The impact of sugar-beet production on labor in a general farming area has been well described by the Immigration Commission.

> When sugar-beet culture first began in northern Ohio, all the work was done by the farmers themselves, supplemented by local gangs of laborers, men, women, and children from the community and neighboring towns, collected by the agents of the sugar company. The rapid extension of the beet area in the past few years has made it impossible to secure sufficient laborers in the localities where the beets are grown or to keep the gangs intact through the season. The cultivation of sugar beets requires so much more hand labor than ordinary farm crops grown in northern Ohio and the margin of profit to the grower is usually so small that few farmers cared to undertake beet culture unless a labor supply was assured. To obtain a sufficient acreage the sugar company was obliged to provide laborers. Local laborers are still used to some extent in localities where the acreage is small. Immigrant labor is more easily available, however, and can be handled to better advantage. The immigrants first employed were those races which were most easily secured. Germans were brought in from the far western fields in large numbers about three or four years ago, but they were found to be less satisfactory than the Belgians, the best laborers yet tried.[42]

By 1909, therefore, imported hand workers were all Belgians. In winter they worked in various industries in and around Detroit, principally at lumbering. These were largely single men recruited in Detroit and neighboring communities, largely with the aid of Belgian "saloonkeepers, boardinghouse keepers, and small shopkeepers."[43] In the fields they worked in gangs of usually five men, boarding themselves.

In the sugarcane fields of southern Louisiana similar incursions of Sicilians furnished for a time a substantial element in the harvest labor supply. The Industrial Commission reported:

> The season of cane cutting is known by Italians as "la zuccarata," and each year before "la zuccarata" thousands of Sicilians go from Italy and also from the Central and Northern States, to Louisiana and Mississippi; so there is a fluctuation of Sicilians from Louisiana and Mississippi the latter part of the winter, when "la zuccarata" is over, to the railroad and excavation works of the North, and from the North back again, early in the fall, before "la zuccarate" is begun.[44]

The principal sugar-beet producing state throughout most of the history of the beet-sugar industry has been Colorado. There the efforts to stimulate migration of laborers to the sugar-beet fields reached greatest proportions. These began almost at once when sugar factories were constructed, and were undertaken by the processing companies. The Immigration Commission reported:

> In the early years of the industry in Colorado, three different races of immigrants were imported from other States by the sugar companies. German-Russians were brought in from Grand Island, Nebr., by the trainload, and Mexicans were similarly brought in from Arizona, New Mexico, and El Paso, Tex. Many of those coming from El Paso are said to have been induced by liberal advertising to come directly from Mexico. Some Japanese were imported from California. In nearly all cases the fares of the laborers were paid by the sugar companies, and often they were provided with tickets for their return at the close of the season. This was true especially of the German-Russians who were first brought to southern Colorado. The first year (1899) that they were employed in that district 75 families were brought from Grand Island, Nebr., at the beginning of the thinning season and returned to Nebraska at the end of the year. More were secured in the same way the second and third years, but after that the increasing resident German-Russian population, together with unsolicited immigration from Nebraska and from Russia, was found to be sufficient to supply the needs of the labor situation, and the policy of furnishing railroad transportation was discontinued.[45]

Discontinuance of labor shipments was only temporary. Between 1915 and 1928, a period for which figures are available, the single company that dominates production in northeastern Colorado shipped more than 92,000 Mexican and Spanish-American seasonal laborers into its Colorado, Wyoming, Nebraska, and Montana territories. As many as 14,500 were transported in a single year, and never less than 500. These figures do not include those workers who transported themselves to the beet fields.[46]

Special efforts were made, including company assistance toward the workers willing to remain in the beet-producing area over the winter.

The success of this attempt in northeastern Colorado to diminish the volume of seasonal migration can be gauged by the increase in the number of Spanish-speaking laborers remaining there over the winter--from 537 in 1921 to 2,084 in 1927. These figures omit other than Spanish-speaking laborers who came to the beet area originally as laborers and later, in substantial numbers, became growers of sugar beets on their own account. By 1909, a decade after the first sugar factory, there were already 665 German-Russian, 133 Japanese, and 20 Mexican beet growers. In 1927 these numbers had risen, respectively, to 2,590, 191, and 153, or from a total in 1909 of 818, to a total in 1927 of 2,934.

FOOTNOTES

This study, except for final editing, was prepared in the middle 1940's. Attached hereto are four related, previously unprinted studies on migratory labor prepared in the mid-thirties and mid-forties by the present author. Reference is made additionally to the following previously printed studies on the same subject by the same author:

"Migratory Farm Labor in the United States," *U.S. Monthly Labor Review*, 44 (1937), 537-549.

"Migratory Agricultural Workers on the Pacific Coast," *American Sociological Review*, III (1938), 225-232.

"Adrift on the Land," Public Affairs Pamphlet No. 12 (1940), 31 pp.

"An American Exodus" (with Dorothea Lange), 1939, 1969.

"Good-by to the Homestead Farm: The Machines Advance in the Corn Belt," *Harpers Magazine*, May 1941, 589-597.

"Perspective on Housing Migratory Agricultural Laborers," *Land Economics*, XXVII (August 1951), 193-204.

Origins of Migratory Labor in the Wheat Belts of the Middle West and California. Hearings before Senate Subcommittee on Migratory Labor. 91st Cong., 1st and 2d sess., part 8-C, 1970, 6258-98.

"Hand Laborers in the Western Sugar Beet Industry," *Agricultural History*, XLI (1967), 19-35.

[1]U.S. Bureau of the Census. *Vegetables*, VI, pt. II, 1900, p. 307.

[2]Massachusetts Board of Agriculture Annual Report, 1954, 229-30.

[3]*New England Farmer*, IX (1887), 27.

[4]*Genessee Farmer*, XVII (1856), 45.

[5]U.S. Industrial Commission, XI (1901), 87.

[6]*New England Farmer*, VII (1929), 391.

[7]*Rural New Yorker*, VIII (1857), 205.

[8]*Genessee Farmer*, XIX (1856), 144.

[9]*Country Gentleman*, XXVIII (1866), 219.

[10]*New England Farmer*, IX (1831), 414.

[11]*Cultivator*, IV (1847), 336.

[12]*Country Gentleman*, XXXV (1870), 636.

[13]*Ibid.*, I (1853), 99.

[14]B. H. Hibbard, "History of Agriculture in Dane County, Wisconsin" (1904), 151.

[15]*Southern Cultivator*, XXV (1867), 132.

[16]*Country Gentleman*, XXVII (1866), 27.

[17]U.S. Bureau of the Census. *Vegetables*, VI, pt. II, 1900, p. 307.

[18]U.S. Immigration Commission, XXII, pt. 2, 519-530 *passim*.

[19]*Ibid.*, 525.

[20]*Ibid.*, 517.

[21]*Ibid.*, 539-40.

[22]*Ibid.*, 542.

[23]*Ibid.*, 547.

[24]*Ibid.*, 542-43.

[25]*Ibid.*, 559.

[26]*Country Gentleman*, XLVI (1881), 327.

[27]William M. Gilmartin, "Truck Farming in the United States: A Study of the Industrialization of Agriculture" (unpublished doctoral dissertation, University of California, Berkeley, 1942), 130, 142.

[28]"Truck Farming," Annual report of the U.S. Department of Agriculture, 1885, 388-9.

69-133 O - 73 - pt. 5B - 24

[29]See also Taylor, "Hand Laborers in the Western Sugar Beet Industry," *Agricultural History*, XLI (1967), 19-26.

[30]Industrial Commission, X (1901), 555.

[31]*Ibid.*, 574.

[32]*Ibid.*, XV, 531.

[33]*Ibid.*, 524-5.

[34]*Ibid.*, X, 555-6.

[35]Taylor, "Mexican Labor in the United States: Valley of the South Platte, Colorado" (1929), 103.

[36]Industrial Commission, XV (1901), 533.

[37]*Ibid.*, 547-8.

[38]*Loc. cit.*

[39]Immigration Commission, XXIV (1911), 145.

[40]*Ibid.*, 149.

[41]*Ibid.*, XXII, 566.

[42]*Ibid.*, 571.

[43]*Ibid.*, 569.

[44]Industrial Commission, XV (1901), 503.

[45]Immigration Commission, XXIV (1911), 117-18.

[46]"Mexican Labor in the U.S.," supra, note 35, 133.

WHAT SHALL WE DO WITH THEM?

By Paul S. Taylor
University of California

Address before the Commonwealth Club of California
San Francisco, April 15, 1938

We call them "Dust Bowlers." Ever since the droughts of 1934 and 1936 they have been streaming westward from the Great Plains. A count at the California border records the entry to our state by automobile alone of 221,000 refugees between the middle of 1935 and the end of 1937. More than four-fifths of them came from the drought states. In vivid phrases they tell us the tragedy of Nature: "Burned out, blowed out, eat out." What shall we do with them?

We call them "Dust Bowlers." But it is not only the parching of the Plains and the blowing of the topsoil which expels these people. If that were all, the return of rain to the dust bowl would end the exodus. But the causes are more deep-seated and more enduring than the hostile fluctuations of weather. At the close of the war, prices of cotton and of wheat collapsed, and with them, many thousands of rural families were shaken from their positions on the agricultural ladder. Farm owners lost the equities in their farms and became tenants; tenants were reduced to laborers, and farm laborers did what they could. This process, begun in the depression of the early twenties, was accelerated by the depression of the early thirties. Then came drought and grasshoppers, and whole sections of the rural population already loosened by the accumulating forces of successive depressions were finally dislodged by a catastrophe of Nature. Those not anchored by the farm program and the relief policies of the government are seeking refuge by flight.

Now the rains have come again to the Great Plains, yet the tide of refugees flowing westward scarcely slackens. The number of distressed migrants entering California during the last half of 1937 was 49,000, or only 12 per cent below the number coming during the last half of 1936 when drought was severe. And more migrants have come to California during the first quarter of 1938 than came during the first quarter of 1937. Clearly, other expelling forces than drought are at work. The effects of depression and recession are still accumulating, and now mechanization of the cotton farms is an added factor in the expulsion of farmers and farm laborers from the Cotton Belt.

We have long recognized the future displacement of southern cotton workers when a mechanical cotton picker shall have been perfected. But the serious displacement now in progress in the wake of the all-purpose farm tractor has been scarcely noticed by the public or recognized by the government. Yet tenant farmers, sharecroppers and farm laborers -- whites and Negroes alike -- are being swept from the land and onto relief in some of the most important sections of the Cotton Belt. Planters are dispensing with their sharecroppers and tenants, retaining the few necessary to operate

tractors, and paying them by the day when they work. A cotton planter in the Mississippi Delta, to cite an outstanding example, had 160 sharecropper families. He purchased 22 tractors and 13 four-row cultivators, let go 130 out of 160 of these families, and retained only 30 for day labor.

Where the tractors are appearing the rural landscape is strewn with abandoned houses. Residents in western Texas explain as they point:

> "There used to be two families out there. The tractor got both of them." "That farm has made a living for a family ever since the land was broke." "The tractors are keeping our families from making a living."

Rural schools decline. Village merchants fail. Drought undermined them, and mechanized farming finishes them. Class bitterness is stirred, and even the government program intended to benefit the farmer becomes a focus of strife. A small town postmaster explained: "The landlords get the government crop reduction money and buy tractors with it, and it's putting the renters out. The landlords take all the reduction money. If the tenants don't give 'em all, they put 'em off." From those who already have been dispossessed from the land this story of the machine comes in bitterness and despair. From those who face the same fate the story comes in stark fear.

On a Sunday morning last June I stopped at a tenant's house near the Texas Panhandle. There I found seven sturdy young men gathered together for the morning. These Texans are all displaced tenant farmers, victims of mechanized farming. The oldest man in the group is 33. All are on W.P.A. They support an average of four persons each on $22.80 a month. All are married and have families except one, who supports his mother and father. These seven Texans represent and support 29 persons. Native Americans all, none of them can vote, for Texas levies a poll tax of $3.50 on man and wife. These men, like hundreds of others, find nothing they can turn to on the Plains where they were born. They search for 200 miles in every direction and find no places which they can rent. With mechanization, the size of farms is increasing, and little is left for the tenants but sub-marginal land, relief, or flight.

This process of sweeping farmers from the land is now under way in western Texas, southwestern Oklahoma, the Black Wax Prairie of Texas, the Arkansas and Mississippi Deltas, and it is incipient in other areas. In 1930 the proportion of farm tractors in the United States which was found on farms of the ten southern cotton states was only 12 per cent. By 1937 it had risen to 18 per cent. In seven years the number of tractors in the cotton states has practically doubled.

The record of power farming in cutting cotton workers from the land is already impressive. Tenants, sharecroppers, and laborers are forced into the towns in large numbers and drawn back onto the farms for only short seasonal employment at chopping and picking time. A pattern of mobile cotton workers is spreading, with planters dependent on wage laborers imported seasonally from more and more distant towns and cities. On a Saturday morning last June I watched from 1000 to 1500 cotton hoers crowded into huge trucks

in Memphis, Tennessee, to be hauled to plantations as far as 43 miles each way for the day's work. The trucks left between 5 and 5:30 in the morning, and returned as late as 8:30 in the evening. Mostly the laborers were former sharecroppers, going back to hoe cotton for $1 or $1.25 a day, cut from the land. The cotton worker's year thus is being divided into occasional employment by the day on the plantations between May and December, and virtual idleness in the towns from December to May. The burden grows of relief of unemployed farm laborers congregated in the towns and cities of the South.

As Californians, we have felt remote from the critical problems facing the population of the Cotton Belt. But our feeling is founded upon illusion, for the Southern regional problem is national in its repercussions. California's stake in its solution is direct and immediate, for people in distress do not like to remain where they see no opportunity. Outlets will be sought wherever they seem to exist. Already from the western portion of the old Cotton Belt the victims of mechanized farming are moving West. Six weeks ago at a camp of migratory agricultural workers in the San Joaquin Valley I talked with families expelled by mechanized farming from the three states of Texas, Oklahoma, and Arkansas. From 1935 to 1937 the common explanations of the refugees were "went broke" and "the cotton burned up." Now we are beginning to hear "tractored out."

What can these people do? Where can they go? They try relief in the towns, and seasonal labor in the cotton. They try to scratch out a living on the sandy and exhausted farms of their native states. They seek a precarious foothold on cut-over lands of the Pacific Northwest. They try for jobs in the shrinking labor markets of the industrial North. They join the migratory agricultural laborers of Arizona, Oregon, Washington and California in the West, and of Florida in the Southeast. Most of those who leave the Cotton Belt come west. The time has certainly arrived when as a Nation, as well as a State, we must ask the question, "What shall we do with them?"

First there is the problem of relief in California. We all know that refugee families are often destitute when they arrive, or commonly they become so during slack seasons. We all know that during recent weeks the Farm Security Administration has been obliged against the wishes of State authorities to relieve the distress of more than 9,000 families who have been in our State less than one year. With prospects of more refugees to come, we are apprehensive and alarmed at the cost. We are harried by the fear that indigent refugees will acquire by a year's residence the legal right to continuing relief at our expense. In this state of mind, our California agencies have taken stern measures. The chief of police of Los Angeles tried illegally to blockade the border. Our state administration now denies relief from state funds, and also denies access to Federal W.P.A. funds to those in distress during their first year in California. If they apply for needed assistance, we give these transients only temporary relief while their residence in another state is being verified. Then we offer to pay their transportation back. If they refuse, we grant no further relief, and they must shift for themselves.

The states from which the refugee families depart increasingly are reluctant to accept the return of their distressed families, even at our expense. Authorities of Arkansas, for example, have recently advised the transient whose transportation back California is ready to pay, that relief funds in Arkansas are inadequate, that granting relief there usually involves delay, and that sometimes it is impossible to give any aid at all to persons in need. As a further deterrent this Arkansas citizen in distress in California is required to write back home "explaining...why you think that coming to Arkansas will be the best plan for you" before Arkansas authorities will decide whether or not they will authorize return. In a letter dated February 23, 1938, the welfare director of a county in South Dakota denies any responsibility at all for a family in distress in California which left his county only a few months ago. He writes to our authorities:

> "...We wish to advise that Mr. Ford left South Dakota in the fall of 1937 for the purpose of establishing a home. Therefore he does not have a South Dakota state settlement and authorization for his return cannot be secured. We trust the above information will be of some assistance to you in planning for your client."

Other states impose similar obstructions.

Thus the states of emigration vie with us and with the other states of immigration in seeking to avoid responsibility for destitute farm families who have enough initiative to seek economic opportunity through migration.

The futility of our relief procedure is understood by the refugees themselves, who generally adopt one of two courses:

(1) If they want a temporary pleasure trip home from the coast, they accept California's offer to pay their transportation back. A letter dated February 2, 1938 from the county relief administrator of LeFlore County, Oklahoma, who figuratively throws up his hands at the whole proceeding, reveals the situation:

> "...I wish to advise that it is humanly impossible for me to investigate and establish citizenship in this county of families desiring to return from California.
>
> "In this department I have no case workers and the County being the third largest in the State, it is all I can possibly do to look after the people now in this county. In the past I have authorized the return of a goodly number of families from your state, and after they paid a short visit to their relatives and friends, they all returned to California, with one exception. In view of this fact I feel that it is an imposition upon your state as well as a burden on myself to investigate these cases and authorize return from which it seems, that in all cases, it is just for a visit."

(2) If they do not accept their transportation home "for a visit," and the great majority do not, they simply tighten their belts, and with the aid of friends and intermittent work stick it out until a year's sojourn within the borders of California gives them the legal right to demand relief from our state.

We may as well face the fact that we cannot stem the tide by withholding relief from the destitute men, women, and children who are taking refuge within our borders. Our western growers and labor contractors invite and even aid some of them to come -- both whites and Negroes. But they need no specific invitation, for we use them to harvest our crops and they are turning their backs on closing opportunities at home. However meager their existence as migrants on the Pacific Coast, it offers more than the prospect of indefinite dependence on relief at home. So long as this differential in opportunity exists, they will continue to come. As an attempt to check migration, therefore, our present relief policy is futile.

This is not to say that state administrators and state legislators are either perfidious or inhumane. Their failure to meet the distress of the migrants lies in the fact that the problem inherently transcends state powers and responsibilities. It cannot be left safely to the several states.

What shall we do? A California Representative has introduced in Congress a bill providing federal reimbursement to the states for relief granted to transients, prescribing uniform state residence standards, and interposing a check to this growth of a population legally without home, by requiring that residence in one state shall not be lost until it is acquired in another.

Some Californians, our State Relief Administration and State Chamber of Commerce among them, believe that this bill introduced by Congressman Voorhis should specify state residence requirements more stringent than self-maintenance without relief during 14 months out of 24. But before pressing for serious modification of the terms of prospective federal aid we Californians will do well to remember two facts: First, we are asking 48 states to vote money which will go mainly to a half dozen states, and primarily to our own. Second, if by insistence we jeopardize passage of a bill extending federal aid, the burden of relieving these people falls on us both legally and in fact, at the end of one year's residence in California. It seems plain, therefore, that not only common humanity but state economy as well, dictate that we urge the California delegation in Washington to demand passage of the Voorhis bill.

But relief of the distressed is not the only problem which centers about these people. Two years and a half ago in this forum I outlined a program for the abolition of squatters' camps in our state. I can report substantial progress in that direction. The Farm Security Administration now maintains seven sanitary camps for migrants. Visit these camps as you drive through the southern San Joaquin Valley at Shafter or Arvin, at Indio in the Coachilla Valley, at Brawley in the Imperial, or at Marysville in the Sacramento Valley. These camps are accomplishing what was promised of

them, by promoting public health and sanitation and raising morale. In addition to the seven camps already in operation, three more are under construction.

But the task is not ended. Preventable disease still stalks the migrants and endangers the public health. In 1936 most of the typhoid cases in our state originated among the migrants. This year typhoid has again broken out on their trail. It started among the pea pickers at Calipatria in February, and promptly was carried to the San Joaquin Valley. Smallpox, too, has appeared. Prompt measures by the State Department of Public Health, which has just administered 20,000 inoculations for typhoid and 56,000 vaccinations for smallpox, have checked the spread of these diseases. When the migrants need medical care and lack the money to pay for it, they face two alternatives. Either they are rejected by the county hospital authorities on the ground they are not residents, and so fail to receive treatment, suffer needlessly, and endanger the health of the community; or else they are accepted reluctantly, and the heavy cost of their care is imposed on the counties where they happen to be when they fall sick. Both alternatives are undesirable.

What, then, shall we do next about the problem of public health, sanitation, and medical care? First, the State Division of Immigration and Housing, which is responsible for inspecting labor camps, has been crippled. We should strengthen it. Second, we should ask the federal government to share the costs of medical care of transients. These steps we should take for our own protection as well as for the protection of the agricultural workers.

And in addition, we should extend to agricultural workers the protection of social security laws, which, granted them in England and a dozen other countries, is still denied them in the United States.

Thus far I have answered your question "What shall we do with them?" in these terms: We cannot stop them from coming by refusing to give them relief in California when they need it. They are forced from their own communities; directly and indirectly we invite them; we use their labor. Not only are they here by tens of thousands of families, but more are coming. These simple facts we must face. It follows as elementary, therefore, that whether we like them or not, we dare not tolerate in our midst their hunger and the malnutrition of their children, their unsanitary living conditions, and their disease. Neither the State of California nor the United States can postpone or avoid this responsibility.

But in your minds lie questions deeper than those which I have answered. You wish to know: Is there nothing we can do to check this stream of refugees which pours in upon us and threatens even to grow larger? Is there nothing we can do to so incorporate into our economic life those migrants whom we must receive, that the problems of relief, health, housing, and industrial strife which are now so pressing may not permanently afflict our agriculture? In brief, we face the question: What can we do to introduce some stability into a situation now marked by disintegration, chaos, misery, and conflict? It is to this fundamental issue that I now turn.

The Great Plains and the southern Cotton Belt, I have already pointed out, are suffering the dislodgment of their farm people because of various forces, among them drought and mechanization of the farms. Since we are receiving their dispossessed, it is logical and proper that we demand of those areas that they shall put their house in order, and provide the basis for maintaining at home the maximum number of their own people which those regions can support according to an American standard of living. In the Great Plains this means the fullest development of its potential water resources, the proper agricultural practices to conserve moisture, and the proper balance between crops and grass.

In the Cotton Belt more drastic and sustained measures are necessary. In from three to five generations our American ancestors, under the cotton plantation system, have mined the soil of its fertility and even destroyed the topography of its rolling surface. In the Piedmont especially the fields are badly gullied, and large sections of the country which were the most fertile, are almost irretrievably lost to agricultural production. In many sections, the yield of cotton per acre is maintained only by the heavy use of costly chemical fertilizers. If the South is not to dislodge millions of her rural people, she must abandon the one-crop cotton complex, expand animal husbandry, develop a more diversified and self-sustaining agriculture, and undertake upon an even greater scale the conservation and restoration of her depleted soils.

In both the Great Plains and upon the better lands of the Cotton Belt the progress of mechanization is spreading the pattern of the large-scale industrialized farm with which we are so familiar in California. The progress of the machine cannot and should not be halted, but the pattern in which it leaves farm people on the land should not be left to uncontrolled forces if human stability is to be achieved. I shall speak further of this problem shortly when I refer to our own rural structure.

What shall we say about the Great Plains and the Cotton Belt? We should insist that they carry through the reforms of their agricultural structure and practices that their own thoughtful people are urging. We should insist that they carry out the policies indicated in the reports of the Committees on the Great Plains and on Farm Tenancy. The tenancy program, basic to stabilization in the South, has been held in Congress to a snail's pace. Because we receive those who are being dislodged in the South, and face the prospect of receiving more, California should insist that these agricultural reforms go forward. Our State should use its full influence in Washington to ensure adequate national support for the stabilization of the rural structures and peoples of the South and of the Plains.

It may be that deterioration of the soil and over-expansion of agriculture have already gone so far that surplus population in these regions must be squeezed out, even with a program of agricultural reform. Indeed, this is the view of our most careful students. If this be true, we should insist that the advantages of supporting surplus populations in those regions

which produced them, on relief if necessary, be balanced against their opportunities for self-support elsewhere. They should not be cut adrift, or even encouraged to leave by shoddy relief policies at home.

This answer to the question "What can we do to check the stream of refugees?" will be unsatisfactory to Californians, but it seems in accord with the basic facts. If stabilization of the rural population in the South and Great Plains offers little hope of checking the flight of refugees immediately, at least it promises for the long run a balance between population and land which will not easily expel new waves of migrants in the future.

The final question remains: What can we do to so incorporate in the economic life of California those migrants whom we must receive, that the pressing problems of relief, health, housing, and incessant strife may not permanently afflict our agriculture?

Our first thought goes naturally to the land, and to the great reservoirs which the Reclamation Service is building in the West -- Columbia Basin, the Central Valley project, Boulder Dam, and others. If new farms were rapidly being brought under irrigation in the years immediately ahead a ready answer might be at hand. The Columbia Basin project alone will ultimately irrigate 1,200,000 acres of land, or half of the total of land to be irrigated by all 12 of the Reclamation projects in the West. But the Columbia Basin will not be ready for any settlement within 5 years, and the last unit will not be ready for at least 30 years. The United States Commissioner of Reclamation, John C. Page, states of all these projects that "at no time in the next 10 years will we be able to offer for settlement more than 150,000 acres in any one year." This implies that in no year during the next ten will new irrigation provide settlement for more than, say, 2,000 families. The Commissioner dashed effectively the hope that new irrigation will resettle the refugees to the West when he said in January, 1938: "The Columbia Basin project, if it were finished at this time, would provide homes for less than half of the farm families already driven by drought from the Great Plains alone." The frontier is gone, and there are few new lands. If we are to solve our problem, we must solve it upon the lands which we now farm.

We are all familiar with the basic facts of farm organization in California, particularly the large-scale industrialized type which predominates in those areas to which the refugees are attracted. More than one-third of all the large-scale farms of the United States are concentrated in our State. Absentee and corporation ownership are common, hiring and firing practices follow the old industrial pattern, and a roving, landless proletariat provides the shifting peak labor supply upon which the crops depend. Our most acute rural problems are inseparable from this type of agriculture -- destituti restless workers, incipient labor organization, violent strikes, nervous and scarcely concealed vigilantism. It is the refugees and others now working in this type of agriculture that we mean when we say, "What shall we do with them?"

Our problem is how to introduce stability where there is none. As a first step we can stabilize many of the migrants on small garden plots of ground, adjacent to as much employment as possible, where they can raise a portion of their subsistence, live in a decent house, and keep the children in one school as long as possible. From this base the father and older sons can migrate when necessary. At Arvin in Kern County, 20 of these houses located each on two-thirds of an acre of land, are already occupied by farm laborers' families which rent them for $8.20 a month. The Farm Security Administration has allocated funds for 150 more of these houses in California and has let contracts for 80 of them.

As a second step, we can select some families according to capacity, and stabilize them at a higher level by similarly locating and providing them with low-rental housing, and in addition, equipping them to supply themselves through a cooperative with dairy, poultry, and vegetable products. Units of this type have already been started in California and Arizona.

These two steps will stabilize and elevate the standard of living of the migrants as laborers. But we still hold in this country to the belief that there should be opportunity for those at the bottom to ascend the agricultural ladder. A third step we can take, therefore, is to establish landless farm families as operators on farms. Where land and other conditions are favorable, every advantage should be taken of the economies of machine methods and low overhead through large-scale operation. In the interest of consumer as well as producer, the economies of corporate farming so fully developed in the West should be retained. But instead of resident corporation managers on huge tracts employing hordes of landless laborers, could we not establish large corporate farms operated by resident farmers working cooperatively under competent management, and sharing the proceeds? The Farm Security Administration is now operating a few farms of this type in the West and South. They are aimed not only to give opportunity to farmers who are landless. They are planned to establish a type of farm organization which will produce economically, prevent the deep divisions that now rend our countryside, and introduce stability among those who live from the land.

These measures are suited particularly to the portions of the old South and West, where mechanization and industrialization of agriculture are now producing the greatest human dislocation and turmoil. They should have a major place in the national farm program. The Department of Agriculture must face its full responsibilities.

THE MIGRANTS AND CALIFORNIA'S FUTURE

The trek to California, and the trek in California

By

Dr. Paul S. Taylor, Regional Labor Adviser
Resettlement Administration

Address before Commonwealth Club of California, 1935

A new common refrain has appeared in the headlines of our newspapers. We are told that California is menaced by an "influx of indigents," of "paupers," of "jobless." A Los Angeles 'columnist' cries in alarm: "That 5000 indigents are coming into southern California" ... leaves one appalled. This is the gravest problem before the United States ... these tattered migrations." Lamenting our good roads he adds: "The Chinese, wiser than we, have delayed building a great system of highways for that very reason--to head off these dangerous migrations--indigent people stampeding from the farms into cities to live on charity." In June an aroused state assembly passed a bill to debar from California "indigents and persons likely to become public charges," but cooler counsel prevailed in the Senate and the bill failed to become law.

Interested, but more aloof, the national magazines have taken up the story under the titles "California, here we come," and "Again the covered wagon." And they even ridicule us Californians, as does Walter Davenport in Collier's, that "All this migration of the unemployed" is "a part of (our) reward for all the milk-and-honey ballyhoo (we) had been broadcasting for years. Come live in southern California for the good of your soul, (we) used to sign ... In California, (we) once told them you live life; elsewhere you merely spend it ... 'Even the tears one sheds in California are tears of gladness.'" So effectively have we "sold" our state that out of every five native white Americans now in California, three are literally "immigrants" to this State. Perhaps we Californians, native and "immigrant," can't complain too much that we are the Mecca of the nation, and that even the distressed have heard our praises and our appeals.

Stand today at the highway portals of California; particularly at the southeastern border. See the shiny cars of tourists; the huge trucks of commerce, the equipment of campers, as they roll by. And at intervals the slow-moving and conspicuous cars loaded with the refugees from drought and depression in other states. They travel in old automobiles and light trucks, some of them home-made, and frequently with trailers behind. All their worldly possessions are piled on the car and covered with old canvas or ragged bedding, with perhaps bedsprings atop, a small iron cook-stove on the running board, a battered trunk, lantern, and galvanized iron washtub tied on behind. Children, aunts, grandmothers and a dog are jammed into the car, stretching its capacity incredibly. A neighbor boy sprawls on top of the loaded trailer.

Most of the refugees are in obvious distress. Clothing is sometimes neat and in good condition, particularly if the emigrants left last fall, came via Arizona, and made a little money in the cotton harvest there.

But sometimes it is literally in tatters. At worst, these people lack money even for a California auto license. Asked for the $3 fee, a mother with six children and only $3.40 replied, "That's food for my babies!" She was allowed to proceed without a license.

Are these people riff-raff? Are they the almost unmitigated "moochers" that some declare? Are they an "invading horde of idle," as the newspapers call them? After having seen hundreds of them all the way from Yuma to Marysville, I cannot subscribe to this view. These people are victims of dust storms, of drought which preceded the dust, of protracted depression which preceded the drought. "It seems like God has forsaken us back there in Arkansas," said a former farm-owner at a San Luis Obispo pea-pickers' camp. "The cotton burned up" is their common story. They are largely farmers who have been carrying on agriculture on the family pattern which has been so long regarded as the great source of stability in our nation. One of them, recently picking fruit with his family in the Sacramento Valley, told succinctly this story of his decline from farmer to farm laborer: 1927--made $7,000 as a cotton farmer in Texas; 1928--broke even; 1929--went in the hole; 1930--deeper; 1931--lost everything; 1932--hit the road; 1935--serving the farmers of California as a "fruit tramp."

It is not only despair, but hope that draws the refugees to California, hope of finding work, of keeping off or getting off relief, of maintaining morale, of finding surcease of trouble; yes, and the climate which even the poorest can share. "We haven't had to have no help yet. Lots of 'em have, but we haven't," said Oklahoma pea-pickers on El Camino Real at Mission San Jose. "Relief? I wouldn't have it no way it was fixed." "All I want is a chance to make an honest living."--"When a person's able to work, what's the use of begging? We ain't that kind of people," said elderly pea-pickers near Calipatria.

Of course there are some persons who come to California simply as "touring transients" seeking more and better relief. The announced cessation of transient service relief and the program of the Works Progress Administration are intended to remove inducements to this type. But "transients" are not to be confused with "migrants." The great majority of those in distress who trek to our state avoid entirely or leave as soon as possible the "transient" class, i.e., persons on Federal relief, with residence in another state. They join the "migrants" of California, i.e., persons who seek a living by work, following the crops. When relief is genuinely needed by these people to tide them over, there is usually genuine gratitude. "If it hadn't been for the relief groceries, what would we 'a' done? We think it's awful good in them to give us." But their real temper was expressed by a southwestern refugee encamped as a migrant on a dreary field at Shafter: "So many give up and stayed; they just give up everything. This is a hard life to swallow, but we can't just sit there and look to somebody to feed us."

White Americans predominate among the emigrants. Long, lanky Oklahomans with small heads, blue eyes, an Abe Lincoln cut to the thighs, and surrounded by tow-headed children; bronzed Texans with a drawl, clean-cut features and an aggressive spirit; men and women from Arizona, Arkansas, New Mexico, Missouri, and Kansas.

During the four months ending October 15, more than 30,500 men, women, and children--members of parties "in need of manual employment"--entered California in motor vehicles bearing out-of-state licenses, or probably about six percent of all persons entering in vehicles with out-of-state licenses. Largely they are refugees from drought and depression elsewhere. Thirty-five percent of them came from the three states of Texas, Oklahoma, and Arizona. Many refugees have already returned to the states whence they came, others will return. What the net permanent human deposit from this migration to our state will be, only the future can tell. Riff-raff? Probably no more than in every great migration. The weak are matched by the strong, the hardy, and the adventurous who seek in the west a new hold on life. Indigents? They are poor and in distress and many have had to take relief before they could obtain employment. When they arrive in our fertile valleys, without work or with insufficient work, they are the most ragged, half-starved, forgotten element in our population, needy, the butt of the jibes of those who look down on "pea-pickers" and "fruit tramps," but with a surprising morale in the midst of misery, and a will to work. These people are not hand-picked failures. They are the human materials cruelly dislocated by the processes of social erosion. They have been scattered like the dust of their farms, literally blown out. And they trek into California, these American whites, at the end of a long immigrant line of Chinese, Japanese, Koreans, Negroes, Hindustanis, Mexicans, Filipinos, to serve the crops and farmers of our state.

The catastrophic dislocation of people is always dramatic. It stirs our emotions, and rightly so. We cannot remain unmoved while distress pours into our highways and byways. But in viewing the trek to California of the drought refugees, let us not lose this perspective. Rural migration and the hardship and social instability which it entails, is not new to us, but old. For forty years or more laborers have been moving ceaselessly about our state with the seasons, following the crops. In 1927 the State Department of Education enumerated 37,000 migratory children alone. The best present estimates place the number of men, women, and children who migrate at some time during the year to work in the crops of California at from 150,000 to 200,000. Here lies the major, permanent, and almost unique rural labor problem of California. The drought refugees, merging with the much greater mass of milling hordes which continually moves up and down the valleys of our state, have taken the spotlight, but we Californians know that in the incessant movement of our own migrants center the problems which we must attack. To this perennial phenomenon of our state, I invite your attention for the remainder of this discussion.

Some aspects of the farm labor problem of California have been illuminated rather fully in the forums of our state. You have listened to discussions of the "embattled farmers" and the "communists," and enquired whether the radicals can "capture the farms of California." I do not propose to discuss rural labor in the term of belligerency, of right and wrong, of law, or of patriotism, however defined. I intend rather to invite your consideration of some of the basic economic facts which underlie the agricultural structure and process in our state as they affect labor, and in affecting labor, affect us all.

The history of California agriculture can be written largely in terms of the shift from extensive crops to intensive crops. The dry farms, using mechanical methods of harvesting, which used to fill with grain the holds of sailing ships from all parts of the world, no longer predominate. With irrigation have come intensive crops with heavy demand for hand labor; citrus, grapes, fruit, vegetables, melons, cotton. In 1879 the value of intensive crops represented less than four percent of the total value of California agricultural production. In 1929, only a half-century later, intensive crops represented not four percent, but practically four-fifths of the total, or 78 percent. Here lies the real explanation of the great migrations of the past which have given California its Oriental and Mexican labor populations and of the whiter migration of recent years and months.

Together with the rise of intensive crops is the large scale of the operations by which these crops are produced. The large farm is very prominent in our rural economy, and the large grower, as is well known, exercises great influence in the counsels of agricultural employers. More than one-third of all the large-scale farms in the entire country are located in California. Of all farms in the United States whose product is valued at $30,000 or above, nearly 37 percent are found in our own state. California has within its borders 30 percent of the large-scale cotton farms of the country, 41 percent of the large-scale dairy farms, 44 percent of the large-scale general farms, 53 percent of the large-scale poultry farms, 60 percent of the large-scale truck farms, and 60 percent of the large-scale fruit farms of the United States.

Together with crop intensification and large-scale production organization, have come commercialization of agriculture, higher capitalization, increased production for a cash market, and a high cash expenditure for wage labor. In Mississippi, typical of southern cotton culture, the average cash expenditure per farm for farm labor was only $137 in 1929. In Iowa, typical of the Middle West, the average expenditure was $323. In the United States as a whole, the average was $363 per annum. In California, the average cash expenditure on farm labor, per farm reporting, was $1,438, the highest of any state in the Union, and almost four times the national average.

All these factors--the growth of intensive agriculture, highly capitalized, large-scale farming methods, and concentrated ownership, huge payments to farm labor--together have given us an industrialized agriculture, a system of open-air food factories, it might almost be called. Wage relations are highly developed, gang labor is employed, with foremen and sub-foremen. Elaborate piece rates are set up, with bonus payments. Farmers' agents recruit and distribute laborers. The state maintains labor commissioners who aid rural laborers to collect unpaid wages, just as they aid urban workers. Sporadic efforts are made at collective bargaining.

The rural wage-earning population so created, is, proportionately, the largest rural wage-earning class in any state of the Union. According to the census of 1930, barely 10 percent of all persons gainfully employed in agriculture in Mississippi were paid farm laborers. In the entire United States the percentage of farm laborers was 26. In Iowa it was 27. In California, paid farm laborers constituted 57 percent of all persons gainfully

employed in agriculture. This was more than double the national average, and was the highest proportion of paid farm laborers in any state. In other words, of all persons gainfully engaged in agriculture--owners, tenants, managers, laborers--only one in ten were paid laborers in Mississippi, and one in four in the United States. But in California more than half were paid laborers.

By reason of the intensification of our agriculture, then, and the economic structure which developed it, we have built up in our midst a rural proletariat, if you will, largely of alien race, propertyless, and without ties, protective or otherwise, to the soil which they till. We have deviated far from the American homestead pattern of the family farm, which survives in many parts of the country and in our national ideals.

Not only is our agricultural labor class large; it is also highly mobile, living a large part of the year almost literally "on wheels." The automobiles of the laborers are not luxuries. To even the poorest they are vital necessities of life. And the cost of their operation and upkeep cuts a large figure in the family budget. The car must be fed gasoline and oil to make the next harvest, or to get to and from the fields, and its wheels must be kept shod more carefully than the feet of the children. "The way the world's on wheels now, you've got to have gas and eats, and we don't get no more," said migrants at Marysville.

From Imperial Valley the migrants follow the harvest to the San Joaquin, Santa Clara, and Sacramento Valleys, a distance of from 360 to 550 miles each way by air line, and much longer by road. Within each valley they move about, from camp to field, field to camp, and ranch to ranch. During August, 1927, 11,500 Mexican laborers and their families, or a sustained daily average of 370, were counted moving north by motor vehicle over the Ridge Route to the San Joaquin Valley. Many more moved than were counted.

California migrants work also in other states: the Hood River and Yakima Valleys of Oregon and Washington, the Arkansas Valley of Colorado, the Salt River Valley of Arizona. In August, Mexicans from California harvested the pea fields of Idaho. During the two months ending October 15, 7,600 California men, women, and children, migrants "in need of manual employment," returned to our state by motor vehicle. This number was almost one-fourth as great as the entries during the same period of needy workers and their families in cars bearing out-of-state licenses.

The life of the migrants is hard. It is not a successions of vacation camping trips. Employment is intermittent, jobs are often precarious, and annual income is low. "We like to work and not just set around. I'd rather do anything but set around, but they just ain't no chance here in California, seems like," said a Kern County migrant last spring. "Livin'? It's kind of sorry. You work a while, then lay up a little, then go broke, and then move." "You wait for work two weeks," then "fight like flies for the work." "You eat it up faster than you can make it." A common estimate among employers and observers, of the average annual earnings of migrants is between $350 and $400.

Incessant migration retards the education of children. A few American parents are beginning to complain that their children cannot write as good English as they. There is growing conscicusness that for many of their kind the future portends not progress from generation to generation, but retrogression. "These days people can't raise children as good as themselves," said a fruit tramp at Winters. "My children ain't raised decent like I was raised by my father. There was no 'rag houses' then ... but I can't make it," was the cry of a cherry picker.

The development of normal relationships between citizen and community, and between employer and employee, is not favored by constant movement. "My father was a track foreman at $1.25 a day, but we lived in a house and everybody knew us," said a fruit tramp. "This rancher has us for two or three weeks, and then he's through with me. He knows me till he's through with me." "Residenters" look askance at the nomads, and treat them as "outlanders." Children are stigmatized at school as "pea pickers."

Migrants are homeless, and at the mercy of whatever quarters may be available. In the increase of squatters' camps by the roadside, in the creek bottoms, or "no man's land," depression has dealt them a heavy blow. The California Division of Immigration and Housing describes these social pockmarks:

> "Groups of persons arrive at any given community and start a camp. No provision is made for sanitation, water supply, or even general camp cleanliness. Such housing accommodations as they may have is eked out by wood, tin, or such cast-off material as can be obtained in the vicinity. A sorry picture is presented of a condition that threatens to be a serious menace to those communities where squatter camps exist. Moving the occupants away simply spreads the condition and local authorities are loath to act against people who came there in the hope of securing some employment. The division's attention has been called to a number of these squatter camps during the last winter, but has no legal authority to take remedial steps..."

At a Sacramento Valley squatters' camp there were only two privies, both filthy, for 500 people, and the water supply was contaminated. At a camp in Kern County, water was obtained only from the nearest service station, at 5 cents a bucket. The United States Special Commission on Agricultural Labor Disturbances in Imperial Valley in its report dated February 11, 1934, stated:

> "Living and sanitary conditions are a serious and irritating factor in the unrest we found in the Imperial Valley. We visited the quarters of the cities where live Mexicans, Negroes, and others. We inspected the temporary camps of the pea-pickers, and know that they are similar to the camps that will serve as places of abode for workers in the fields when melons are gathered. This report must state that we found filth, squalor, an entire absence of sanitation, and a crowding of human beings

into totally inadequate tents or crude structures built of boards, weeds and anything that was found at hand to give a pitiful semblance of a home at its worst. Words cannot describe some of the conditions we saw. During the warm weather, when the temperature rises considerably above 100 degrees, the flies and insects become a pest, the children are fretful, the attitude of some of the parents can be imagined, and innumerable inconveniences add to the general discomfort. In this environment there is bred a social sullenness that is to be deplored, but which can be understood by those who have viewed the scenes that violate all the recognized standards of living ... It is horrible that children are reared in an environment as pitiable as that which we saw in more than one locality."

For more than a score of years the state camp inspectors of the Division of Immigration and Housing have done yeoman work. Struggling against the obstacles of public apathy, inadequate staffs, resistance of employers unwilling or unable to do better, reluctance of local officials to apply penalties to their neighbors for violation of state camp sanitation laws, they have sought ceaselessly to attain better conditions by enforcement and by education. Some ranchers, notably larger farmers with long crop seasons, have been fully cognizant of the need, and have established good labor camps.

But even after all the efforts by enlightened and financially capable employers, and by state camp inspectors, the living conditions of scores of thousands of men, women, and children are actually growing worse, as the increase of squatters' camps plainly demonstrates. The situation has got beyond finding someone to blame. Smaller farmers are financially unable to provide for the numerous workers and their families whose services they require only two or three weeks a year. And the squatters' camps, not located on the land of the employer, are not subject to the jurisdiction of state inspectors. If inspectors bring too much pressure to raise ranch camp standards, the farmer may refuse to house his laborers at all. In that event, their only recourse is to a squatter's camp, worse even than the camp of the farmer. Then they have sunk to the bottom, where human deterioration is inevitable. As a squatter said, "Livin' a bum's life soon makes a bum out of you. You get started and you can't stop."

The hand of government should be extended to ameliorate the hardships of our largest agricultural group. Acting on this belief, the State Division of Rural Rehabilitation of the Federal Resettlement Administration, under direction of Harry Drobish, has engaged in study of the problem and has conferred with interested persons of all shades of opinion. The Division is now conducting two experimental camps for migrants, one at Marysville, the other in Kern County. Both have been constructed with cooperation from the State Emergency Relief Administration, and upon express invitation from, and with generous financial cooperation of the local authorities. The camps provide minimum decencies for migrants: healthful site, pure water supply, sanitary toilets and garbage disposal, shower baths with hot and cold water, and

simple laundry facilities. Competent supervision will insure observance of reasonable regulations for maintenance of sanitation and order. It will provide leadership for recreational and cultural programs for adults and the children.

Friends of the effort to eliminate squatters' camps have felt some apprehension lest under the tension which prevails, large growers or vigilante groups might oppose establishment of decent public camps for migrants. To a very limited extent this may be true, but the attitude of the smaller farmers and many of the large growers is distinctly friendly. At the Marysville camp, large and small growers and townsfolk have alike welcomed the camp, declaring it a measure of public welfare, and a boon to growers, to migrant workers, and to business.

Decent camps are not a palliative, for they are necessary to meet a permanent characteristic of California agriculture which demands mobile, seasonal labor. Nor do they induce excessive mobility. Migrant camps neither extend relief, nor will a chain of them alter the distribution of the relief load among counties. They simply make it possible for those who do migrate in search of work to move from one decent camp to another, instead of from one wretched camp to another.

The State Division of the Resettlement Administration is now considering the erection of from 15 to 20 more camps with Federal aid, and it welcomes public support. As a second step, the Resettlement Administration is considering a plan to establish selected laborers and farmers who have lost their farms, on small plots of good land with decent homes, in order to provide greater stability, and a chance to regain full economic independence. As part of a broader program of rehabilitation and resettlement, therefore, migrant camps have unique value. Not only do they contribute to the abolition of squatter camps; they serve also as reservoirs from which distressed farm people can be filtered upward and selectively re-established on part-time farms, as tenants, and even assisted back to the ranks of farm owners. Thus for some, camps will constitute a first rung in a reconstructed agricultural ladder, which they can ascend in traditional American fashion according to their abilities.

In the interest of laborers, growers, and the public, alike, it is imperative that measures be taken. It will not do to argue that the migrants are a low class, unworthy and incapable of improvement, or that many are aliens. Without resorting to sound sociological generalizations, it is easy to see that large numbers of migrants have lived far better in the recent past than now. "We ain't the chasin' around kind. Never did this before," said migrants in the southern San Joaquin Valley. A Federal conciliator points out: "It may be true that alien Mexicans ... live better in Imperial Valley than they do in their own country, but this cannot constitute an excuse for countenancing poverty and squalor in the United States." At Marysville one hears, "Tain't hardly fair. They holler that we ain't citizens, but their fruit would rot if we didn't come."

It is not sufficient to cry "move on." Last fall, at the conclusion of the pea harvest, the supervisors of a coast county voted $2500 to fill the tanks of the pickers' cars with gasoline enough to get them into the next county, to avoid having to feed them. The receiving county, resentful, sent word that if there is a repetition, the migrants will be turned back at the county line with guns.

Nor is it a solution simply to urge "stay put; don't migrate." The anachronistic laws which limit the right to receive relief to residents of the county, seek to stop movement between counties; our own state assembly has just approved barriers to inter-state migration. "Because we went out and tried to make a livin', the relief turned us down," said a migrant at Bakersfield. "Now they're telling 'em there's work out there so why don't we go." And a fruit tramp at Winters added, "But my boys are American citizens. If war was declared, they'd have to fight, no matter where they was. I don't see why we can't be citizens because we move around with the fruit trying to make a living." Along the roadside near San Jose a migrant who had seen good days was perplexed: "Lots of farmers in Oregon and Washington don't want you if you have a California license. Under the Constitution you should be allowed to move. But the relief rules say 'don't move'. If you're going to be a fruit tramp you have to move. If we can't go into a state without having so many hundred dollars, there's no hope."

We must not be content with specious solutions, whether barriers or aids to movement. We cannot fail to act because the migrants are a depressed class, or because they are not citizens of our county, state, or nation. They serve our crops and our farmers, who need their good will. They come here at our invitation, expressed or implied. Their numerous children are citizens of the future whose quality is being determined today in the squatters' camps which litter our state.

The migrants and California's future? The answer lies in how we deal with major problems in the present. The trek of drought and depression refugees to California is the result of a national catastrophe. The succor of its victims is a national responsibility.

The plight of the migrants who follow the crops of our own state touches all Californians, and is our responsibility first. Today mobility is excessive. Its social cost is great. Measures to increase stability, without loss of economic freedom, are needed. And they will be welcomed by the migrants.

The prompt elimination of squatter camp conditions is vital to the interests of all. Squatters' camps are a menace to public health, to social health, and to good labor relations in agriculture. They are a fertile source of discontent, breeders of grievances and feeders of unrest. Their existence is a challenge to our society. They can be abolished.

* * * * * *

SOCIAL PROBLEMS OF AGRICULTURE IN WARTIME 1/

By Paul S. Taylor

University of California

A year ago in the Yale Review a past President of the American Farm Economic Association set down words of serious import to agriculture.

> "The key to the direct and effective handling of the interrelated problem of capital and labor by farmer or handicraftsman," said Edwin Nourse of Brookings Institution, "is to be found in the fact that here the responsibility for the labor force and for the capital fund is one and indivisible. The same individual is capitalist, manager, and laborer. In our modern practice of private capitalism and free enterprise the trend has been, in large measure, to divest those who administer the capital fund from responsibility for the employment and material well-being of the labor force as a whole. When this tendency goes far enough the two parts of the economic process fall apart and its functional integrity is lost." 2/

This quotation -- not withstanding that no longer can we say truly of American farming that "the responsibility for the labor force and for the capital fund is one and indivisible" -- will serve as our text for deliberating over some of the social problems of agriculture in relation to war.

In the midst of a situation which calls for, and has so many of the elements of national unity, common effort, and a wide dispersal of sacrifice and reward, it may seem at first glance that examination of what Nourse calls loss of "functional integrity" is dragging something in by the heels. It is true that agriculture as a whole sustains a prosperity that has been denied it for many a long year, and that some of the marks of depression and strife are being wiped from its face. Agricultural income, which stood at the low point of four and three quarters billion dollars in 1932, when the nation wholeheartedly and in alarm stepped in to rescue the American farmer, has been raised to nearly fifteen and one half billion dollars in 1942. 3/ The net income of farm operators, based at 100 in the five-year period 1910-1914, stood at 282 in 1942, and the net income from agriculture per person on farms at 289, the highest by far in any year of the government record which stretches over more than thirty years. Of course, the problems and vexations of farm management are intensified in wartime, and many operators are harassed by irritating difficulties over priority restrictions on

---

1/ Paper read at the meeting of the Western Farm Economics Association. Berkeley, California. June 24, 25, and 26, 1943.

2/ Nourse, Edwin. Democracy as a principle of business. Yale Review, Spring, 1942. p. 473-474.

3/ United States Department of Agriculture, Bureau of Agricultural Economics. Net farm income and income parity summaries. Washington, D. C. February, 1943. (Mimeo.)

---

machinery and materials, and by limited supplies of experienced labor. Yet no one who recalls the depths of depression in the thirties, when net income from agriculture per person on farms which now stands at 289, stood at 55, and when despite the AAA and other relieving programs, the Works Progress Administration reported that 5 per cent of all farm operators were on relief, and 11.6 per cent of all farm laborers -- no one who recalls this can but find satisfaction that in wartime has come a respite if not an end to agricultural distress of that degree and kind.

And yet the prosperous appearances of wartime agriculture cannot obscure some startling evidences that this industry is not as whole and united as it might seem. Far from maintaining intact the handicraft character that Nourse still ascribes to it, in which typically "the same individual is capitalist, manager, and laborer," agriculture, under stress of war, is showing disturbing evidences of that loss of "functional integrity" which the Brookings economist sees so clearly and regretfully in business and industry in "our modern practice of private capitalism and free enterprise."

During the last decade the most visible evidences that farm people were beginning to recognize a growing division of function in agriculture between employer and employee, came from those who found themselves cast in the role of employees. Their recognition was in the form of a series of bitter strikes, and of attempts to unionize led variously by communists, independents, C.I.O., and A.F.L. which on the whole were unsuccessful. Naturally this provoked counter-organization by agricultural employers. With the coming of war it is agricultural employers who now show the more conspicuous recognition that the employee function has passed to someone else, and that they themselves have become employers.

An important connotation of the "functional integrity" cherished by Nourse is, we may assume, that benefits to one part of our agricultural population are participated in by the rest of it to more or less the same degree. To some extent this occurs in wartime but it is clear also that there are serious disparities. From a low point of 85 in 1933 the index of farm wage rates rose to 214 in October 1942. Based on the same years, 1910-1914, the index of net income of farm operators stood at 282, or 32 per cent higher. Since the indexes of employment of family workers, and of hired workers were nearly the same in 1942, it may be assumed in the absence of closer analysis that the 1942 financial participation in wartime agricultural income by hired laborers, and by operators and their families, was roughly in the same unequal proportions as these indexes 214 and 282 suggest. If we shift the basis of our comparison from 1910-1914 to 1939, in order to obtain a closer check on wartime changes to 1942, it appears that the total net income to farm operators increased by 128 per cent in three years while the farm wage rate to laborers on farms increased only 75 per cent.

There is clear evidence that the wartime gains of migratory agricultural laborers in the West are more substantial than these national figures suggest. These workers have been twice gainers from the wartime contraction of labor supply. They benefit from the advance in wage rates and again from the increased employment available to them. A recent study of the change in earnings between 1940 and 1942 of migratory families quartered in Arizona and California camps operated by the Farm Security Administration shows a gain in employment of 2.7 times, in average daily earnings of 1.9 times, and in average weekly earnings of 5.1 times. The more casual the prior employment, naturally the greater the benefit.

The results of this study are full of meaning for us in the West. Farm employers who remember the strife of the thirties engendered by the presence of a

large surplus of underemployed laborers whose very underemployment drove them to demand higher wage rates than their more fully-employed colleagues could afford, and were willing to accept -- farm employers who remember this will see advantages to themselves as well as to their laborers, without the cost of higher wage rates, in a program to decasualize farm labor. Is there any good reason why more laborers than can obtain a decent living from agriculture, or from a reasonable combination of employments, should be engaged in agriculture at any time? Is this not a point at which we may well commence restoration of the functional integrity of agriculture?

Every student of the distress of farm people in the 1930's remembers on maps showing relief load the massing of black in the Appalachian-Ozark and Lake States-cutover areas and in the Southeast generally. The National Resources Committee has projected onto a map the differing "values of farm land per capita of farm population." These maps, respectively, of distress and of long-existing differentials in economic opportunity for American farm people show substantial correlation. The facts are incontrovertible.

In October, 1942, Dr. Conrad Taeuber of the Department of Agriculture laid these facts before a Senate Subcommittee investigating manpower resources in wartime. Summing up Taeuber's expert testimony, Senator Pepper of Florida said:

> "... it may be that this period is the godsend to that area. In other words, it may be that this time when it is important to utilize to the maximum all the manpower that we have, is the time when we should begin to solve that problem of concentration right there, of people who are not contributing as much as they should contribute to the country, and at the same time to get their greatest contribution to the war, and at at the same time to offer the most permanent solution for their problem." 4/

The most concrete means for stimulating this redistribution of farm people to the permanent national advantage is the wartime redistribution of farm laborers within the United States. It is the wartime interest of western agricultural employers in particular to utilize workers from substandard areas in our own country. In those very areas of substandard living, however, farm employers oppose any substantial movement of less fortunate farm people to areas of greater economic opportunity, and have persuaded Congress to accept their view. An amendment by Congressman Face of Georgia to the Farm Labor Act was adopted which provides that no government funds shall be used to transport farm workers "without the prior consent in writing of the County Extension Agent." The following interrogation of a public official by Congressman Tarver, also of Georgia, on the point raised by Dr. Taeuber, hardly conceals the desire of southern agricultural employers to retain a surplus of laborers at home and their unwillingness to release them to other areas:

> "You said something yesterday about some workers being engaged in agriculture on farms that were unproductive and whose services could better be utilized on more fertile farms.

4/ Subcommittee on Manpower Resources of the Senate Committee on Education and Labor. 77th Congress, 2nd session. Hearings, Part 1, p. 17.

"Now, you are aware, of course, that for some years we have had theorists in this country who entertained the idea that the fathers and grandfathers and great-grandfathers of certain people in the South had made a mistake in locating in that section of the country; that they were on poor land and their educational facilities were not what they should be, and that their interests would best be served by convincing them the thing to do would be to move off of these poor and nonproductive lands in localities which did not measure up to the aesthetic ideas of those theorists and emigrate to other sections of the country and become employed on more fertile farms as hired hands.
"I am just wondering to what extent you are trying to carry into effect that sort of a program?" 5/

In this contemptuous fashion Congressmen, acting under pressure from one section of farm people, have just brushed aside painstaking and cumulative searches by professional economists and sociologists who for years have sought measures to utilize the labors and to ameliorate the conditions of millions of other farm people.

Not only has this farm labor law lost for American farm people what probably is their best chance, for an indefinite future, to obtain a sensible redistribution with respect to economic opportunity. The law violates the first principle of decasualization of the labor market enunciated clearly thirty years ago by Sir William Beveridge, namely, to establish one common labor reservoir, and one only. The Farm Labor Law, by giving County Agents a veto power, confronts us with the prospect of up to three thousand independent county reservoirs. The administrator of Food Production, Chester Davis, was aware of this, and some senators.

"It would be possible for the county agent, due to local pressure, to refuse to release the labor to some place where it was more urgently needed," asked Senator Tydings; "isn't that a fair deduction?" "I think it is, Senator," replied Davis, " ... it seems to me it would work to prevent the flexibility and mobility of the labor you need to do the job." 6/

These protests were in vain.

It is clear from the recorded statements of those agricultural employers whose influence shaped the Farm Labor Law that the generalization applied by Nourse to developing industry, fits also the current activities of the most influential employing groups in agriculture, namely, that "the trend has been in large measure to divest those who administer the capital fund from responsibility for the employment and material well-being of the labor force as a whole." Agricultural employers have sought and obtained virtually unhampered control over the recruitment and transportation of their labor force. At the same time their representatives before Congress rejected emphatically measures to accept some responsibility through law for "the employment and material well-being of the labor force as a whole." Thus, the head of one farm group demanded that Congress forbid the Secretary of Agriculture to "fix, regulate, or impose minimum wages or housing standards" for farm labor. The House

---

5/ Subcommittee of House Committee on Appropriations. 78th Congress, 1st session. Hearing on Agriculture Department Appropriation for 1944. p. 1005.

6/ Subcommittee of the Senate Committee on Appropriations. 78th Congress, 1st session. Hearings on Farm Labor Program, 1943. p. 264.

Committee on Appropriations, with a gesture of "regrets," complied, and Congress itself acquiesced. The opposition of farm organizations to any extension to their employees of legal protections long accepted in industry continues with unabated vigor and success. The resemblance of this attitude of agricultural employers to that of industrial employers of an earlier era will not escape the notice of those familiar with economic history. Perhaps this unwillingness to extend public benefits to its employees is no more than the natural accompaniment of the earlier stages of the industrial revolution in agriculture, an attitude which maturity will change.

Final evidence, if any were needed, that the functional integrity of agriculture is in the process of becoming lost, lies in the public record of farm organizations on current agricultural policy. The gaping division is not simply between farm employers and farm laborers -- it has opened wide fissures between organizations of farmers. Not many weeks ago the journal of one farmers' organization attacked a second farmers' organization in this language: "Fattened farm fortunates now want underemployed majority choked off." The occasion for this attack was the refusal of the second farmers' organization to support -- indeed its opposition to -- a government production program through Farm Security Administration loans to small farmers. When differences between the organizations of farmers have reached this pitch, the division which the past president of our national association feared surely has arrived. Can it be that the most influential farm organizations really will choose to maintain a course which other organized farmers regard as a rejection of responsibility for millions of farm people? By a proviso inserted on the demand of representatives of a farm organization, the Bureau of Agricultural Economics is forbidden to use any of its funds in 1943 "for State and County Land-Use Planning." For what good reason, one wonders, should a farmers' organization seek to restrict the attempts of Government to view local problems of farm people as a whole, and, through its professional men to carry study and education to all strata of our farm people?

The efforts of men of our profession -- along with officials and men of other professions -- to analyze and to propose solutions to our agricultural problems are beginning to face a peculiar kind of opposition at such times as these analyses do not support the deeply held convictions of groups with special interests at stake. For example, a committee of the United States Senate recently listened to this testimony:

> "... can anybody tell me why these mildewed braintrusters, these so-called social reformers, cannot throw their pet hobbies aside and say that we have got a war to win? They always meet with us and talk about housing conditions and baths and showers -- they tell us we have got to have bathtubs. Well, since we cannot get the priority for a handful of nails in order to repair some boxes, from where are we going to get those bathtubs? ... And yet you stand here and talk to us about this nonsense of social reformers.
>
> "I am telling you, they are twisted minds. I don't care if they are giants in literature, I don't care if they are professors of economics; the time has come when these crackpots have got to leave California farmers alone. Otherwise, not only our civilian population, but our boys at the front who are giving their precious lives, will have empty bellies, and it is the duty of the Congress to carry this mandate to the proper places so that an end can be placed to these destructive statements of the so-called social reformers. They are not social reformers,

they are peddlers of bunk, and I hope they will hear me and understand." 7/

The testimony was received by the Committee, the record says, as a "very helpful, highly intelligent, and eloquent review" of the situation.

If you think this kind of attack is isolated -- it is unusually frank -- I suggest a wider acquaintance with recent records of the conduct of the public business in order to obtain fuller understanding of the temper in which issues of these critical times are being resolved. These issues concern the kind of problem to the solution of which most of you are dedicating your professional lives.

Your profession is founded on a belief that truth can be arrived at by diligent, skillful, and intellectually honest search. You expect to submit your results and opinions to the critical challenge of others, to stand or fall on their merits. If you are called upon to face challenges on the plane of those I have quoted, which certainly are not in the spirit and tradition of your profession, perhaps you will be reminded of something not uncommon a generation or more ago, the opposition of American farmers to "book-learning." Is this the manner in which the results of the most thoughtful work of men like Dr. Taeuber, Frank Lorimer, Carter Goodrich, Rupert Vance, John Black, and others well known to you are to be weighed? Perhaps, in the heat of controversies it is. Perhaps this, too, is simply more evidence that agriculture is in danger of losing its functional integrity, its sense of responsibility to all its own people.

7/ Special Senate Committee to investigate farm labor conditions in the West. 77th Congress, 2nd session, part 2. p. 246.

From LaFollette Committee Report
76 Congress, 2 sess., S. Report 1150, pt. 3

Chapter 1. The Pattern of Early Land Settlement and Use Through 1870

Early Spanish and Mexican colonial agriculture in California was marked by the creation of a pattern of land settlement and use which is still characteristic of much of California agriculture. That pattern is the ownership and cultivation of land in large tracts, worked by gang labor. The early Spanish and Mexican grantees used a primitive Indian labor to establish a type of farming in which a disproportionate share of the benefits of the enterprise went to the few individuals who owned the land and directed its use.

An historical analysis of this early period of Spanish and Mexican agriculture is included in a study entitled "The Supply of Agricultural Labor as a Factor in the Evolution of Farm Organization in California."[2] It is the principal basis for the summary that follows.

When efforts at colonization through some twenty-odd Spanish missions did not establish any substantial civilian population in California, the political rulers sought to stimulate independent private enterprise and civilian colonization by making private land grants. These Spanish land grants became a significant institution. Some 23 grants were made before the end of the Spanish regime in 1822, and 13 additional grants were made by the succeeding Mexican Government before 1833. The years 1833–46 saw a large proportion of the most valuable farm land in California pass from the public domain into private hands in the form of some 428 grants, ranging from 4,000 acres to 300,000 acres. These grants were spotted primarily along the coast, with concentrations at San Diego, Los Angeles, Santa Barbara, Monterey, and around San Francisco Bay. There were a few in the San Joaquin Valley.

These grants were chiefly devoted to grazing livestock, and the native Indian population became vaqueros and pastores. Grains, fruits, and vegetables were produced in limited volume for local consumption, hides and tallows being the primary exportable products.

The grantees usually came from a section of the Spanish population which was unaccustomed and disinclined to perform heavy manual work. They sought a ready labor supply in the native Indian population which had been trained under the mission system. In the relatively short period between 1833 and 1846 this labor force was practically impressed into service. Impressment for alleged crime, debt peonage, and an occasional resort to outside seizure and force have been alluded to by various historians as the means employed for maintaining the labor supply.[3]

This system of cultivation, with the population available, did not develop stability and its outlines faded from the scene after the transfer of California to the United States in 1848. The monopolistic pattern

[2] See pt. 54, exhibit 8762-A, pp. 19777–19878. The author of this study is Dr. Varden Fuller, associate agricultural economist of the U. S. Bureau of Agricultural Economics.
[3] Id., pp. 19789–19790.

of land settlement and ownership was, however, carried foward under the new regime.

The status of laborers on the land was one of the first public issues to arise after the cession of California to the United States. Yet this issue did not primarily concern the impressed Indian laborer. Rather it was an echo of the battle between contending forces of the North and South, involved in a bitter dispute as to whether or not the plantation system of the South would be permitted to encroach further upon the rising tide of American economic democracy. While minor skirmishes involving the practice of impressment of Indian labor were reported,[4] the debate was largely addressed to the transplanting of the slave system of the old South to California. The series of efforts to open California to slavery was unsuccessful.

Perhaps the more significant counterpart of the struggle on the national scene was a long period of agitation for a more democratic land-settlement system which culminated in the passage of the Homestead Act of 1862. Broadly, the Homestead Act provided for the establishment of a pattern of land settlement which would prevent the monopolization of the public domain by a relatively few large landholders. The technique adopted for this purpose was the opening of the public domain to settlement on a free-land basis in relatively small units by those who would occupy and operate these lands as working farmer-owners.

Whatever effect the Homestead Act may have had upon the development of agricultural patterns in other sections of the country, the settlement of California proceeded with but slight conformity to the intentions of its proponents. Recently a commentator summarized the workings of the land laws in the early period of development:

> Land monopolization in California dates back to the Spanish and Mexican periods when large grants were made to favored individuals. After investigation by an American commission, 588 of these claims amounting to 8,850,143 acres, or an average of 15,051 acres each, were confirmed. Following 1848 there came a rapid influx of settlers which, together with the large profits realized from the grazing industry in the interior valleys, created a land boom and led to extensive purchases. With great areas of land in the San Joaquin and Sacramento valleys open to cash purchase the opportunity for speculative profits was unparalleled elsewhere; nor was the opportunity neglected. From 1862 to 1880 land sales and warrant and scrip entries in California were on an enormous scale, surpassing all other states for the period and in some years comprising well over half of the sales for the entire country. In the single year, ending June 30, 1869, 1,726,794 acres were sold in this state by the Federal government, and for the entire period from 1862 to 1880 well over 7,000,000 acres were entered with cash, warrants, or scrip. It should also be remembered that the State of California which received 8,426,380 acres from the Federal government was disposing of its most valuable holdings at this time.
>
> Greatest of all the speculators operating in California was William S. Chapman, whose political influence stretched from Sacramento to St. Paul, Minnesota, and Washington, D. C. Of him it was said, with apparent justice, that land officers, judges, local legislators, officials in the Department of the Interior, and even higher dignitaries were ready and anxious to do him favors, frequently of no mean significance. Between 1868 and 1871 Chapman entered at the Federal land offices approximately 650,000 acres of land in California and Nevada with cash, scrip, and warrants. At the same time he entered additional land through dummy entrymen, purchased many thousands of acres of "swamp" lands from the State of California, and otherwise added to his possessions till they totaled over 1,000,000 acres. Fraud, bribery, false swearing, forgery, and other crimes were charged against him but he passed them off with little trouble. The most remarkable

[4] Id., pp. 19792-19793.

feature about his vast acquisitions is that when plotted on a land-use map today they appear to be among the choicest of the lands. Chapman was not able to retain this vast empire for long. He became deeply involved in a grand canal project and eventually lost his lands, many of them going to a more constructive but equally spectacular land plunger, Henry Miller.

Miller, unlike Chapman, bought lands for his cattle business which was his main interest. As the activities of his firm—Miller and Lux, of which he was the chief promoter—expanded, he pushed its land acquisitions until they mounted to over a million acres. One hundred and eighty-one thousand acres of this amount were acquired directly from the Federal government, with cash, Agricultural College scrip, and military warrants; large amounts were purchased from Chapman and other big land speculators and from the State of California. Miller's lands were slowly irrigated, parts were disposed of to small farmers, and upon them today exists a veritable agricultural empire.

Other large purchasers of land in California were Isaac Friedlander, E. H. Miller, and John W. Mitchell, who acquired 214,000, 105,000 and 78,000 acres respectively. The total amount purchased from the Federal government by Chapman, Miller and Lux, Friedlander, E. H. Miller, and Mitchell was one and a quarter million acres. Forty-three other large purchasers acquired 905,000 acres of land in the sixties in California. Buying in advance of settlement, these men were virtually thwarting the Homestead Law in California where, because of the enormous monopolization above outlined, homesteaders later were able to find little good land.[5]

The author just quoted mentioned the confirmation of Spanish and Mexican land grants in the amount of 8,850,143 acres, the granting of 8,426,380 acres to the State of California, and the entry of more than 7,000,000 acres with cash, warrants or scrip prior to 1880. Lands finally patented in grants in aid of railroad construction in California, the bulk of which were made during this early period, amounted in all to 11,458,212 acres.[6] Taken all together, these transfers of land amounted to approximately 35¾ million acres of land, or well over a third of the total area of the State.

By 1905 there was a total of nearly 45,000,000 acres of land in non-Federal ownership in California,[7] including virtually the entire area now in farms with the exception of a few relatively small sections which subsequently were developed by irrigation. The figures cited in the paragraph above fail to account for approximately 9,000,000 acres of land. These were entered in part with cash, warrants or scrip subsequent to 1880, some under the Desert Land Act and the Timber and Stone Act, and others under the provisions of the Homestead Act. It is not possible to determine with accuracy what proportion of the latter was entered by bona fide homesteaders, and what proportion was entered fraudulently. Paul Wallace Gates mentioned the fraudulent entries made by one early plunger through the device of dummy entrymen[8] and unquestionably this and other practices of dubious legality occurred on a widespread scale. The report of the Commission on Public Lands, submitted to Congress by the President on February 13, 1905, stated:

> Detailed study of the practical operation of the present land laws, particularly of the desert-land act and the commutation clause of the homestead act, shows that their tendency far too often is to bring about land monopoly rather than to multiply small holdings by actual settlers. The land laws, decisions, and practices have become so complicated that the settler is at a marked disadvantage in comparison with the shrewd business man who aims to acquire large properties. Not infrequently their effect is to put a premium on perjury and dishonest methods in the acquisition of land. It is apparent, in consequence, that in very many

[5] Gates, Paul Wallace, "The Homestead Law in an Incongruous Land System," American Historical Review, July 1936, pp. 668–669.

[6] General Land Office, Information Bulletin, 1939 series, No. 5, 1940, p. V.

[7] Quoted in annual report of the Commissioner of the General Land Office, June 30, 1905.

[8] Gates, op. cit., pp. 668–669.

[illegible]ities, and perhaps in general, a larger proportion of the public land is passing into the hands of speculators and corporations than into those of actual settlers who are making homes.

* * * * * * *

* * * Nearly everywhere the large landowner has succeeded in monopolizing the best tracts, whether of timber or agricultural land. * * *

Your Commission has had inquiries made as to how a number of estates, selected haphazard, have been acquired. Almost without exception collusion or evasion of the letter and spirit of the land laws was involved. It is not necessarily to be inferred that the present owners of these estates were dishonest, but the fact remains that their holdings were acquired or consolidated by practices which can not be defended.[9]

It is apparent, without further elaboration, that only a very small acreage of land in California was entered by bona fide homesteaders, in comparison to the acreage entered by other means. This circumstance resulted in the monopolization of much of the land in the State in immense holdings which, not without justice, gave rise to the characterization of the large landowners as the "land barons." The report of the Commission on Public Lands viewed this development in these terms:

There exists and is spreading in the West a tenant or hired-labor system which not only represents a relatively low industrial development, but whose further extension carries with it a most serious threat. Politically, socially, and economically this system is indefensible. Had the land laws been effective and effectually enforced its growth would have been impossible.[10]

Thus the pattern of land settlement, established in the Spanish and Mexican periods, was carried over into the American regime in California between 1850 and 1870. This concentrated landownership did not preclude the possibility of the development of a system of operation and subdivision which would have been in conformity with the working family-farmer concept that was the more usual development in other sections of the country. It did, however, provide the framework for the development of large-scale agriculture which has, in fact, continued to develop. As the available statistics of the period show, these large units, when brought under cultivation, were worked by wage laborers. Only to a limited extent did the large landowners in California operate their holdings through tenants.[11]

The most spectacular development in California agriculture from an operating standpoint, following the cession to the United States, was the development of large-scale wheat farms. These grain farms developed as livestock operations were curtailed under the impact of the droughts of 1862–1864. Farms as large as 20 to 40 thousand acres were established, because availability of land in large parcels and evenness of topography permitted an efficient use of large-scale equipment. This development was not only large scale but specialized and speculative.

The method of cultivation was characterized by a rapid advance from primitive instruments to the use of types of machines which were the forerunners of the modern machine sower, multishared plow, and the combine harvester. In this sense, the wheat farms of early California agriculture, together with their counterparts in the Great Plains area, stand as an early example of the impact of mechanization

[9] [illegible] in annual report of the Commissioner of the General Land Office, June 30, 1905, p. 51.
[illegible], p. 52.
[10] In 1880, the first year for which data are available, 19.8 percent of all farms in the State, or a total of [illegible] farms, were operated by tenants (U. S. Census of Agriculture, 1930, vol. IV, p. 222). On the other hand, nearly as 1870 a total of 16,231 farm laborers were reported and in 1880 the number of laborers had [illegible] to 21,856; see pt. 54, exhibit 8762-A, table 33, p. 19888.

on agriculture and agricultural labor. The development of mechanized sowing and plowing confined the great peaks of labor demand to the harvesting season since the combine harvester was not perfected for use until after 1880.[12] Between the periods of planting and harvesting there was little to require the attention and effort of the farm laborers.

Under these circumstances the use of a force of seasonal migratory agricultural laborers developed. During this period the laborer was usually a disappointed gold seeker or floating immigrant who had not found his place in the rapidly changing economy of the period. These migratory seasonal laborers replaced the Indians as a source of labor supply. The very low costs of production on large-scale farms and the absence of a type of employment that encouraged a movement up the "agricultural ladder" from farm laborer to operator served to minimize the rate of subdivision and tended to maintain the system of large-scale operation and specialization. The smaller farms of the more usual family-size pattern, when developed, appeared along the valleys tributary to San Francisco Bay and the coastal areas where there was access to the markets in the towns. While there was a substantial increase in the number of these smaller farms, the new large-scale wheat farm and the old large-scale cattle operation continued to dominate the agricultural scene.

The effects of large-scale specialized agriculture on the economic status of those who worked the land were noted by the State Agricultural Society in California as early as 1869, which commented as follows:

> It is a shameful and deplorable fact, that many of the naturally best grain-producing portions of our State have been cropped every year, for from ten to fifteen years in succession, with grain, and in many cases with an unvaried single crop—wheat * * * throughout the agricultural districts, there is a season of active labor for all and a season of idleness for all. As a result of this management of our great agricultural industry of the State, there is lost to these districts, and to the State at large, each year, the profits of nearly half the agricultural labor of the State. As another result, all that large class of persons who depend for their livelihood on daily labor upon our farms, are during this idle season, thrown out of employment, and are consequently deprived of the means of subsistence, and to compensate them for this idle season, they are compelled to demand of their employers proportionally high wages while they do labor. The employers, who from the exigency of their position in the busy season, are, in turn, compelled to comply with this demand. Thus it turns out, that for the year's operation the farmers themselves realize about half what they should realize, and the labor they employ, though receiving double price for the time actually engaged, is but poorly paid.[13]

Just as the pattern of land ownership and operation had become established in the period 1830 to 1850, so in the period from 1850 to 1870 the nature of the employment of workers in the agricultural labor market was fixed. Responding to the seasonal demands for their labor, the "bundle" tramps migrated through the agricultural areas during the busy seasons and gravitated into the cities during the slack periods, failing to find in their temporary employment any adequate support on an annual basis. One of the acute observers of California agriculture during this period was Henry George who, in speaking of the farm laborers of California of 1871, said:

> And over our ill-kept, shadeless, dusty roads, where a house is an unwonted landmark, and which run frequently for miles through the same man's land, plod

[12] See Rogin, Leo, The Introduction of Farm Machinery, University of California, Publications in Economics 9 (1931), pp. 42–44.

[13] Quoted by Varden Fuller in exhibit 8762-A, pt. 54, p. 19806.

the tramps, with blankets on back, the labourers of the California farmer, looking for work, in its seasons, or toiling back to the city when the plowing is ended or the wheat crop is gathered.[14]

Several developments in the character of the labor supply during this period should be noted. In 1850 there were only 872 farms. The adventurers who responded to the challenge of great wealth in California in connection with the gold rush did not readily fit into the system as reliable farm laborers. For them farm labor was only a temporary pursuit. The Indian working force, while available, was not adequate for a rapidly expanding agriculture. Vast acreages of land, rich, fertile, and enjoying a favorable climate, were being rapidly developed. Many factors favorable to production for an external market began to appear. Under all these circumstances it is not surprising to find evidences of a concern for increasing the population by immigration and developing sources of labor supply. As early as 1853, Californians were considering methods of securing immigrants from outside the State. In 1857 a group of Californians were reported to be in New York, advertising and arranging for the transportation of labor to California.[15] This necessity for encouraging immigration was discussed by the California State Agricultural Society for many years, beginning in 1865:

For the past ten years it has been evident to all who have given the subject a careful thought, that nothing would contribute so much to the advancement of our prosperity as a common wealth, as the influx of a large immigration of industrious citizens. Every class of the community experiences the want of labor.[16]

However, early endeavors to influence the migration of laborers to the Pacific coast were counteracted by literature issued by the San Francisco labor unions. Circulars warning laborers that California was no place for a poor man were sent throughout the United States. In 1869 the California Immigrant Union was formed with the broad objective of encouraging immigration from Europe and the eastern part of the United States to California. It was a service not only for agriculturists but for all employer interests. This organization sponsored the distribution throughout the Eastern States of a pamphlet entitled "All About California," which, among other things, emphasized the vast opportunities in agriculture.

The tremendous increase in the white population in California during the period from 1850 to 1870 [17] did, however, provide the labor pool from which large-scale California agriculture was able to draw its first group of seasonal migratory workers. The first foreign labor, the Chinese, began to appear on California farms during this period. Between the years 1850 to 1870, the Chinese on the Pacific coast increased from 7,000 to approximately 70,000, and the census of 1870 revealed that the Chinese constituted approximately one-tenth of the farm labor group in California.[18] They were engaged for the most part in wheat fields, hop fields, and orchards. As early as 1854 the agricultural interests visualized the Chinese as the labor pool for a greatly expanded agriculture. In that year, the following statement appeared in the California Farmer:

California is destined to become a large grower of Cotton, Rice, Tobacco, Sugar, Tea, and Coffee [sic] and where shall the laborers be found? Americans

[14] Quoted by Carey McWilliams, Factories in the Field, Little, Brown & Co., 1939, p. 25.
[15] See pt. 54, exhibit 8762-A, p. 19799.
[16] Quoted by Varden Fuller in exhibit 8762-A, pt. 54, p. 19800.
[17] See pt. 54, exhibit 8762-A, p. 19801.
[18] Ibid.

will not become the working men of our tule land, in our Rice fields and our Cotton plantations and other departments of the same kind of labor. At [in] the South, this is the work of the slave, but slavery cannot exist here. California is a Free State—her citizens have spoken it—human progress has uttered it—God has said it. Then where shall the laborers be found? The Chinese! And everything tends to this—those great walls of China are to be broken down and that population, educated, schooled and drilled in the cultivation of these products, are [sic] to be to California what the African has been to the South. This is the decree of the Almighty, and man cannot stop it.[19]

However, it was sometime later that the release of the Chinese from work on the Central Pacific transcontinental railroad and their forcible expulsion from the mines resulted in their movement into the farm labor market. The suitability of the Chinese as a cheap labor supply for large-scale agriculture is reflected in an early comment that they were employed to such an extent as to—

soon become indispensable to our wheat growers * * *. We must have labor from some source; and if China can give us the men, the fields will never lie idle * * * poor John spreads a dirty tent in some corner of the field near water, sleeps on the ground, works by starlight, lives on rice of his own cooking * * *.[20]

Thus, some of the aspects of the California farm labor problem observable in recent years find their counterpart in the first American period of settlement and cultivation; aspects such as large-scale ownership and operation, specialization, mechanization of some labor operations, use of seasonal migratory labor, encouragement to immigration to provide an abundant labor supply, and use of cheap foreign labor. All of these had appeared in California agriculture by 1870.

[19] Quoted by Varden Fuller in exhibit 8762-A, pt. 54, p. 19802.
[20] Davis, Horace, "Wheat in California," Overland Monthly, I (November 1868), 450, quoted by Varden Fuller in exhibit 8762-A, pt. 54, p. 19803.

THE NATION-WIDE COMMITTEE

ON IMPORT-EXPORT POLICY

815 FIFTEENTH STREET, N.W.

WASHINGTON, D.C. 20005

Telephone: 202-783-0430

O. R. STRACKBEIN
President

EDWARD E. KENNEDY
Vice President

LEWE B. MARTIN
Secretary

ALBERT A. CARRETTA
General Counsel

June 16, 1972

Honorable Adelaide Stevenson
Room 201 Senate Office Building Annex
Washington, D. C. 20510

Attention: Mr. Chertkov

Dear Mr. Stevenson:

I read of your hearings as chairman of the Subcommittee on Migratory Labor of the Committee on Labor and Public welfare, to be held June 19 and 20, the Congressional Record of June 12.

The subject is of great interest to me and I inquired into the possibility of testifying, but found that the calendar was already filled. Nevertheless I was accorded permission to submit some material which, though not being directed toward the subject of land grant colleges, is, I believe, highly relevant because it traces the employment trend in agriculture over the past thirty-five to forty years, as well as the great increase in farm productivity with its consequent displacement of some 7 million agricultural workers.

Also, I have just completed another study that dwells on Productivity and Employment, including, quite centrally, the experience in agriculture over the last twenty-odd years.

I am happy to submit these papers for inclusion in your printed record. Should the hearings be continued I would be happy to testify in person.

Sincerely,

O. R. Strackbein
President

ORS:r
Enclosure

Trade Perspectives
for
Industry, Agriculture and Labor

by

O. R. Strackbein, President
The Nation-Wide Committee on Import-Export Policy

March 3, 1972

I.

When our national farm policy, under pressure of extremely low farm prices, in the 1930's veered from laissez faire to governmental interference, a torrent of discussion and even acrimonious debate raged throughout the country.

The Agricultural Adjustment Act of 1933, the principal legislative instrumentality of the shift, was declared unconstitutional by the Supreme Court. It was reinacted in modified form in 1935. The basic principle of the legislation rested on the parity price concept.

Since agricultural prices had declined much more sharply than the price of manufactured goods, i.e., goods the farmers themselves bought, the farmers' weak competitive position was regarded as entitled to remedial support. The bargaining position of the farmer was relatively weak because he could not cut back his output temporarily simply by laying off workers and then resuming production as supply was no longer excessive, as

(over)

industry was able to do. Moreover, weather conditions, over which he had no control, sometimes had more influence over crop size than any planning the farmer might undertake. Beyond these difficulties which reduce their competitive footing, farmers are scattered far and wide over the countryside, thus making joint or cooperative action, such as is necessary for control of supply, relatively difficult.

Under the new farm program certain crops, regarded as basic, were accordingly made eligible for governmental payments under the new legislation if the prices were found in comparison with a base period, to be below the level of parity with the prices of the articles farmers buy. If the price of wheat on the market, for example, was 80 cents per bushel while the price of the goods the farmer purchased was $1.00, the government would pay the farmer the difference, or 20 cents per bushel.

In order to avoid such an increase in planting as would cause the market price to fall still lower, thus requiring the government to pay more, the Agricultural Adjustment Act provided for removal of surpluses from the market, and other legislation provided for acreage control and retirement of land from cultivation in return for other payments. Provision was also made for the imposition of import quotas if imports interfered materially with any program.

The legislation represented overt interference with free enterprise and set aside the competition that supposedly nurtures the free market. The action was justified in the name of the national economic emergency.

A few years later wages were also removed from the free play of market forces by statutory action establishing obligatory collective bargaining and minimum wages. These controls have become a permanent part of our regulatory processes.

Relative Price Declines 1929-32

Whereas the wholesale prices of all commodities including farm products declined from an index of 95.3 in 1929 to 64.8, where 1926 prices equal 100, the index of farm prices dropped from 104.9 to 48.2. The decline for all commodities was 30.5 percentage points while on farm products the drop was 56.7 percentage points. The index on metal and metal products fell only 20.3 points, or from 100.5 to 80.2. Building materials fell 24.0 points, chemicals and allied products, 20.1 points, fuel and lighting, 12.7 points, house furnishings, 19.2 points, and miscellaneous items 18.2 points.

Agricultural machinery and equipment declined only 13.8 percentage points. Electricity rose by 10.2 points. Motor vehicles fell 12.9 points, plumbing and heating 28.2 points, lumber by 35.3 points. None fell as sharply as agricultural products.

The following Table presents the 1929-32 wholesale price declines for various products:

Wholesale Price Declines, Farm and Other Products

1929-32

Product	1926 equals 100 1929	1932	In Percentage Points	In Per Cent
Farm Products (all)	104.9	48.2	56.7	54%
Grains	97.4	39.4	58.0	59
Livestock & poultry	106.1	48.2	57.9	54
Other Products				
Leather	113.2	65.1	48.1	42
Shoes	106.3	86.1	20.2	19
Clothing	90.0	63.0	27.0	30
Fuels and lighting materials	83.0	70.3	12.7	15
Anthracite	90.1	88.4	1.7	1
Electricity	94.5	104.7	+ 10.2	+ 10
Petroleum products	71.3	45.4	25.9	36
Agri. Mach. & Equip.	98.7	84.9	13.8	13
Motor Vehicles	100.0	87.1	12.9	12
Brick & Tile	94.3	77.3	17.0	18
Cement	89.0	74.3	14.7	16
Lumber	93.8	58.5	35.3	37
Chemicals	99.7	88.8	10.9	10
Furniture	95.0	75.0	20.0	21
Auto Tires & Tubes	54.5	41.1	13.4	24

(Statistical Abstract of the United States, 1951, Table 325, p.280)

The relatively sharp decline in agricultural prices from 1929 to 1934 as visible in the Table, confirms the weak competitive position of farmers compared with industrial producers at that time. Historically agrarian producers are in normal times relatively weak in bargaining power face to face with industry.

Reversal of the Downtrend

If next we compare the increase in wholesale farm prices from 1932 to 1939 with the increase in wholesale prices of nonfarm products, we will be able to observe the effects of the farm program toward bridging the gap between farm and other prices.

Increase in Wholesale Prices

1932-1939

1926 equals 100

Product	1932	1939	% Increase
All Commodities	64.8	77.1	19
Farm Products	48.2	65.3	35
Grains	39.4	58.6	48
Livestock & poultry	48.2	72.2	49
Other farm products	51.4	62.6	21
Other Products			
Shoes	86.1	102.6	19
Clothing	63.0	82.0	30
Cotton Goods	54.0	67.2	24
Anthracite	88.4	75.8	minus 14
Electricity	104.7	78.6	minus 24
Agricultural impl. and equip.	84.9	93.4	10
Motor vehicles	87.1	93.4	7
Brick and Tile	77.3	91.4	18
Cement	74.3	91.3	22
Lumber	58.5	93.2	59
Chemicals	88.8	84.7	minus 4
Fertilizer materials	63.7	67.9	6

Source: Same

From 1932 to 1939 farm prices reversed themselves. The wholesale price of farm products had increased 35% by 1939 while the price of all commodities had increased only 19%. Moreover, the 19% included the price of farm products. Therefore it seems safe to say that farm prices rose twice as much from 1932 to 1939 as non-farm prices.

Nevertheless on the 1926 base of 100, the index of farm prices had not yet overtaken the index for all commodities, including farm products. The farm price index had risen to 65.3 compared with 77.1 for all commodities from 1926. By 1941 the gap had been narrowed considerably, the farm price index standing at 82.4 and that for all commodities at 87.3.

Elimination of the Price Differential

By 1950 the farm price index had gone ahead, standing at 170.4 compared with 161.5 for all commodities on the 1926 base.

At this point we move to a different base line, namely 1947-49 as 100. On that base the farm price index had risen to 106.7 by 1950 while that of all commodities, including farm products stood at 81.8. This seeming discrepancy compared with the preceding base merely meant that farm prices rose since 1947-49 while the price of other products fell between that base and 1956.

From 1950 on farm prices moderated, in fact receding to 97.2 in 1960 and ending at 111.0 in 1970. The all-commodity wholesale

price index, which had fallen to 81.8 in 1950 on the 1947-49 base, began a fairly steady upward course, reaching 94.9 in 1960 and 110.4 in 1970, or nearly the same level as the index for farm products which, as we have just seen, stood at 111.0 in 1970.

Of course, there were wide individual variations in the prices of both farm and industrial products. Grains moved from 121.3 in 1950 down to 98.8 in 1970 on the 1947-49 base. Livestock moved from 110.2 to 116.7 in the same period. Live poultry dropped from a high of 185.7 in 1950 to 99.6 in 1970. Fluid milk went from 76.5 to 115.3 while eggs fell from 134.5 to 126.8.

Among the industrial products there were also considerable variations. Cotton products between 1950 and 1970 dropped from 109.5 to 105.6 in 1970. Manmade fiber products also went down, from 135.8 to 102.1. Apparel, on the other hand, moved in the opposite direction, going from 90.5 in 1950 to 111.0 in 1970. Footwear, went from 70.2 to 113.0, while leather moved from 98.9 to 107.7.

Petroleum products moved from 85.1 to 101.1 in the 20 years, industrial chemicals, from 84.0 to 100.9, prepared paint from 71.2 to 112.4. Agricultural chemicals and chemical products fell slightly from 89.4 to 88.4. Tires and tubes, rose from 79.5 to 109.0, lumber, from 86.6 to 113.7, agricultural machinery, from 65.2 to 113.0. Household furniture moved from 75.6 to 111.6, concrete products, from 78.2 to 112.2, motor vehicles from 77.9 to 107.4.

Wholesale Prices on Farm and Other Products

1950-1970

1947-49 equals 100

Product	1950	1970	% Increase
All Commodities	81.8	110.4	35
Farm Products	106.7	111.0	4
Grains	121.3	98.8	minus 19
Livestock	110.2	116.7	6
Live poultry	185.7	99.6	minus 46
Fluid milk	76.5	115.3	51
Eggs	134.5	126.8	minus 6
Other Products			
Cotton products	109.5	105.6	minus 4
Manmade fiber prods.	135.8	102.1	minus 25
Apparel	90.3	110.0	22
Footwear	70.2	113.0	61
Electric power (1960)	101.2	104.8	4
Petroleum products	85.1	101.1	18
Industrial chemicals	89.4	88.4	minus 1
Tires and Tubes	79.5	109.0	37
Lumber	86.6	113.7	31
Agricultural mach.	65.2	113.0	73
Household furniture	75.6	111.6	48
Motor Vehicles	77.9	107.4	38

Source: Stat. Abst. of U. S. 1971, Table 531, p. 335.

Farm Income

As might be expected, farm income declined sharply during the Great Depression. Gross farm income stood at $13.8 billion in 1929 and dropped to $6.4 billion in 1932. Thereafter a slow increase was recorded, the 1939 income having reached $9.7 billion or $10.5 billion including government payments, still short of the 1929 level. By 1945 the total receipts had reached $24.5 billion including government payments of $700 million. (Stat. Abst., U. S. 1947, Table 669, p. 609).

The income continued upward, reaching $32.1 billion (gross) in 1950, $38.0 billion in 1960 and $56.1 billion in 1970. (Stat. Abst., 1971, Table 944, p. 581).

Trends in Number of Farms, Farm Size, Farm Population, etc.

Number of Farms

Either as a result of the farm program or as a concommitant, the number of farms declined steadily. In 1930 the number was 6.54 million. By 1950 the number was 5.64 million; by 1960 it had fallen to 3.96 million and to 2.92 million in 1970 or distinctly less than half the number in 1930. (Ibid., 1971, Table 924, p. 573).

Farm-Size

Meantime farm-size increased, moving upward from 151 acres per farm in 1930 to 389 acres in 1970, or well over twice the earlier size. (Ibid.)

This trend was, of course, greatly stimulated by the cost of farm machinery and equipment, outlays for fertilizer, pesticides, herbicides, etc., all of which were a part of farm technology but

represented heavy overhead, thus calling for larger acreage to absorb it.

Farm Population

During the same period, 1930-70, farm population shrank even more sharply than the size of farms increased. In 1930 farm population was 30.5 million or 24.9% of the population. By 1970 this number was 9.7 million, or 4.8% of the population, representing a shrinkage of more than 2/3. (Ibid, Table 922 p. 572).

Farm Labor

In 1932 the number of farm workers was 11.06 million. This was followed by a gradual decline, the number reaching 10.74 million in 1939, and 9.84 million in 1945. (Ibid. 1947, Table 212, p. 198). In 1950 the number was 9.92 million, and by 1960 the number had declined to 7.06 million and in 1970 to 4.52 million (Ibid. 1971, Table 367, p. 232).

In twenty years over 5 million workers lost their moorings. Yet the persistent cry of critics of our weak competitive position in the world is for greater efficiency! No thought is given to the consequences of such efficiency to employment such as accompanied increased agricultural efficiency.

Government Payments

Payments made by the Government to farmers began at $131 million in 1933, rose to $807 million in 1939, dropped to $769 in 1945, and on to $267 million in 1950. They continued relatively low until 1960, but reached $2.4 billion in 1965, and $3.7 billion in 1970. (Ibid., 1947, Table 670, p. 610; 1951, Table 681, p. 580,

and 1971, Table 944, p. 580).

Acreage Harvested

It was to be expected that the total acreage harvested would have declined as acreage control and withdrawal of acreage under the soil Conservation Act progressed.

In 1930 cropland harvested was 359 million acres. By 1940 the acreage harvested had declined to 321 million. This was followed by an upward movement. The 1950 acreage was 345 million acres, but by 1955 the downward trend resumed. In that year the acreage was 340 million, followed by 324 million in 1960. By 1965 the acreage had fallen below 300 million, or to 298 million in that year. Preliminary statistics set the total at 297 million acres for 1970.

During the forty-year period of 1930-1970 the acreage decline was in the magnitude of 17%. Volume of production by contrast had increased several fold, as detailed immediately below.

Farm Productivity

Meantime our population grew by 80 million or 65%.

Crop yields per acre since 1930, however increased more steeply, especially since World War II.

The yield of corn per acre was 24.1 bu. per acre in 1931. It had increased to 31.0 bu. in 1941 and reached 37.0 bu. in 1946. By 1960 the yield had increased to 54.7 bu. and in 1970 it had gone to 71.7 bu., after having reached 83.9 bu. in 1969. A blight infestation reduced the average yield in 1970. In any event, a three-fold increase in yield per acre represented a high reward for the farmer's effort.

Wheat virtually doubled its yield during the same period, moving from 16.3 bu. per acre in 1931 to 31.1 bu. in 1970. It moved up 5 bu. during the 1960-70 decade.

Soybeans, now a leading farm crop, were in their infancy in the first half of the 1930-40 decade. Average yield per acre during 1931-35 was 15.4 bu. per acre. In 1941 the yield had risen to 18.0 bu. It moved upward to 23.5 bu. in 1960 and to 26.8 bu. in 1970. The increase in output per acre was a little less than 75%.

Irish potatoes also enjoyed a doubling in the yield per acre, moving from 110.1 bu. in 1931 to 131.2 in 1941. In 1960 the yield had risen to 185 bu. and in 1970 to 228 bu.

Cotton yielded 211.5 lbs. per acre in 1931, rose to only 231.9 lbs. in 1941, on to 284.0 lbs in 1948 and up to 446 lbs. in 1960. The 1970 yield was 441 lbs., although 527 lbs. had been reached in 1965. Output per acre had more than doubled.

Tobacco enjoyed a yield of 808 lbs. per acre in the 1931-35 period. This had risen to 966 lbs. in 1941 while the 1950 yield moved up to 1277 lbs. In 1960 a further gain up to 1,703 lbs. was achieved, while by 1970 the yield had moved to 2,120 lbs. or 2 1/2 fold that of 1931-35.

Rice in 1931 yielded 2,079 lbs. per acre but dropped to 1,903 lbs. in 1941. In 1950 the yield had risen to 2,362 lbs. By 1960 an additional 1,000 lbs. per acre had been reached at 3,423 lbs., and in 1970 yet another 1,000 lbs. had been added, at 4,566 lbs. per acre. The yield had more than doubled since 1931.

(For yields per acre see Stat. Abst. 1947, Table 703, pp. 638-641; Ibid, 1951, Table 710, pp 604-607, and 1971 Table 965, pp.592-2).

Man-Hour Per Unit of Production

Output of Farm Labor

Crop	1935-39	1945-49	1955-59	1965-69
Corn Man-hours per 100 bu.	108	53	20	7
Wheat Man-hours per 100 bu.	67	34	17	11
Potatoes Man-hours per short ton	20	12	6	4
Cotton Man-hours per bale	209	146	74	30
Tobacco Man-hours per 100 lbs.	47	39	31	25
Milk cows Man-hours per cwt of milk	3.4	2.6	1.7	0.9
Cattle other than dairy Man-hours per cwt of beef	4.2	4.0	3.2	2.1
Hogs Man-hours per cwt	3.2	3.0	2.4	1.4
Chickens (egg-production) Man-hours per 100 eggs	1.7	1.5	0.9	0.4
Chickens (broilers) Man-hours per cwt	8.5	5.1	1.3	0.5
Turkeys Man-hours per cwt	23.7	13.1	4.4	1.9

(Stat. Abst., 1971, Table 954 p. 587)

This table shows the increased productivity per farm worker, but the table begins with the 1935-39 period and ends with the 1965-69 period. Thus is lost the increase that took place before 1935 and after 1969. Nevertheless the reduction in man-hours required per unit of production is exceptionally sharp in some instances, such as in corn production and in the production of chickens (broilers) and turkeys.

The next table shows by index numbers, where 1947-49 equals 100, the output per man-hour on farms from 1930-1970:

Farm Output Per Man-hour - Index where 1947-49 = 100

	1930	1940	1950	1960	1965	1970
Total Farm Products	53	67	112	206	290	357
All Livestock & Prods	76	80	107	159	257	337
All Crops	50	67	114	220	267	317

(Stat. Abst. 1961, Table 885, p. 644 and 1971, Table 953, p. 586. For the years 1965 and 1970 it was necessary to convert the 1967 base of 100 to the 1947-59 base.)

From the preceding table we see that the output per man-hour moved up sharply decade after decade from 1930 to 1970. Productivity per man-hour in All Farm Products increased 6.7-fold from 1930-1970; it increased 4.4-fold for All Livestock and Products, and 6.3-fold for All Crops.

The slowest increase was in the first decade (1930-40 during which the first category (All Farm Products) increased only 26%, the second (Livestock) only 5% and the third (All Crops) only 34%.

In the second decade (1940-50) the first category increased 67%, the second 34% and the third 70%. In the third decade (1950-60) the increase was sharper, increasing by 84% in the first category, 48% in the second and 93% in the third. In the most recent decade

(1960-70) the increase in productivity continued at a high level. The first category rose 73%, the second (Livestock) 112% and the third, less sharply at 44%.

This record of performance vastly outdistanced that of American industry.

Unfortunately available statistics do not permit a complete comparison of productivity in the manufacturing industries with that recorded in agriculture. With respect to manufacturing as a whole the statistics do not go backward beyond 1950.

The following table shows the increase in productivity in manufacturing industry from 1950-70 in terms of index numbers with 1967 as the base.

Output Per Man-hour in Manufacturing

Index of Productivity

	1950	1955	1960	1965	1970
Manufacturing (1967 = 100)	64.4	73.7	79.9	98.3	108.1

(Stat. Abst., 1971, Table 350, p. 224)

Compared with the increase in farm productivity per man-hour the progress in manufacturing industry was pedestrian. Since 1950 farm output per man-hour tripled while its counterpart in manufacturing fell distinctly short of doubling.

We have scattered statistics on the man-hour output by some industries from 1935 to 1969, measured by the 1947 base. In a few instances we have the productivity from 1950 to 1969, where the base of 100 is 1967. The table follows:

Output Per Man-hour - Selected Industries

Industry		1935	1939	1950	1955	1960	1969
Steel	1947 = 100	62.9	79.3	111.9	129.4	136.7	--
	1967 = 100	--	--	78.3	--	82.3	104.8
Petroleum refining	1967 = 100	--	--	39.4	--	68.4	111.7
Flour	1947 = 100	99.5	109.5	100.0	127.1	--	--
	1967 = 100	--	--	54.7	--	78.0	109.3
Paper	1947 = 100	95.5	109.2	118.9	137.5	--	--
	1967 = 100	--	--	56.4	--	74.7	109.5
Tobacco products	1947 = 100	69.4	80.0	119.3	126.2	--	--
	1967 = 100	--	--	59.6	--	82.2	103.6
Man-made fibers	1947 = 100	31.8	46.9	151.6	224.8	--	--
	1967 = 100	--	--	--	--	71.8	110.9
Cement	1947 = 100	72.6	89.7	116.0	150.7	--	--
	1967 = 100	--	--	47.3	--	71.5	109.4
Hosiery	1947 = 100	--	87.0	115.4	126.0	--	--
	1967 = 100	--	--	40.1	--	58.6	105.9
Confectionary	1947 = 100	79.2	89.4	102.5	127.0	--	--
	1967 = 100	--	--	51.2	--	78.3	97.8

(Stat. Abst., 1961, Table 292, p. 218; Ibid. 1971, Table 351, p. 224.)

II

Results and Effects of the Farm Program

Benefits

Measured by the increase in productivity (1) by the acre and (2) by the output per man-hour, the Farm Program exceeded all expectations. It has been hailed as a "miracle" of production. No single factor can be credited with the phenomenal rise in productivity or the increase in total farm output on lesser total acreage. Unquestionably price incentive and the removal of the harassing uncertainty that was the woe of individualistic farming, which is to say, setting of a guaranteed price at or near the parity level, represented a strong motivation.

The imposition of import quotas to prevent the break in prices that increasing imports, attracted by higher price levels would have generated, represented the removal of another negative factor. Contrary to the theory that import quotas and a guaranteed market at a good price lead to complacence, indolence and inefficiency, the agricultural community of this country proved the opposite.

Production control, though never perfect, nevertheless reduced one of the other principal curses of unplanned acreage planting and harvesting. Centralized planning under the aegis of the Department of Agriculture brought into farming and made possible the type of control that is much more easily exercised in manufacturing because of the concentration of production in plants and factories where

thousands of operatives and management work together.

Yet, without the increased use of fertilizer, pesticides and herbicides, the development of improved strains of crops, soil conservation plus intensive mechanization, the amazing increased productivity that crowned the Program would not have been achieved. It was therefore the combination of contributory elements, energetically pursued, that brought the results that were actually achieved.

Side Effects on Trade

Interference with the free flow of trade was considered an unfortunate but necessary effort to prevent the Program's undermining from abroad. As an example, before the importation of cheese was strictly limited, the higher market price assured by the dairy program attracted heavy imports of cheese with the unhappy result of surplus accumulation of domestic cheese in our warehouses and the consequent drain on the Treasury which paid the farmer the guaranteed price for his production. Imports of raw cotton, wheat and wheat flour, other dairy products, peanuts and a few other items were also held to a mininal level as a means of avoiding surplus accumulation and the loss to the Treasury that would thus result when the surplus could not be disposed of.

In the case of cotton a very embarrassing competitive boomerang developed in time. Domestic mills paid the higher American price while foreign countries could buy our cotton at world prices. Since these were some 25% - 30% below the American price, foreign textile mills began invading our market with textiles that enjoyed this

added competitive advantage. Legislation to make good the differential from which the domestic mills suffered, was passed, with the Treasury paying out to the cotton mills the make-up that eliminated the foreign competitive advantage from this source.

Exports of farm products represented an important means of removing surplus crops which continued to accumulate despite acreage control. While output per acre was climbing rapidly, the lower production costs did not lead to higher consumption beyond population increase because of the inelasticity of the demand for most farm products. Withdrawal of land from cultivation also did not assure an "ever normal granary" because a high yield might undo the acreage cutback. Surpluses continued to embarrass the Government - not so much the farmer since he was assured of his income in any event.

Since exports were sold at world prices and since these were usually below the domestic level of supported prices, our exports became a source of the cost of the Program. Payments to farmers covered their total production of the crops subject to price support, and the higher the export volume and the lower the world price compared with the domestic support price, the higher the cost to the Treasury.

Thus while the Government stimulated exports in many instances, depending on its degree of success, it increased its own out-payments from the Treasury.

The highly restrictive import quotas, such as those relating to raw cotton, wheat, wheat flour, peanuts, dairy products, naturally discouraged the growth of imports. Yet this fact did not, to repeat,

lead to a lag in productivity. Quite the contrary. Many of our other agricultural imports were, of course, free of duty since they did not compete with domestic production, such as coffee (the principal item), bananas, tea, cacao-beans, crude rubber.

Our imports of agricultural products have declined sharply over the years in terms of percentage of total imports. In the 1932-36 period 50.9% of our total imports were agricultural. A high point was 1937 when 53.1% of all imports were of that origin. A decline in the proportion set in after World War II. The percentage was 46 during the 1942-46 period. By 1952-56 this had declined to 39%; by 1957-61, to 28%; by 1962-66, to 22% and in 1969-70 to the low level of 14%.

This does not mean that total agricultural imports declined but that other imports, particularly of manufactured goods, grew very much more. Our agricultural imports were $3.37 billion in the 1947-51 period, and $5.48 billion in 1970. This slow growth was not attributable wholly to our import quotas, because our imports of duty-free items did no better. The consumption of food products is limited by the population. Coffee imports, duty-free, increased only 7% in pounds from 1950-70. Tea imports increased 21% or one per cent per year.

Exports of Agricultural products also lagged in relation to other exports. During the 1932-36 period they were 36.4% of our total exports, compared with the 50.9% for imports, already mentioned. During the War period (1942-46) exports dropped to 19% of total exports. During 1947-51 the level was 28%, a quite considerable increase; but

that level has not again been recaptured. By 1960 the share was down to 26%. There followed a rapid slide which in both 1969 and 1970 reached the level of 16% and 17% respectively. Again, this decline did not mean that there was no growth in these exports but simply that they lagged far behind the growth in our other exports, particularly that of machinery and aircraft. Indeed the exports of these two items alone in 1971 were 2 1/2 times as high as total agricultural exports. (Stat. Abs., 1947, Table 697, p. 632; Ibid, 1971, Table 959, p. 589; Survey of Current Business, Dec. 1971).

Exports of agricultural products would have been on an even lower level had they not been boosted by certain governmental programs through subsidy or outright gifts. These were principally Public Law 480 exports and those that moved under A.I.D. (Act for International Development), Food for Peace, etc. Such exports were at the level of $835 million in 1955; $1.28 billion in 1960; $1.59 billion in 1965 and $1.01 billion in 1970. Beyond that, certain so-called "commercial" shipments of wheat, cotton, etc., were made at world prices where our Government made up the difference in the form of a subsidy.

In 1970, for example, such "commercial" exports, i.e., supported by export payments, totaled $1.17 billion, over and above "Exports under Governmentally-financed programs", which in 1970 were $1.01 billion, as just noted. Between the two classifications 32.3% of our agricultural exports, or $2.18 billion, moved in 1970. (Foreign Agricultural Trade of the United States, Monthly of the Economic Research Service, U. S. Dept. of Agri., April 1971, Table 2, p. 8.).

It has been the uniterrupted practice of the Department of Commerce to treat these agricultural exports as true exports and using them in striking a trade balance each month, each quarter and year. The resulting trade surplus has been used improperly as evidence of the competitive prowess of this country. Had our "give-away" programs been in the magnitude of $5 or $10 billion our competitive position in the world could, of course, have been made to appear in an even more favorable light; but such a showing would not have reflected a stronger competitive position for us.

Import Quotas and Prices

It seems safe to say that but for the import restrictions in the form of import quotas during these many years, based principally on Section 22 of the Agricultural Act of 1935, our wheat, cotton, dairy, beet sugar and farmers of other crops would have been ruined by the unimpeded competition from other countries. The object of the quotas was not to raise the prices of these crops (that was done by legislation) but to prevent their falling again to disastrously low levels.

Indeed the prices of the commodities that were placed under import quota protection, with one exception, lagged behind the general price level in 1970. The record of the price trend in these instances overwhelmingly contradicts the popular impression that import quotas lift prices to the consumers above the level of the prices of products that are not under import restriction, and that the sole purpose of quotas is to raise prices.

The quota protection unquestionably released the energy of farmers to increase output per acre under a guaranteed price, with the assurance that they would not be deprived of the fruits of their efforts by imports which had the unearned competitive advantage that comes from the very low wages paid abroad.

Unfortunate Fall-Out of the Agricultural Program

One of the side effects of the great surge in agricultural efficiency was the displacement of farm workers as well as farmers themselves. Also, stream pollution by hydrogenous and phosphate materials used as fertilizers has aroused the fear of ecologists. The decline in the number of farm workers, noted earlier, was precipitate and massive. Greater efficiency, meaning higher output per man-hour, can indeed only be achieved in any meaningful degree by heavy displacement of workers, either in agriculture, industry or mining. From 1955 to 1970 employment in agriculture declined 48%. (Stat. Abs. 1971, Table 349, p. 223).

These evicted workers, over 5 million from 1950 to 1970, in great numbers crowded into our cities and added to the intractable urban problems of the last decade, including the crowding in the ghettoes.

Inelasticity of Demand for Farm Products

Much of the product of farms and grasslands caters to human necessities, particularly in the form of food. The great preponderance of acres is devoted to crops that directly or indirectly go to fill the human stomach. Examples of leading acreage crops

are corn (57 million acres of the 1970 300 million-acre total), wheat (44 million acres 1970), hay (63.2 million acres), and soybeans (42 million acres). Other acres of less impressive magnitude were barley (9 million acres), fruits and nuts (4.4 million), vegetables for sale (3.3 million), potatoes (1.4 million), beans (1.4 million), rice (1.8 million), peanuts (1.4 million), sugar (2 million). Cotton and tobacco acreage (nonfood items) is small comparatively (11.1 million and 899 thousand acres respectively.) Cotton products in general, contrasted to food, enjoy a relatively elastic demand. The amount the consumer may spend on clothing is not limited as is the consumption of food.

Some of the crops mentioned only serve as human food indirectly, as the corn fed to cattle, hogs and poultry, hay for cattle and dairy cows. Some serve nonfood purposes but these are of a smaller magnitude.

It should be recalled that the total potential demand for food products is limited by the number of stomachs to be filled. The demand for these products is therefore quite inelastic, even with respect to the luxuries such as Russian caviar. Therefore a lower price will not greatly increase the demand. Whether wheat is a dollar or two dollars per bushel does not shrink or distend the human stomach. Consumption remains quite stable. Per capita wheat consumption has fallen in this country, but for other reasons than price, which today is moderate, i.e., 33% below the 1951-55 price despite the highly restrictive import quota.

Because lower prices do not stimulate demand in this field

overproduction quickly threatens a surplus in farm products.

Many products of industry are of a different character. If a product is useful, a pleasure to possess, caters to comfort or convenience or to personal social prestige, it may be consumed in multiple units, depending on its price. Milady may have a dozen pairs of shoes when only one pair is needed to avoid going barefooted. A household may have a number of radio and TV sets. If the price is high in relation to consumer income, sales of such products will be limited accordingly. As the price is reduced because of lowered production cost and competition, more consumer pocketbooks are opened. The demand, in other words, is elastic. It expands as the price declines but shrinks when the price rises. There are, of course, different degrees of elasticity.

The great objective of American industry the past half century and more has been to find products, principally nonessentials, that cater to consumer desires, and then to bring down the cost of production through increased productivity. If the mass pocketbook could be tapped a bonanza awaited the patent-holders. Examples were the automobile, radio, television, telephones, household appliances, certain chemical products, finery and style goods, etc. It is precisely because such products are nonessential to human subsistence that the demand for them is elastic. The price then becomes important. If this is lowered more people with lower incomes can buy. The purchase of nonessentials can be postponed or curtailed depending on the conditions of the consumer's income, his outlook for employment, etc. For this reason an economy that caters to production of nonessential

goods, is quite sensitive to psychological factors, such as the uncertainty caused by rising imports.

The more units that our industries could produce the more could be sold because mass production meant lower costs. Such was the basis for our "growth industries", electronics, chemicals, etc. There was little danger then of a surplus - the exact opposite of the farmers' dilemma. When the latter produce beyond the stomach capacity of the country they quickly accumulate a surplus that must be exported or stored by the Government. However, those who produce nonessential goods also face excess inventories from time to time but for different reasons, such as consumer hesitancy for a variety of reasons to buy what they do not really need.

While the farm program was a phenomenal success as a provider of human necessities, the price exacted was also high. The striking success in raising productivity levels meant self-displacement by the farmers. Agricultural efficiency is not a royal road to an ever-expanding market. Not at all! The market responds only marginally. A substitute, such as oleomargarine for butter, which makes an acceptable article, distinctly cheaper, by not expanding the human stomach, simply displaces butter in the family budget. What one product gains in human consumption the other loses. Growth then depends principally on population growth.

This difference between products that enjoy an elastic demand and those that do not has far-reaching production-policy implications. The farm workers who are displaced by machinery stay displaced. If they are to be re-employed they must go elsewhere.

This fact, though highly significant, has not been adequately assessed.

Implications for Our Trade Policy

The unique American productive system became possible because of our rejection of the British colonial purpose of maintaining the colonies as agrarian producers of raw materials and as a market for manufactured goods. No agrarian economy can hope to achieve living standards such as are made possible by pointing industry toward the production of nonessential goods. We opened this route to new dimensions before the turn of the last century. We had glimpsed the possibilities of technology in the field of production and prepared the ground legislatively by restraint of monopoly (Sherman Anti-Trust Act 1890, followed later by other anti-monopoly measures.). If production of scale was possible because of technological progress it would be of little avail to embark on mass production if monopoly could prevent the passing of savings on costs to the ultimate consumer. (It is doubtful that recognition of this sequence was the basis for anti-monopolistic sentiment. The latter probably arose more from the producers who were squeezed by monopoly power held by their competitors than from public concern.)

When we adopted our Constitution someone had undoubtedly read Adam Smith's Wealth of Nations, and in keeping with his philosophy wrote into the Constitution a provision that prohibited the laying of tariffs on goods moving in interstate commerce. This prohibition laid the foundation for a national market in time - precisely what was needed if mass production was to become economically no less than

technologically viable when the time for it arrived much later.

As we moved to the status of an independent nation and undertook to develop an industrial base, so sadly and visibly lacking during the War of 1812, we adopted an external tariff. This was necessary to give us a start as an industrial nation.

Yet none of these combined favorable elements would have carried us to a new level, away from the European system, if the role of consumer purchasing power had not been perceived subsequently as an indispensable partner of mass production.

We did indeed embark on a course that in time left behind our inherited attitude toward wages, an attitude that outside this country (except Canada) has persisted. British economists (Ricardo and others) looked upon wages as a necessary evil and held that they should be held at a level that would least burden cost of production. This philosophy, of course, suited the factory owners. They had not perceived employee compensation as the principal component of the market for goods. This vision was left to their American cousins who came up with the interdependence between mass-production and mass-consumption and built an industrial empire on it, as exemplified by the automobile industry.

Elasticity of demand for nonessential goods that would bring moderate or great satisfaction to the consumer, if he was paid enough as a worker (an objective of organized labor) to buy more goods as the cost was brought down to his income level: that was the twin force that carried us to the pinacle of industrial development, i.e., lower costs (representing increased productivity)

met by rising income (higher wages) in the hands of the consumers.

This scaling of the heights obviously could not have been accomplished through agriculture alone, as already indicated. The demand was not sufficiently elastic for farm products. It was through industrial development that we moved far afield from our sister industrial nations. Had these other nations perceived as clearly as our unsung industrial economists (some of them academic) the dependence of production on a mass market they might have accompanied us on the upward escalator from the outset; and we could have had free trade among the nations as among our States. Instead they were skeptical and clung to the old attitude toward wages and thus cramped their market outlet. They stayed far behind us both in productivity and in wage levels until very recent times; and they are still behind in point of wages. Thus was laid the groundwork for the competitive discomfiture of this country during the past decade by the sudden technological catch-up activity of our foreign competitors.

After this country's final demonstration in World War II of what our industrial strength meant, the other capitalistic countries fell in line in pursuit of technological progress. Before long they came indeed to appreciate the need for a more massive market than their current territorial and population limits permitted; and they formed trading blocs (E.E.C. and E.F.T.A. in Europe) to broaden their market. They might have accomplished an interim enlargement of their still small markets by taking a more generous view of wages.

Fifty million Frenchman could offer a very handsome market if their wages were doubled as their productivity moved upward in a like

curve, and likewise the British, the German and the Japanese. The chicken-or egg sequence, however, presents a stumbling block in all such instances. Which comes first, the higher output with it lower cost, or higher wages with their higher purchasing power? The puzzle can only be broken by the entrepreneur who takes the risk of committing his capital on the basis of confidence. The consumer cannot take the lead toward higher consumption because the price of the goods has not been brought down far enough to attract lower layers of income, and he is not the one who reduces the cost. If he stretches his credit too far he is soon cut off. Therefore the first step in progress devolves on the enterpriser who must take the lead by increasing his output to gain lower costs, in the fervent hope that the consumers will fall into line when he is able to lay before them the goods they would like to buy if the price should come within their reach. If he is economically wise he will at the same time increase wages to assure higher purchasing power. He can do this because of the increased productivity of the workers using machines. Such was the story of Henry Ford, and he begot followers. It was he who introduced the $5 per day wage in appreciation of what makes a market.

This forward position taken by one who can sense and anticipate popular demand, who is also a bold risk-taker, indeed represents the entrepreneur's principal function in the capitalistic system. The failures, numerous as they are, are soon forgotten. If the investment climate appears favorable venture capital will soon again lead forth. That, at its best, has been the American experience of the

twentieth century until the decade of 1960. The vision of a vast national market has been the supreme motivation toward cost-reduction by the managerial forces, and this course, prodded by labor pressure, seeking the enlargement of consumer purchasing power through higher wages, not always in keeping with higher procuctivity, has by and large, been the balancing factor between the two sides of the mass-production, mass-consumption equation.

Mention should perhaps be made of farmer cooperatives as an exception to the usual form of capital formation and entrepreneurial activity in this country; but the cooperatives have been confined principally to the production and marketing of food or other agricultural products, and their success has not invalidated the observations made here about the development and production of nonessential goods.

Lesson From Agriculture, Industry and Labor

The treatment of all products as if the demand for them were the same or subject to the same influences represents an abysmal error. During the past few decades economists have repeatedly but erroneously equated import competition and the upsets it may produce with both domestic competition and with the disruption that may be caused by invention and development of new products on the domestic scene.

No effort has been made by them to take into account the economic effects of a differential in (1) demand elasticity, (2) divergent competitive levels or (3) the time needed for adjustment. Yet, as we have seen, these differences may be far-reaching and may produce unfortunate consequences in policy decisions if they are not

69-133 O - 73 - pt. 5B - 28

understood, or are ignored.

It is one thing when the automobile replaces the horse and buggy. It is critically different in its consequences when the invention of the harvester combine and the tractor displaces farm workers. Again it is different when development of the television set reduced radio listening and motion-picture attendance.

Those replaced by the harvester combine, the tractor, the cottonpicking machines, etc., remain displaced because the lower costs brought about by the introduction of the machines does not mean greater consumption of the product, such as wheat, as it would if the demand for the product were elastic. Inelasticity of demand locks the door, so to speak, to expanding employment within the immediate field of its displacement. When the cost and the price of the automobile were brought down by mass production and met at the potential-consumer end by people who earned enough money to buy the lower-priced car we had a new industry and it soon employed many more workers than the displaced industry had employed. The new industry was protected by patents and had adequate time to demonstrate its acceptability, usefulness, and economy to the interested consumers, unchallenged by imports enjoying the advantage of yet lower costs. It needed no import competition to prod it in the first place and indeed there was none at that time to disrupt or halt its progress.

This is not to say that the demand for all nonagricultural products is elastic and that therefore consumption will increase handsomely as prices are reduced. There are many exceptions. There are

products for which the demand depends not on the product itself but on outside developments. Fuels, steel, construction materials are examples. They are not bought for themselves.

One exception was impressed on us by the recent experience with coal mining. The industry was faced early in the 1950's with extinction by competition from diesel oil, imported residual fuel oil, and natural gas. With great effort the coal industry mechanized itself over a period of 15 years. It achieved a new competitive position, even to the extent of shipping large tonnages to Japan and Italy. Recently, to be sure, the price of coal has risen beyond the general price level, the rise having been aggravated by the high export tonnage, but the effect of maximated productivity for years was to keep the price low while the price of other products rose.

The process of salvation through higher productivity unfortunately displaced from 2/3 to 3/4 of our coal miners - over 300 thousand - and gave us the distress of Appalachia. The lower price of coal achieved before other factors raised the level, did not, however, lead to enough additional coal consumption to rehire the displaced miners, much less additional workers. The number of coal miners has declined from 480,000 to about 125,000. The reason for this negative result lay in the relative inelasticity of the demand for coal, totally different from the demand for automobiles.

As in the achievement of greater agricultural efficiency, coal mining also paid another efficiency penalty. A part of the increase in productivity came from the spread of strip-mining that has lately so greatly aroused the ecologists.

Foreign vs Domestic Competition

Different as are the effects of cost-reduction among domestic products subject to a different character of demand (in point of elasticity), the effect is not as great as is experienced from import competition such as many industries face today. The disruptive effects of adjustment to domestic competition are often spread over years. The automobile did not replace the horse overnight. It needed a generation or two of time.

On the domestic scene, moreover, there may be no wage differential, or if one exists, as that between the North and the South which motivated the shift of our textile industry, it is not as wide as the differentials separating our wages from those paid by some of our principal foreign competitors. Also, the shift of the cotton textile industry to the South spanned over fifty years of time. Even so the distress in New England was acute. The rise of sharp import competition since World War II has been precipitate by comparison, coming up overnight, so to speak. There was little time for adjustment.

In the past it was often said with some proximity to the truth that our higher wages were offset by our higher productivity compared with that of our foreign competitors. Today the wide diffusion of our technology no longer sustains such a contention. Foreign wages have indeed risen sharply and in many instances proportionately more than our wages, but a 10% increase on our base is equal to a 100% increase in what were the wage levels of some of our leading competitors. Also, in the past we levied a tariff that averaged

in the magnitude of 50% ad valorem on imports, whereas today it averages less than 10% on dutiable items, imports of which represent about 65% of total imports.

The importance of the wage differential between the domestic and foreign levels, hand in hand with relative productivity, cannot be ignored without courting false conclusions. In this country employee compensation represents approximately 80% of corporate costs of output. (See Stat. Abs. 1971, Table 493, p. 310). To be properly treated as a cost element labor outlay must be traced from the first steps of production, be this agricultural, extractive or whatever, and then taken through all the steps of processing, refinement, purification or fabrication, all involving their share of employment; picking up transportation charges, insurance, financing and the appropriate share of interest, plus warehousing, on the way, all of which also call for paid employment, and finally assembling (if it is involved) and finishing.

We have been badly albeit unwittingly misled by the practice of the Bureau of the Census in its definition of industry. What it calls the "automobile industry", for example, incorporates hardly more than one-fifth of the productive activity performed before reaching Detroit, from the iron ore mines to the steel mills, to the coal pits, and all else involved in producing components for an automobile, to the point of making it ready for delivery to the customer. According to the cenus reports labor costs are only some 15-20% of the value of the automobiles shipped. The error lies in regarding the operation of the four or five companies that merely

assemble the final product in Detroit and elsewhere as the "automobile industry." Actually the share of all employee compensation measured against the final f.o.b. Detroit price, we may be sure, is over 75% when all the pre-Detroit operations are taken into account.

The nomenclature of the Census Bureau is a cardinal error because it conceals the extremely crucial part played by employee compensation (particularly wages) in the capacity of the market to consume agricultural, mineral and industrial output. Nothing measures the market, actual or potential, more accurately than the number of workers employed and the actual or potential level of their compensation. To minimize this, even unintentionally, as is accomplished by the Census Bureau, inhibits the perception of the relation between wages and the market, and understanding its meaning.

Odd Consequences of Current Import Competition

Import competition such as has developed during the past decade for American industry has the power to convert the cost-reduction accomplished by industries dedicated to the production of nonessential consumer goods (perhaps over 90% of the total) into the sterile job-generating condition characteristic of producers of essential goods when the cost of the latter is reduced. Like these, the cost-reductions effected by the producers of nonessential goods when they are faced with virtually unimpeded low-cost import competition, result in nearly zero increase in consumption of the American-made product in response to the lower prices, if not actual reduction. New jobs are not generated; they are lost, and the displaced workers are not rehired.

The radio and television workers in producing plants who were dismissed in order to reduce costs remained laid off when improved production methods made it possible for fewer hands to do the work of more, or when segments of the industry moved abroad. The domestic industry does not then achieve larger sales because imports meet the increased demand with yet lower prices. This sterility has resulted from the persistence of a wide wage-gap and the enhanced productivity of foreign industry, whether it be native or American-owned or whether it utilizes foreign patents or works American patents under license. The effect is the same.

The increased employment that would have greeted our household electronic goods industry as the prices were lowered in response to improved technology in the absence of lethal import competition took place in other countries. So far as increased employment in the home market was concerned the product, instead of being radio or television receiving sets, or recorders or record players, might as well have been wheat or corn, so far as job-generation was concerned.

So long as foreign producers can challenge our manufacturers or venture capital and virtually pre-empt the mass market or broader mass market they seek through radical innovations, the outlook for expanded employment from these sources will be dim indeed.

Where else then is expanded employment to arise? Certainly not from increasing agricultural exports! Farm employment is already down to 2.86 million (1970). The only hope lies in the shift to the "service" industries, unless other measures are taken. A heavy movement toward service employment has been underway over

several decades. (More on that later).

If our inventive genius and our productive and managerial energies are to be sterilized so far as their capacity to increase employment is concerned, we will be back to a pedestrian economy, and the zero-growth advocates can be happy.

For a time in recent years we were able to increase our exports precisely because the trek overseas by our private direct investors in foreign plants and subsidiaries after 1955 or thereabouts pulled with it much American machinery, equipment and materials in the form of exports. These investments snowballed. The great surplus in machinery and aircraft export that developed in a decade incidentally thoroughly concealed the gaping deficit that was developing in our trade in nearly all other manufactured products. Our 1971 exports of machinery, aircraft and automotive products were 46% of our total exports and over twice as high as our exports of all other manufactured goods, and the deficit of several billion dollars in our trade in these other products was lost to sight. Beyond that the statistical practices of the Department of Commerce had the effect of making our merchandise trade balance look better by some $5 - $6 billion annually than it actually was in terms of competitive trade.

The export of machinery and modern equipment incidentally helped greatly in building the foreign competitive capacity. The foreign demand generated by our foreign investments, however, was neither self-perpetrating nor permanently wedded to American sources. Now after a decade or more even our machinery manufacturers are being hard pressed by imports of foreign-made machinery. This means that

the high hopes reposed in the increasing export of "high technology" goods as an escape hatch are also being dashed. Machinery and high-technology goods are no more immune to import competition than are other goods. The source of the foreign competitive advantage in the other goods applies as surely to high-technology goods. We have no technological skills superior to those of our competitors. Our producers in the early years of this century merely had higher motivation than their foreign counterparts.

The labor legislation that followed the new farm laws in the 30's was as clear a setting aside of the laissez-faire philosophy or free enterprise as was the ~~farm~~-price and production-control legislation.

Child labor was outlawed as representing unfair competition. Minimum wages were set for two purposes: to increase labor income and to prevent "cut-throat competition" from "ruthless" employers from undermining the "fair" employers - provided, of course, that the outlawed producers operated in this and not a foreign country.

For some reason foreign wages, though even then far below ours, were not regarded as so much of a menace to our "fair" employers as were the low wages of some employers in this country.

We even encouraged the foreign producers to enter our market by launching a far-reaching tariff-cutting program, thus instituting increasing degrees of laissez-faire in this sector while squeezing it out in nearly all else.

Apparently we loved agriculture more than we loved industry, since we threw import quotas around the most important crops, for-

getting or not knowing that industrial employment is much greater and that agricultural employment was destined to shrink greatly under the farm program for reasons that are now chillingly clear.

One prime result of the labor legislation was virtually to take domestic wages out of competition, as was indeed the intent. In other words, approximately 80% of the cost of production was put out of reach of the manufacturers as a competitive defense. This meant highly inflexible costs except those that could be achieved through labor displacement or greater efficiency, which is the same thing.

Thus was American industry left with only one weapon of any consequence, and this was a weapon that at one time did indeed lead to greater employment, as we have seen. Now, however, the scene has so greatly changed that it is no weapon at all other than one of self-destruction, since imports now hold the position of the "sweatshop operators" and unfair employers in this country against whom we legislated so vigorously and with such great popular support as evidenced by the heavy legislative majorities by which the measures carried. The policy even today is to open the door still wider to the foreign producers who are free to exploit our market to their benefit and thus prevent our labor from benefitting from the legislation that was designed to bring us full employment at wages high enough to buy our increasing output.

Foreign entrepreneurs now have the same strong motivation to invade our mass market as our own entrepreneurs harbored when the market was still theirs to develop and supply. The American mass market acts as a magnet and fuels the same tireless efforts abroad

aimed at its conquest as its earlier promise fanned the flames of industrial empire-building in this country during the first half of this century.

The invasion cannot be halted and the scene cannot be restored to its earlier attraction for the American entrepreneur unless the unearned competitive advantage held by foreign industries is appropriately moderated, tamed and contained. No more than Henry Ford needed a prod from import competition to create a market for his product does the present-day industrialist depend on a spur from foreign competition to do his best. In contradiction of this view it is necessary only to note that he is active and doing quite well overseas. The same one who is flourishing overseas because of his motivation from that source cannot be called lazy and will become no less active at home if his incentive is returned to him. If the home market re-offers him the incentive it gave him in the past he will reassert his former vigor. The American entrepreneur or industrialist has not thrown up the sponge. If he had done so he would not have invested $80 billion in foreign enterprise where the grass is greener. We may also reflect that if Henry Ford had faced the investment climate faced by American producers today in the face of imports, his enterprise would never have been promoted or, having been promoted, would have withered on the vine, or moved abroad.

Negative Employment

Meantime the workers who are not employed by industry in this country because of heavy import competition remain among the unemploy-

ed or displace others who are still employed. During the decade of 1960-70 four industries that experienced growing import competition, namely, steel, textiles and apparel, leather footwear, and stone, clay and glass, recorded a lag of 427,000 workers behind the growth of employment in all manufacturing industries. If the supplying industries such as coal, cotton, leather, etc. were taken into account the lag was at least double, or some 850,000 workers.

In other words, it is a deceptive practice to measure the effect of imports on employment by simply calculating the number of workers who would have been required to produce the increase in imports. Those who are not hired because of import competition suffer from the dampening of venture capital and the failure of investment to increase as it would in the absence of the strong import-pressure.

Conclusion and Remedy

We may let imports share equitably in our market and permit them to grow as our market expands, but we should not sterilize our entrepreneurs by rendering barren their efforts to build a mass market for good, useful and acceptable products.

Since we cannot reach foreign producers to place on them the same restraints, controls and burdens that we have placed on American industry with the effect of rendering it competitively virtually helpless except through the displacement of workers by greater output per man-hour, a course now all but rendered sterile for reasons already elaborated, we face the choice of stagnation or limiting

imports in an equitable manner.

The shift of employment from physical production in plants, in mines and on the farms, to the service industries does not invalidate or devalue the function of venture capital. Movement back to an agrarian economy would not, economically speaking, be possible without pulling down the house that American industry built, on the heads of us all. The importers, packagers, transporters, wholesalers, retailers, bankers, insurers, real estate operators, teachers, doctors, lawyers, cannot, by taking in the wash from each other, sustain the industrial system built in this country since 1900. There are still 20 million industrial and mine workers in this country and some 3 million farm workers. They produce over 95% of all the goods that over 200 million of us consume. It is their productivity and not imports that moved us toward the high employment that has been our goal. Imports in many instances have become counterproductive in this respect. It is our productivity in physical goods that we look to for support and sustenance of our tax base, to which in turn, we look as the source of progress in our general welfare.

If we learn from the perceptions, visions, processes and practical application of principles that marked our productive course during the past seventy or eighty years and brought us to world industrial leadership, we will shape our trade policy accordingly.

We will then re-create a climate that will reopen to capital investment at home the opportunities to which it was accustomed until recently; and rising employment will respond even as workers

are displaced by more productive machinery. It will be unnecessary to halt foreign investment if we but limit imports from whatever source to a defined share of our market.

Withdrawing from imports the unearned competitive advantage conferred on them by the diffusion of our technology and the failure of our competitors to adopt a wage policy which would soon expand their home market, would return to our industries the climate in which they made their way to the forefront in industrial development and in the standard of living of the American people.

More on Higher Productivity and Employment

by

O. R. Strackbein, President
The Nation-Wide Committee on Import-Export Policy

June 20, 1972

Among other difficult problems faced by American industry, agriculture and labor, is the one of generating higher productivity hand-in-hand with rising employment.

This problem is highly intractable for reasons that are not readily apparent. The equation is complicated by the pressure of import competition. It is also rendered rather opaque by the habit of looking upon industrial efficiency as a reflection of the rapidity of muscular movement, elimination of wasted motion, etc., as it was interpreted when time and motion studies were the bible of managerial efficiency.

Today, with advanced technology spread throughout industry and agriculture, the human physical factor has been greatly reduced. Coal miners, equipped only with pick and shovel would be hard pressed indeed to keep pace with the mammoth machines that excavate tonnages with one pass of the huge clanking steel maw. It is no contest. Labor displacement by machines is indeed the very soul of modern industrial progress. Quite aside from the deplored dehumanization of production, the march of technology has bedeviled the efforts directed toward full employment. This assertion needs

(over)

some elucidation.

While full employment has indeed become a national policy goal since the 1946 Employment Act was adopted, technological progress as assurance of higher productivity has simultaneously been emphasized as the road to a stronger international competitive posture and as the path to greater employment.

Efficiency in Coal Mining

At the outset it must be obvious that industrial efficiency calls for a maximum of output with a minimum expenditure of man-hours of labor. Therefore, on the face of it, higher productivity, which reflects and indeed embodies higher efficiency, runs counter to the notion of job-creation. It pulls in the exact opposite direction. In order to stimulate employment, the very act of displacing workers by machines, must in one way or another, lead to lower prices and sufficiently higher consumption, to lead to hiring more workers than those who have been displaced. As we shall see, this does not always happen.

Coal mining, to resume the example, became astonishingly efficient in the fifteen years after 1950 when the industry faced extinction from the widespread conversion to competing fuels, namely, diesel oil, residual fuel oil and natural gas.

After strenuous efforts to survive including desperate and radical exertion, the output per man-year of the coal miner was tripled. The increased efficiency, indeed, opened foreign markets to American coal. In recent years we have exported some

10-12% of our total coal tonnage. Previously exports were de minimis. Domestic production, which had fallen from 516 million tons in 1950 to 410 million tons in 1958, not only recovered its ground but rose to 560 million tons in 1969. If rising productivity was to assure expanded employment, surely the achievement of the coal industry should have produced that effect.

On the contrary, employment in the industry declined disastrously, falling from 415,000 miners in 1950 to 127,000 in 1968. (Statistical Abstract of the United States, 1960, Table 982, p. 728, and 1971, Table 1049, p. 642). In other words, while bituminous coal production more than recouped its loss because of the phenomenal increase in efficiency or productivity, the sharp descent in employment was not stemmed at all. (Anthracite has been on a long course of decline and is now a minor part of the coal industry).

This record should be sufficient to put us on guard against the notion that increasing productivity will automatically help employment. The displaced coal miners had no place to go. The distressful conditions in which they soon found themselves became known as the Appalachian problem. Rehabilitation has cost hundreds of millions of dollars without dispelling the distress. The handsome growth in coal exports which reached some $900 million in 1971, did not save the jobs of the coal miners.

Unexampled Efficiency in Agriculture

The agricultural program that began in the mid-thirties provides an even clearer example of the disastrous effects of advancing technology on employment under certain predictable conditions.

The output per acre and per man-year rose as sharply as productivity in coal mining and distinctly more than in industry as a whole. Although much more of food and fibers was produced after thirty-five years of unexampled progress than formerly, the number of farm workers dropped precipitately. Once more we find the notion that productivity will lead to increased employment harshly contradicted.

In 1935 civilian agricultural employment was 10.1 million. At that time agricultural employment exceeded that of manufacturing and mining by a slight margin. (Ibid., 1951, Table 207, p. 175; and 1960, Table 263, p. 205.) In 1970 the number had fallen to 3.1 million, or less than a third of the 1935 level, while employment in manufacturing had doubled. (Ibid., 1971, Table 347, p. 222, and Table 341, p. 217). Meantime population had increased from 127 million to 204 million or 60%.

Farm output rose from an index of 59 in 1940, where 1967 equals 100, to 103 in 1970, while acreage harvested fell from 332 million acres in 1940 to 289 million acres in 1970. (Ibid., 1971, Table 952, p. 586). The index of output per man-hour on the farms, the important factor so far as employment is concerned, rose from 21 in 1940, where 1967 equals 100, to 112 in 1970. (Ibid., Table 953, p. 586). This was more than a five-fold increase! Exports of farm products rose from $679 million in 1937-41 to $6.6 billion in 1970, but obviously did not halt the worker displacement, even though the increase in dollars and cents was ten-fold!

In terms of employment this phenomenal record led to urban distress, contributing to the plight of the cities and swelling the

welfare rolls. Crowding of the ghettoes was one of the bitter fruits, or more than a veritable vintage year of acidulous grapes of wrath. On the other hand, compared with 1940, when 30.9% of personal consumption expenditures went for food, beverages and tobacco, in 1970 the share had declined to 18.5%. (Ibid., 1960, Table 405, p. 309; 1971, Table 489, p. 308, and U. S. Dept. of Agri.). In unexampled fashion our farmers had helped the American consumer; but there was price tag, as we have seen. They released billions of dollars of consumer purchasing power to be spent on nonessential goods.

Rising Productivity as a Mixed Blessing

These two examples, of coal and of agriculture, demonstrated the mixture of bitter and sweet as it occurs in increasing output per man-hour, or higher efficiency.

Yet the very technological progress that made possible that phenomenal records of rising productivity cited above but that also caused so much distress, just as surely led to higher employment in other applications in other sectors of the economy. The greater efficiency and versatility of the automobile and truck, which also was the fruit of technology, compared to the horse, wagon and buggy, led to expanded employment as the latter were all but driven out to pasture by the automated forms of transport.

The same may be said of the development of numerous other products, some new, some substitutes and some in the form of radical improvements of established products.

In the past century we have seen many job-generating inventions

and discoveries come to our economic rescue by assuring employment of additional workers. There was, however, nothing orderly or predictable about these inventions, innovations and developments. They could not be far foreseen or scheduled or even estimated in terms of the employment they might produce or displace. They were all pragmatic ventures. Who could say what the motion picture might do for employment, or the electric light bulb, and how soon; or the home refrigerator, or any of hundreds of other new or substitute or radically improved products, such as the household appliances, the telephone, office equipment and machinery; manufacturing devices, such as cigarette-making and bottling machinery, and a great variety of other factory equipment?

The present demand for higher productivity, although justified on some grounds, is uncomfortably close to the simple injunction to inventors to invent more rapidly, developers to develop these inventions more rapidly and entrepreneurs to take hold more rapidly and find the needed financial support with less delay: for, to repeat, greater productivity of any consequence, must be provided by technology, not by faster muscular movement of the machine operatives and other workers.

The Great Difference: Elasticity of Demand

It may be asked what difference lurks between the job-destroying inventions and developments in some sectors of our economy on the one hand, and the job-generating powers of other discoveries and innovations, on the other. Why did the coal industry repay

our society in one way when it extricated itself from extinction, which is to say, by decimating jobs of the miners, while the automobile industry performed an opposite role when it sent the buggies to the museums, and while the electrical appliance industry on its part, created many jobs as it came into a position through technological advancement to place in the homes of the country refrigerators, dishwashers, radio and television, home coolers, vacuum cleaners and much else?

Why, we also ask, did agricultural employment fall irreversibly and precipitately as farm mechanization, scientific agricultural improvement and plant breeding came on the scene, while employment, as just noted, was expanded by the inventions and innovations in the other fields?

In order to answer this question it is necessary only to reflect on the nature of the demand for these various products.

The demand for food products is limited by the stomach capacity of the population. When that is filled the only increase in demand can come from an increase in the population or increasing obesity. The demand for food products is therefore inelastic. This is to say, the amount of food consumed in toto is not much affected by the price. A lowering of the price of wheat does not lead to much more consumption of bread; or if it does, the greater amount of bread consumed will reduce the amount of some other food ingested.

For this reason the increased productivity of our agriculture produced an unfortunate effect on employment. If great tractors

and combines cut down the number of wheat-farm workers, or corn-planting machines released farm workers because of the higher productivity, these evicted workers remained displaced in the agricultural pursuits even though relatively or absolutely, lower bread and hog prices resulted from the improvements. Of course, higher exports might relief the pressure, but that would in the end only shift the problem elsewhere in the world. Already we have seen that our agricultural exports, in dollars and cents, multiplied ten-fold in thirty years, without halting the exodus of farm workers - some seven million of them, from their fields to wherever they wandered.

It may be enlightening to mention that most of our crop acreage is devoted directly or indirectly to furnishing food for the people. The principal exceptions are the acreage devoted to production of fiber (cotton, wool), hides and skins (for leather and fur) and tobacco. The total of these exceptions would hardly reach 10% of the total harvested acreage. (Ibid., 1971, Table 951, p. 605).

Since food is a necessity provision must be made for its production; but we must not look to agriculture to lend us a useful hand toward achievement of full employment. Exports of farm products cannot for the same reason be looked to as a significant contributor to employment. Of the 1969 farm crop, marketed for $51.2 billion (current dollars), exports totaled $5.7 billion or about 11% (18.2% of these total exports, however, being exported under Government programs), (Ibid., 1971, Table 938, p. 599; Table 946, p. 602).

Since farm employment in 1969 stood at 3.2 million workers,

some 352,000 farm jobs could be attributed to agricultural exports. However, in 1950 when the value of farm products sold was $22.05 billion, exports were at $2.85 billion or 13% of the total. At that time farm employment stood at 9.34 million.

Therefore, assuming exports of 13% also accounted for 13% of farm employment, exports in 1950 provided jobs for 1.21 million workers. This meant that in 1969 some 950,000 fewer farm jobs were attributable to agricultural exports than in 1950, despite the higher volume of the 1969 exports. (Ibid., 1954, Table 777, p. 661; Table 787, p. 671 and Table 231, p. 205).

So far as moving toward full employment is concerned, agricultural exports clearly represent a negative experience.

The Role of Efficiency in the Production of Non-Essential Goods

However, the whole of the demand for agricultural products is not inelastic. The demand for fibers and leather is quite elastic since a surfeit is not soon reached, if consumer purchasing power remains high. These products meet both an essential need while gratifying desires that lie far beyond the essential level. Style, fashion and the prestige linked to haute couture and "conspicuous consumption" assure sales in quantities and qualities not confined to the requirements of bodily thermal comfort. How many dresses, gowns, stockings, shoes, fur pieces can be found in wardrobes when one of each would suffice for a considerable period of time has not been recorded. Nevertheless common experience of bill payers sustains the conclusion that while food-intake is limited by the head-

count, as modified by waist-measure, the same is not true of clothing, from head to foot.

Therefore higher productivity in the manufacture of these items does lead to higher consumption as it does with respect to a vast array of nonessential but acceptable and desirable goods that consumers will buy as their pocketbooks permit. Whether in the case of cotton goods the increase in farm productivity achieved through higher yield per acre and the extensive eviction of cotton pickers by machines, and other workers through use of herbicides, use of tractors, etc., led to sufficiently greater employment in the cotton mills and apparel and needle trades to offset the displacements on the farms is somewhat difficult to determine, particularly because of the encroachment of man-made fibers on cotton as a raw material. The per capita mill consumption of cotton has declined from 32.2 lbs 1945 to 18.6 lbs. in 1970, while the per capita mill consumption of man-made fibers increased from 6.1 lbs. to 26.9 lbs. (Ibid., 1971, Table 1150, p. 703). Total fiber consumption did increase from 37.2 lbs per capita in 1940 to 46.7 lbs in 1970.

Nevertheless, certain conclusions may be drawn from the trend in employment in the textile mills and apparel factories. In 1947, according to the Census of Manufactures, total employment in the manufacture of Textiles and Apparel was 2.314 million, while in 1969 employment had reached only 2.355 million. (Ibid., 1954, Table 979, p. 818 and 1971, Table 1141, p. 690.) Meanwhile our population had grown by 40%.

If employment had kept pace in the textile industry with population growth, the 2.314 million employed in 1947 should have grown

to 3.235 million in 1969. The shortfall was therefore about 880,000. Obviously, even though the demand for textile products is relatively elastic, as shown by the increase in per capita consumption, the number of jobs did not increase sufficiently to offset the displaced workers on the farms and in the factories, combined.

Some negative factor operated during this period toward retardation of employment expansion. Imports no doubt provided much of the negative influence. They rose from an average level of $801 million in the 1946-50 period to $2,124 million in 1969. (Ibid., 1954, Table 1092, p. 928, and 1971, Table 1247, p. 778). These values, while in current rather than constant dollars, in fact represent a smaller growth than import quantities because of the decline in textile product prices during the period concerned. Our wholesale prices on cotton products declined from an index of 109.5 in 1950, where 1967 = 100, to 104.5 in 1969, while the price of man-made fiber textile products declined more sharply, from 135.8 to 102.1 in the same period. The latter decline helps explain the shift from other fibers to the man-made substitute. (Ibid, 1971, Table 531, p. 335).

The negative influence of rising imports thus had the effect of converting what is an elastic demand into a market that behaved, so far as sales of the domestic product were concerned, into a demand that behaved as a typically inelastic one. The textile industry, or rather our economy, was thus deprived of the fruits of higher employment that usually go hand-in-hand with a rise in productivity. The net result was similar to that experienced in agricultural employment,

where the inelasticity in demand, arising from the nature of the product, resulted in a vast displacement of labor by the rising efficiency of our agriculture.

The Range or Scope of Elastic Demand

No one has catalogued the goods that enjoy an elastic demand, nor those for which the demand is inelastic or those falling into some intermediate level. The inelasticity of demand for food products is of itself of great importance because nearly a fifth of consumer expenditures goes for food and beverages. In 1969 the total value of shipments of food and kindred products (wholesale) was $93 billion or 80% higher than the outlay for motor vehicles and equipment. (Ibid., 1971, Table 1141, pp. 690-4).

The demand for coal would, if taken by itself, be regarded as inelastic; but a price reduction may increase the demand for coal at the expense of competing fuels. Coal, however, is not bought for itself. Before other fuels competed with it, it was a necessity in the colder parts of the country for heating and in nearly all parts for lighting. Its greater use for power in recent years reflects its newly gained competitive standing thanks to the much higher productivity gained at the cost of what we already know. Unlike many of the nonessentials, the consumption of coal is not a mark of social prestige or pride of ownership. Therefore the price of coal, except as it competes with other fuels, is not the prime determinent of the amount consumed.

The same may be said of most of the competing fuels, with the

notable exception of gasolene. This fuel is so closely linked with the automobile that the demand for it partakes of the elasticity of the demand for motor cars. Without the latter, gasolene would drop to a minor status.

The demand for certain other products may be regarded as relatively inelastic because of their small share of the total budget. Dentifrices are not sold because of their low price but because of their hygienic value. The market may expand beyond the population growth because of extension of hygienic practices to segments of the population that previously were not consumers. Once the use were extended to all elements of the population, however, any increase in the market would depend on population growth, much less on price.

The demand for steel is a mixed aggregate. While steel is not bought for itself it is a component of many articles that are bought for themselves. The automobile is the prime example. Yet the price of steel under ordinary circumstances does not determine the demand for automobiles. The cost of steel in 1967 represented only 4% of the value of all manufactured goods. (Ibid., 1970, Table 1119, pp. 700-704).

We may examine the employment trend in the production of other goods for comparative purposes. Because of our attention to food products, it is desirable to test the conclusions presented above with respect to inelasticity of demand for this item.

In 1947 employment (all workers) in the production of Food and

Kindred Products was 1,441,000. In 1958 the level had risen to 1,688,000, but in 1969 stood at 1,656,000. From 1947-69 the increase was 14.9% while U. S. population increased 40%. (Ibid., Table 893, p. 748; 1960, Table 1068, p. 782; 1971, Table 1141, p. 690).

Food products are, of course, a necessity. In the case of Textile Mill Products, which are also essential but spill over into the nonessential, for which the demand is elastic, the employment moved downward from 1947-69. The 1947 level was 1,233,000. The 1969 figure was 972,000. We have already mentioned textile imports as a contributing cause of this trend. Yet, mill consumption of textile fibers in this country increased, as we have already seen, by 25%.

Since employment declined by 25% during this period, increasing productivity was evident. Inasmuch as a price decline was registered against the general upward trend, employment should have increased or at least not declined. Therefore the role of rising imports cannot be dismissed lightly. The profits on stockholders' equity had fallen to very low levels in early 1958. It was less than 1% in the first quarter of 1958, when the short-term restriction on exports of cotton textiles from Japan took effect. The year ended with an average profit on stockholders' equity of 3.5%. (Ibid., 1960, Table 635, p. 494.) In 1960 the profits had risen to 5.8%, compared with an average of 9.8% for all nondurable goods (Ibid., 1971, Table 742, p. 473).

In 1965 profits rose to 10.9% compared with a profit of 12.2% for all non-durable goods. The so-called long-term and more restrictive agreement on exports to this country had been negotiated. By

1970, however, profits were down to 5.1%, compared with 10.3% for all nondurables.

Apparel Manufacturing did distinctly better. These manufacturers, of course, enjoyed the importation of textiles, i.e., their raw product, at low prices. The 1958 profits were 4.9% compared with 3.5% for textile mills. In 1960 the rate was 7.7% compared with 5.8% for the mills; in 1965, 12.7% against 10.9 for the mills; in 1970, 9.3% compared with 5.1% for the mills.

As might be expected, employment in Apparel and Related Products exhibited an upward trend compared with the downward one in textile mills. It rose from 1,081,000 in 1947 to 1,383,000 in 1969 while employment in the textile mills had fallen from 1,233,000 to 972,000. These opposing trends support the shrinking effect of imports even when the demand for the product is elastic and when productivity was rising. Sales by domestic textile mills should have grown sufficiently to assure an increase in employment, because the rise in productivity should have reduced prices, as it did, and thus tapped more customers for the finished product. This did not happen no doubt because imports at lower prices held a decisive competitive advantage.

If we turn to some other industries, we encounter trends at considerable variance from those reflected by the food, textile and apparel industries. Electrical Machinery recorded a large increase in employment during the 1947-69 period, rising from 801,000 to 1,916,000. Included in this general classification are household appliances of all kinds, radio and television sets, etc. The demand

for these products is elastic. By and large they are nonessential but met the desires of housewives for labor-saving devices and for appliances that provided comfort and convenience. Demand grows as the price is reduced. In recent years import competition in Household Electronic Equipment has risen to very high proportions, and employment in the manufacture of Radio and Television sets actually declined by 5,000 from 1967-69 (Ibid., 1971, Table 1141, p. 694) while total employment in electrical equipment and supplies manufactured other than radio and TV increased by 46,000.

In the manufacture of Machinery Except Electrical employment also rose, moving from 1,244,000 in 1947 to 1,935,000 in 1969, or an increase of 55%. The demand for machinery, not unlike that for steel, is not for machinery itself, with some exceptions, but depends on the demand for the products produced by machinery. Since these end products consist principally of nonessential consumer goods, meaning in particular nonfood items, the demand for them is typically elastic, so that this elasticity is reflected back upon the producing machinery.

The production of Chemicals and Allied Products also registered a substantial increase in employment, rising from 632,000 in 1947 to 883,000 in 1969, an increase of 32%. The demand for chemicals is also predominantly indirect. Sales are not usually for personal consumption. The consumer does not buy industrial chemicals, for example, the largest single item. He does buy pharmaceuticals, toilet goods, some paints, etc., but the demand for the chemicals principally is indirect. Therefore the elasticity

or inelasticity of the demand for the finished products is, again, reflected backward to the raw or processing materials used in producing the end products.

The classical item of consumer goods for which the demand is demonstrably elastic is Motor Vehicles and Equipment. In this field employment, while rising, rose very moderately, going from 705,000 in 1947 to 811,000 in 1969, or only 15%. This modest increase places this industry alongside of Food and Kindred Products, where the increase in employment was 14.9%. The rising importation of automobiles no doubt represented a dampening influence on employment. In 1965 imports were 559,000 passenger cars. Employment in the domestic industry was 843,000. By 1970 imports had risen to 2.013 million cars and employment had dropped to 810,000. (Ibid., 1971, Table 345, p. 220, and Table 846, p. 533).

The effect of the rising imports on employment is hardly mistakable. Domestic employment should, of course, have risen if imports had not supplied 23% of the number of automobiles sold in 1970. If employment in the Motor Vehicle industry had done as well as the machinery group (electrical and nonelectrical) employment would have risen by 90% from the 705,000 level in 1947 to 1,339,000 in 1969. Instead, it rose only to 811,000. Here then were several hundred thousand jobs that failed to materialize. During this period productivity in motor vehicle manufacture rose 67%, (1947-69), calculated by dividing output by the number of employees.

Profits of the industry, however, were highest in terms of stockholders' equity of any other in the durable goods field in

1960, or 13.5%, compared with an average for all durable goods of 9.2% and 7.2% for steel, and 5.8% for textiles. The 1965 rate was even higher, at 19.5% against a 13.0% average for all durable goods. In 1969 this industry again led durable goods group with 12.6% compared with 11.5% for the whole group, 7.6% for steel and 7.9% for textiles.

These record profits in motor vehicles would point to a possible weak competitive condition in the industry, whereas a strong competitive rivalry is necessary to extend to consumers the savings accomplished through higher productivity. Absent such competition sales will not mount sufficiently to beget added employment above the workers laid off by higher productivity.

Of course, machinery production, which, as just noted, increased handsomely, was stimulated by rising exports in response to our rising foreign investment and by the choice of the other non-Communist industrial countries to adopt our system of production, which is to say, our technology with its amazing productivit. In 1970 our exports of machinery reached $11.6 billion or a little over 10% of our production. While machinery imports have been rising they are still less than half of our exports.

Profits of the machinery industry have been in the top ranges of all durable goods industries, but not as high as in motor vehicle production. In 1960 electrical machinery profits were 9.5% on stockholders' equity compared with the average of all durable goods, of 8.5%. In 1965 they fell below the general average at 13.5% against 13.8%. Motor vehicle profits in the same year were

at 19.5%. In 1970 the rate for the electrical machinery industry was down to 9.1 against 8.3% for all durables and 6.1% for motor vehicles. Machinery Except Electrical was lower at 7.5% in 1960, but in 1965 exceeded the average for the durables with a rate of 14.1% against 13.0% and in 1970 fell less sharply, to 9.9%, against 8.3% for all durables. (Ibid., 1971, Table 742, p. 473).

The high exports of our machinery led to great advances in foreign productivity while foreign wages lagged far behind the levels in this country. The higher foreign productivity increased the competitive advantage over American producers in numerous fields. Imports of Iron and Steel Mill products surpassed our exports in 1958 and rose to some 15% of our total consumption in 1968. Foreign exports to this country were limited in 1969 and again in 1972 to a level of some 14%-15% of our total market. Meantime our steel exports shrank sharply.

Profits on stockholders' equity were low compared with those enjoyed by the machinery industry, standing at 7.2% in 1960, 9.8% in 1965 when machinery averaged 13.6%; and 4.3% in 1970 compared with the machinery average of 9.5%. (Ibid; 1971, Table 741, p. 473). Employment in the steel industry rose from 510,000 in 1958, the year before the first restriction on imports and rose to 621,000 in 1969. This was an increase of 21%. Employment in machinery (both electrical and non), rose from 2,569 in 1958 to 3,854 in 1969, or by 50%.

The contrast is substantial. If the steel industry had done as well, it would have added 255,000 workers instead of the 110,000

69-133 O - 73 - pt. 5B - 30

it added during the 1958-69 period.

Footwear, Except Rubber was more pedestrian in its employment progress. In 1947 employment was at 220,000. In 1958 it had risen to 234,000 but in 1969 the number had fallen to 211,000. In recent years imports have risen sharply, to the point of absorbing over 25% of the market, and factory output has declined. In 1965 shoe and slipper production in this country was 535 million pairs; in 1970, 453 million pairs. (Ibid; 1971, Table 1161, p. 707.) Had employment kept pace with that in the machinery industry the 1969 employment would have reached more than 400,000 instead of falling to 211,000.

Demand for footwear may be regarded as reasonably elastic. Consumers may as a matter of social pride possess many more pairs of shoes than are needed. Styles are frequently changed in order to render the existing shoe surplus in the wardrobe obsolete. If prices are lowered substantially and purchasing power is adequate consumption increases.

The flow of investment abroad is well under way in the footwear industry; and this trend is but a repetition of a movement that has had a powerful influence on employment prospects in this country. The achievement of higher productivity here offers no assurance under these circumstances, that the benefits of higher productivity will be registered (1) in increased sales even as prices may be reduced, or (2) in higher employment as a result of increased consumption.

Conclusion

From the foregoing incomplete recitations it becomes clear enough that unless certain steps are taken that will in its essentials restore the U. S. market to domestic producers who seek (A) to launch new products in search of a national market such as could be depended upon in the past to assure sales in millions of units if the product was (1) acceptable to consumers, (2) was labor-saving, contributory to comfort or convenience,(3) was a morale booster through prestige enhancement or joy of possession, and, or (4) was made available at prices low enough to fit the mass pocketbook; or (B) should he seek to effect a radical improvement in the production of established goods that enjoy an elastic demand, so that the price may be lowered substantially and thus tap rich veins of lower income levels - unless, to repeat, this is done, through well moderated import restrictions that will provide an entrepreneur or provider of risk capital time in which to develop a national market and enjoy the rewards of his efforts, without the obvious danger of losing it to imports that for a variety of reasons bear a much lesser cost burden than this - unless, to reiterate, this is done, all efforts to restore our economy through higher productivity will come a cropper.

Higher productivity will indeed succeed in displacing workers, as in the past, but it will not of itself assure the added employment that in the past greeted higher productivity and lower prices with a greatly enlarged market, if the product was one that enjoyed an elastic demand.

To be sure, demand elasticity has not been calibrated, but practical experience will offer a sufficiently reliable guide.

The record compiled by our experience in agriculture and in the coal fields as related above, offers irrefutable evidence of the countervailing effects of higher productivity on employment in those instances in which the demand for the product is inelastic.

The record of employment in other industries, also reviewed above, likewise sustains the conclusion that increasing productivity in the output of products that enjoy an elastic demand, will be deprived wholly or in part, of its historic contribution to expanding employment, if competitive imports enjoying a cost advantage traceable to lower foreign wages coupled with high productivity, contest the domestic market with the American producer. The imports, unless properly controlled, will not indeed destroy the elasticity of the demand but will convert it into a sterile asset so far as generation of additional employment in this country is concerned. Higher employment as such will not be destroyed. It will be transferred abroad, while domestic employment will languish as it has in the industries reviewed herein, as noted.

LAND REFORM: A BIBLIOGRAPHY

Florence Contant
Center for Community Economic Development
1878 Massachusetts Avenue
Cambridge, Massachusetts 02140
February, 1972

LAND REFORM-GENERAL

Meade, James E. Efficiency, Equality and the Ownership of Property. London: George Allen & Unwin, 1964.

Tuma, Elias H. Twenty-Six Centuries of Agrarian Reform: A Comparative Analysis. Berkeley: University of California Press, 1965.

LAND REFORM-UNITED STATES

Abourezk, James. "Introduction of HR11654, The Family Farm Act of 1972." Congressional Record, November 9, 1971. pp. E12035-36.

Barnes, Peter. "Land Reform [three articles]" New Republic, June 5, 12, 19, 1971. 14p. [The Great American Land Grab; The Vanishing Small Farmer; The Case for Redistribution]

Barnes, Peter. "Let's Put Land Reform in the Democratic Platform." New Democrat, December 1971.

Barnes, Peter. "Reconsiderations: Progress and Poverty." New Republic, December 11, 1971. pp. 29-31.

George, Henry. Progress and Poverty. New York: Modern Library, 1971.

Harris, Fred. "The National Coalition for Land Reform." Congressional Record, December 10, 1971. pp. S21306-9.

Harris, Michael. "Political Drive for Land Reform: A Plan to Revive the Small Farm." San Francisco Chronicle, December 3, 1971.

National Coalition for Land Reform. "Statement of Aims." 126 Hyde Street, Suite 101, San Francisco, California 94102.

U.S. 92nd Congress, 2nd Session, Senate. Farm Workers in Rural Poverty. Hearings before the Subcommittee on Migratory Labor, 4 parts. Date of release, March 1972. Included in the hearings are the following:

Faux, Geoffrey. "Rural Poverty and Rural Land."

Ginsburg, Woodrow L. "Statement by Director of Research and Public Policy, Center for Community Change."

Youngdale, James M. "How to Get Rural America Out of Trouble." Statement on the Panel on Rural Priorities, New Democratic Congerence, Chicago, Ill., Feb. 14, 1970.

LAND REFORM-FOREIGN

"Bank of America Has a Man-On-The-Spot in Latin America Agri-Business." North American Congress on Latin America Newsletter, September 1970. pp. 1-4.

"Bank of America's LAAD Partners." North American Congress on Latin America Newsletter, September 1970. pp. 5-13.

Blair, Thomas L. The Land to Those Who Work It: Algeria's Experiment in Workers' Management. Garden City, N.Y.: Doubleday Anchor, 1969.

Edel, Matthew. "The Mexican Ejido: Revolution and Land Reform." New Mexico Review, March 1970. pp. 5, 12, 18.

Food and Agriculture Organization of the United Nations, Documentation Centre. Land Reform: Annotated Bibliography of FAO Publications and Documents (1945-1970). New York: Unipub, Inc., 1971.

Hinton, William. Fanshen: A Documentary of Revolution in a Chinese Village. New York: Vintage, 1968.

"Land Reform in Various Countries; Special Issue." Ceres, November/December 1969. [periodical of the FAO]

The Land Tenure Center: Its First Three Years; a Cooperative Program of the American Nations, the Agency for International Development, and the University of Wisconsin. Madison, Wisconsin, 1965.

Parsons, Denneth H. et al, ed. Land Tenure; Proceedings of the International Conference on Land Tenure and Related Problems in World Agriculture Held at Madison, Wisconsin, 1951. Madison: University of Wisconsin Press, 1956.

Parsons, Kenneth H. "The Place of Land Reform in a Developmental Agricultural Policy." In Land Economics Institute, Modern Land Policy. Urbana: University of Illinois Press, 1960. pp. 297-310.

Scott, Juan Felipe. "A Self-Financing Strategy of Agrarian Reform: The Case of the Peruvian Sierra." Socio-Economic Planning Sciences, August 1971. pp. 347-61.

Simmons, John L. "A Corporation for Peasant Farmers? A New Form of an Old Institution Offers Promising Benefits in Mexico." International Development Review, Vol. 13 No. 2, 1971/2.

Thome, Joseph R. "Expropriation in Chile under Frei Agrarian Reform." American Journal of Comparative Law, Summer 1971. pp. 489-513.

"United Fruit is Not Chiquita." North American Congress on Latin America Newsletter, October 1971. pp. 7-15.

LAND BANKING

Browne, Robert S. "A Southern Land Bank Proposal." Cambridge, Mass.: Center for Community Economic Development, 1970.

Langsdorf, Kenneth. "New Land Bank." HUB News and Comment, May 1971. p. 3.

Myers, Stewart C. "Investment Policy for Land Banks." Boston: Urban Land Research Analysts Co., 1967. (NTIS Order #PB193-135)

Orr, Larry L. "Measuring the Impact of Land Bank Policies on the Urban Land Market." Boston: Urban Land Research Analysts Co., 1968. (NTIS Order #PB193-140)

Sanger, John. "Land Banks for Planning and Control: Some General Principles and a Specific Application." Boston: Urban Land Research Analysts Co., 1967. (NTIS Order #PB193-141)

Southern Rural Action, Inc. "Precedents and Guides for a 'Land Bank' Program for Needy Southern Rural People." Atlanta, 1970.

Swann, Robert and Erick Hansch. Land Trust Manual. Cambridge, Mass.: Center for Community Economic Development. Release date, April 1972.

U.S. Farm Credit Administration. "Federal Land Bank System and How It Operates." Washington, 1965.

LAND PROBLEMS-NEW ENGLAND

Langley, William. "The Maine Farmer...Man on the Bottom." Maine Times, September 24, 1971.

Martin, Lucy L. "Maine: A Company State for the Pulp and Paper People." Maine Times, August 16, 1971.

Webb, Lee. "Colonialism and Underdevelopment in Vermont." Liberation, November 1971. pp. 29-33.

LAND PROBLEMS-APPALACHIA

Caudill, Harry. "Appalachia: The Dismal Land." Dissent, November/December 1967. pp. 715-22.

Caudill, Harry. My Land Is Dying. New York: Dutton, 1971.

Caudill, Harry. Night Comes to the Cumberlands. Boston: Little Brown, 1962.

Diehl, Rick. "Stripping Away the Myths." People's Appalachia, September/October, 1971. pp. 5-10.

Dix, Keith. "Appalachia: Third World Pillage?" People's Appalachia, August/September 1970. pp. 9-13.

LAND PROBLEMS-SOUTH

Christian, Virgil L. "Farm Size as a Factor in the Relative Displacement of Black Farm Families." Speech delivered at the Conference on Rural Manpower, University of Texas, May 1971.

Hoffsommer, Harold. The Social and Economic Significance of Land Tenure in the Southwestern States; a Report of the Regional Land Tenure Research Project. Chapel Hill: University of North Carolina Press, 1950.

Madden, Patrick J. "Economies of Size in Farming." (Agriculture Economic Report No. 107) Washington: U.S. Dept. of Agriculture, Economic Research Service, 1967.

Pugh, Charles R. "The Structure of Southern Farms of the Future." North Carolina State University, Agriculture Policy Institute, 1968.

Southern Rural Action, Inc. "A Land Program for Disinherited Black People of the Southern Region Based on Acquisition of Church Property." Atlanta, 1969.

Sundquist, W.B. "Economics of Scale and Some Impacts of Agricultural Policy on Farm Size." Speech delivered at the Conference on Rural Manpower, University of Texas, May 1971.

LAND PROBLEMS-SOUTHWEST

Devereux, Don. "New Approaches to Land Reform." New Mexico Review, April 1970. pp. 5-6.

Devereux, Don. "Political Prospects for Federal Land Reform." New Mexico Review, May 1970. pp. 7-9.

Jones, Robert A. "A Nice Piece of Desert." Nation, December 13, 1971. pp. 616-625.

Knowlton, Clark S. "Land Grant Problems Among the State's Spanish Americans." New Mexico Business, June 1967.

Knowlton, Clark S. "New Mexican Land War." Nation, June 17, 1968. pp. 792-6.

Knowlton, Clark S. "Violence in New Mexico; A Sociological Perspective." California Law Review, October 1970. pp. 1054-84.

Rowen, James. "Report from the Southwest: Land Empires." New Republic, January 15, 1972. pp. 17-18.

LAND PROBLEMS-CALIFORNIA

Adams, Peter. "The Politics and Economics of the Acreage Limitations of the Federal Reclamation Program." n.p., 1971. (unpublished paper, available from CCED at cost)

Barnes, Peter. "Water, Water for the Wealthy; California's Imperial Valley." New Republic, May 8, 1971. pp. 9-10+

Boyle, Robert. The Water Hustlers. San Francisco: Sierra Club, 1971.

Draper, Anne and Hal. "The Dirt on California: Agribusiness and the University." Berkeley: Independent Socialist Pamphlet, 1968.

Kastenmeier, Robert W. "Decision Against Absentee Agribusiness Landowners." Congressional Record, December 2, 1971. pp. E12889-92.

Kastenmeier, Robert W. "The Reclamation Lands Authority Act." Congressional Record, April 21, 1971. pp. H2856-57.

Ralph Nader Task Force Report on Land Use in the State of California. Power and Land in California. 2 volumes. Washington: Center for Study of Responsive Law, 1971.

Taylor, Paul S. "The Excess Land Law: Execution of a Public Policy." Yale Law Journal, 1955. Vol. 64, pp. 476, 484-86.

Taylor, Paul S. "Water, Land and People in the Great Valley." American West, March 1968. pp. 24-29, 68-72.

LAND PROBLEMS-URBAN

Burroughs, Roy. "Should Urban Land be Publicly Owned?" Land Economics, February 1966.

Edel, Matthew. "Urban Renewal and Land Use Conflicts." Review of Radical Political Economics, Summer 1971.

Hoyt, Homer. "The Changing Principles of Land Economics." Washington: Urban Land Institute, 1968.

Hoyt, Homer. Urban Land Use Requirements, 1968-2000; The Land Area Required for the Future Growth of the Urban Population in the United States. Washington: Homer Hoyt Institute, 1968.

Schiffman, Irving. The Politics of Land-Use Planning and Zoning: An Annotated Bibliography. (Environmental Quality Ser. No. 1) Davis, Calif.: Institute of Governmental Affairs University of California, 1970.

LAND USE

Bosselman, Fred and David Callies. "The Quiet Revolution in Land Use Controls." Washington: U.S. Council on Environmental Quality, 1971.

Clawson, Marion, R. et al. Land for the Future. Baltimore: Johns Hopkins Press, 1960.

Corrigan, Richard. "Interior Department Finesses HUD in Scramble over Land Use Program." National Journal, March 20, 1971. pp. 597-607.

McClellan, Grant S., ed. Land Use in the United States: Exploitation or Conservation. (Reference Shelf, Vol. 43, No. 2) New York: Wilson, 1971.

Mason, Joseph B. "A Selected Bibliography on Interchange Development and Land Use Controls." Monticello, Ill.: Council of Planning Librarians, 1971.

Massachusetts Institute of Technology, Woods Hole Oceanographic Institution, and Boston University. Papers on National Land Use Policy Issues; prepared for the Committee on Interior and Insular Affairs, U.S. Senate. Washington, 1971.

U.S. 92nd Congress, 1st Session, Senate. National Land Use Policy; Hearings before the Committee on Interior and Insular Affairs; first session on S.632 and S.992, May 18 and June 7, 1971. (2 parts)

LAND AS A CORPORATE INVESTMENT

Benzer, Shirley L. "Selling the Great Outdoors: 300 Concerns Vie to Find and Develop Recreational Landsites." New York Times, October 24, 1971. p. 3, Section F.

"Big Land Rush: No Slowdown in Sight: Land Sales are Booming." U.S. News, December 13, 1971. pp. 32-4.

"Big Money Plays in the Snow; Ski Area Investments." Business Week, October 25, 1969. pp. 142, 146.

Campbell, Kenneth D., ed. The Real Estate Trusts: America's Newest Billionaires. New York: Audit Investment Research, Inc., 1971.

Carruth, E. "Look Who's Rushing into Real Estate." Fortune, October 1968. pp. 160-3+

"The Corporate Land Rush of 1970: More and More Big Companies Are Moving into Real Estate Development; Special Report." Business Week, August 29, 1970. pp. 72-77.

"Electrogas Builders." Forbes, November 15, 1970. pp. 22-3.

"Florida's Land Boom Gets Down to Earth; Fly-By-Night Operators Replaced by Big Corporations." Business Week, April 13, 1968. pp. 136-8+

Friedenberg, Daniel M. "America's Land Boom: 1968." Harper, May 1968. pp. 25-32.

Lovesky, Jerome. "Real Estate Equities--A New Trend for Savings Bank Industry." Savings Bank Journal, April 1969. pp. 27-9+

"Making Land Holdings Part of the Business." Business Week, August 9, 1969. p. 92+

Peterson, David Lee. "The Planned Community and the New Investors: Economic and Political Factors in Corporate Real Estate Investment." (Special Report, No. 4) Berkeley: Center for Real Estate and Urban Economics, Institute for Urban and Regional Development, University of California, 1967

Pew, Thomas W. "Peddling the Great West." Saturday Review, September 4, 1971. pp. 48-51.

Rapoport, Roger. "Peddling God's Country: Wilderness Project." Sports Illustrated, November 1, 1971. pp. 68-9.

"Real Estate Trusts are a Money Magnet." Business Week, October 23, 1971. pp. 112, 114.

"The Recession and the Coming Boom in Real Estate." Real Estate Analyst, July 1971. pp. 335-7.

Rose, S. "Future Largest Landlords in America: Life Insurance Companies." Fortune, July 1970. pp. 90-3+

"Sorting Out the Real-Estate Investment Trusts." Fortune, August 1970. pp. 173-5.

Urban Land Institute. Land: Recreation and Leisure. Washington, 1970.

Winnikoff, Albert. The Land Game; or How to Make a Fortune in Real Estate. New York: L. Stuart, 1970.

PUBLIC LANDS

Dick, Everett. The Lure of the Land: A Social History of the Public Lands. Lincoln: University of Nebraska Press, 1970.

Gates, Paul W. History of Public Land Law Development. Washington: U.S. Public Land Law Review Commission, 1968.

Gilmour, R.S. "Private Interests and Public Lands." Current History, July 1970. pp. 36-42+

Government Land Acquisition; A Summary of Land Acquisition by Federal, State and Local Governments up to 1964. Washington: American Forest Products Industries, Inc., 1965.

Hibbard, Benjamin H. A History of the Public Land Policies. Madison: University of Wisconsin Press, 1956.

Peterson, Harold. "Moving in for a Land Grab." Sports Illustrated, July 13, 1970. pp. 22-27.

Study of Public Land Timber Policy. Vol. I: Report and Summary. Prepared for Public Land Law Review Commission. Milwaukee: George Banzhaf & Company, 1969. (NTIS Order # PB187728)

U.S. General Services Administration. "Inventory Report on Real Property Owned by the United States Throughout the World, as of June 30, 1970." Washington, 1971.

U.S. Public Land Law Review Commission. One Third of the Nation's Land; a Report. Washington, 1970.

Wagner, James R. "Lumbermen, Conservationists Head for New Battle over Government Timber." National Journal, March 27, 1971. pp. 657-65.

LAND OWNERSHIP

U.S. Dept. of Agriculture, Economic Research Service. "Land Tenure in the United States, Development and Status." (Agriculture Information Bulletin, No. 338.) Washington, June 1969.

U.S. Dept. of Agriculture, Economic Research Service. "Ownership of Rural Land in the Southeast." Washington, 1963.

U.S. Dept. of Agriculture, Economic Research Service. "White and Non-white Owners of Rural Land in the Southeast." Washington, 1965.

HB 2000 72-11 E

INTERNAL MIGRATION IN THE UNITED STATES: A BIBLIOGRAPHY, 1955 to 1971

CONGRESSIONAL RESEARCH SERVICE

LIBRARY OF CONGRESS

JOHN B. MITRISIN
Economics Division

January 17, 1972

INTERNAL MIGRATION IN THE UNITED STATES: A BIBLIOGRAPHY, 1955 to 1971

This bibliography provides references to books and articles concerned with various aspects of internal migration in the United States. It includes articles on rural to urban migration, migration within regions, movement between urban and suburban places, as well as articles dealing with why people move, and the costs and benefits associated with this movement.

In order to make the bibliography more manageable, the citations have been divided into three categories according to their date of publication: 1955 to 1964, 1965 to 1969, and 1970 to 1971.

The best source of information on the number of people moving from place to place is the U.S. Census of Population. All the migration information from the 1960 census has been published. In addition, data already published from the 1970 census, or in the process of being published, contains 1970 migration data. In particular, the PHC (2) series on the general demographic trends for metropolitan areas and the PH1 (C) series on general social and economic characteristics of the population contain migration data. The Census Bureau hopes to have its special reports on migration based on 1970 sample data begin appearing in late 1972 and completed in 1973.

The Census Bureau also makes yearly estimates of population migration within the United States. This information is found in the annual report on mobility of the population which is part of the P-20 series (Population Characteristics) of current population reports, which is published by the Census Bureau.

As more 1970 census statistical data are made available, there will be a number of newspaper and magazine articles, as well as books appearing which deal with internal migration in the United States. Those wishing to locate these articles and books should check the major periodical indices under the following headings:

Economic Development

Internal Migration

Labor Mobility

Migration

Population

Residential Mobility

Rural to Urban Migration

1955 to 1964

Adams, Russell B. Population mobility in the Upper Midwest. [Minneapolis, Upper Midwest Economic Study] 1964. 60 p. HN79 A14U6 No. 6

Banks, Vera J. Migration of farm people; an annotated bibliography, 1946-1960. Washington, Economic and Statistical Analysis Division, Economic Research Service, U.S. Dept. of Agriculture, 1963. 37 p. (Misc. pub. no. 954) S21.A46 No. 954

Beale, Calvin L. Rural depopulation in the United States: some demographic consequences of agricultural adjustments. Demography, v. 1, 1964: 264-272. HB881.A1D53

Blanco, Cicely. The determinants of interstate population movements. Journal of regional science, v. 5, 1963: 77-84. H62.J65

Burchinal, Lee G. and Perry E. Jacobson. Migration and adjustment of farm and nonfarm families and adolescents in Cedar Rapids, Iowa. Ames, Agricultural and Home Economics Experiment Station, Iowa State University of Science and Technology, 1963: 860-879. HB1985.I8B8

Burford, Roger L. Net migration for southern counties, 1940-1950 and 1950-1960. Atlanta, Bureau of Business and Economic Research, School of Business Administration, Georgia State College. January 1963. 44 p. (Research Paper number 24) HB1971.B8

Bunting, Robert L., et al. Labor mobility in three southern states. Industrial and labor relations review, v. 14, April 1961: 432-445. HD4802.I53

Bunting, Robert L. Labor mobility: sex, race, and age. Review of economics and statistics, v. 42, May 1960: 229-231. HA1.R35

Eldridge, Hope T. A cohort approach to the analysis of migration differentials. Demography, v. 1, 1964: 212-219. HB881.A1D53

Guither, Harold D. Factors influencing farm operators to leave farming. Journal of farm economics, v. 45, August 1963: 567-576. S560.J6

Hamilton, C. Horace. Educational selectivity of net migration from the south. Social forces, v. 33, March 1955: 289-292. HN51.S5

----- The Negro leaves the south. Demography, v. 1, 1964: 273-295. HB881.A1D53

Hathaway, Dale E. Migration from farms and its meaning. Monthly labor review, v. 83, February 1960: 136-140. HD8051.A78

Higbee, Edward Counselman. Farms and farmers in an urban age. New York, Twentieth Century Fund, 1963. 183 p. HD1761.H53

Kuznets, Simon, ed. Population redistribution and economic growth; U.S., 1870-1950. Philadelphia, American Philosophical Society, 1957-64. 3v. HB1965.K8

V. 1, Methodological considerations and reference tables, by E. S. Lee and others; v. 2, Analyses of economic change, by S. Kuznets, A.R. Miller and R.A. Easterlin; v. 3, Demographic analyses and interrelationships, by H.T. Eldridge and D.S. Thomas.

Lansing, John B. and William Ladd. The propensity to move. Washington, U.S. Department of Commerce, Area Redevelopment Administration, 1964. 20 p. (Prepared under contract for the ARA by the authors) HB1965 L3

Lee, Everett S. and Anne S. Lee. Internal migration statistics for the United States. Journal of the American Statistical Association, v. 55, no. 292, December 1960: 664-697.

Lester, Herschel T. Projected trends for farm operators: farm size, replacement needs and rural farm male migration in Georgia for the period 1960-1970-72. Athens, University of Georgia, College of Education, Dept. of Agricultural Education, 1964. 52 p. (Research series. Bulletin no. 4) S534G4G46 no. 4

McDonald, Stephen L. Farm outmigration as an integrative adjustment to economic growth. Social forces, v. 34, December 1955: 119-128. HN51.S5

Michigan University. Survey Research Center. The cost of geographic mobility. Washington, U.S. Department of Commerce, Area Redevelopment Administration, 1964. 20 p. HB1965.M5
"Prepared under contract for the Area Redevelopment Administration, by John B. Lansing and Nancy Barth, of the staff of the Survey Research Center of the University of Michigan."

----- Migration into and out of depressed areas. Washington, U.S. Department of Commerce, Area Redevelopment Administration, 1964. 28 p. HD5724.M52

Schwarzweller, Harry K. Family ties, migration, and transition adjustment of young men from eastern Kentucky. Lexington, University of Kentucky, Agricultural Experiment Station, 1964. 39 p. HQ799 72 K4S3

Taeuber, Conrad and Irene B. Taeuber. The changing population of the United States. New York, John Wiley and Sons, 1958. 357 p. HB3505.T3

Travis, Herman. Mobility and worker adaptation to economic change in the U.S. Rev. Washington, Manpower Administration, Office of Manpower, Automation and Training, U.S. Department of Labor, 1963. 77 p. (Manpower research bulletin no. 1) HD5701.U54 no. 1

U. S. Area Redevelopment Administration. Negro-white differences in geographic mobility. Washington, U.S. Government Printing Office, 1964. 22 p. (Its Economic redevelopment research) E185.5.U5
"Prepared under contract for the ARA by Eva Mueller and William Ladd of the staff of the Survey Research Center of the University of Michigan."

U. S. Bureau of the Census. U.S. census of population: 1960; lifetime and recent migration (PC(2)-2D). Washington, U.S. Government Printing Office, 1963. 493 p.

----- U.S. census of population: 1960; mobility for states and state economic areas (PC(2)-2B). Washington, U.S. Government Printing Office, 1963. 468 p.

Workshop on Internal Migration. The farmer and migration in the United States; results of research workshop. Raleigh, North Carolina State College, 1961. 91 p. (API series no. 3) HB1965.W6 1961
This special report contains papers presented at a research workshop held at North Carolina State College in April of 1961. Sponsored by the Agricultural Policy Institute, School of Agriculture, North Carolina State College.

Zimmer, Basil G. Adjustment of migrants in the urban areas; a study of participation in the urban community in relation to migration experience. Ann Arbor, Michigan, University Microfilms, 1954. 316 p. (on microfilm) Microfilm AC-1 No. 8437

1965 to 1969

Bagdikian, Ben. The black immigrants. Saturday evening post, July 15, 1967: 25-29, 64-68. PZ1 S234 Po

Bontemps, Arna and Jack Conroy. Anyplace but here. New York, Hill and Wang, 1966. 372 p. E185.6B75 1966

Bowles, Gladys K. and James D. Tarver. Net migration of the population, 1950-60, by age, sex and color. Washington, Economic Research Service, U.S. Department of Agriculture, in cooperation with the Research Foundation, Oklahoma State University and the Area Redevelopment Administration, U.S. Department of Commerce, May 1965. (2 volumes, volume 1 containing 6 parts separately bound) HB 1965.B66

Burford, Roger L. The Federal cotton program and farm labor force adjustments. Southern economic journal, v. 23, October 1966: 223-236. HC107.A13A67

Campbell, Rex R. and John J. Hartman. Migration in Missouri, 1950-1960. Columbia, University of Missouri, College of Agriculture, Agriculture Experiment Station, 1965. 46 p. HB1985M8C3

Can we survive until tomorrow? Symposium hears voices of the rural poor. Community development, v. 3, January 1968: 8-11. HT101 C57

Describes a symposium on "Communities of Tommorow" held in Washington, D.C. in December 1967. The symposium was held to consider the problem of urban/rural balance.

Chamber of Commerce of the United States. Task Force on Economic Growth and Opportunity, Rural Poverty and Regional Progress in an Urban Society. [Washington, D.C.] Chamber of Commerce of the United States, 1969. 268 p. HC110 P6C32

Drabick, Lawrence W. Marriage plan and migration; factors associated with expectations. Raleigh, North Carolina State University, 1965. 52 p. HF5381.5.D7

Eldridge, Hope T. Primary, secondary, and return migration in the U.S., 1955-1960. Demography, v. 2, 1965: 444-455. HB881.A1D53

Fairchild, Charles K., and others. Transfer of population from rural to urban areas (four conference papers). Labor law journal, v.20, August 1969: 461-469. Law Library

Family mobility in our dynamic society. Ames, Iowa State University Press, 1965. 283 p. HQ728.F32

Papers given at a conference held Sept. 30 to Oct. 3, 1963, at Ames, Iowa, sponsored by the Center for Agricultural and Economic Development, Iowa State University. Includes bibliographical footnotes.

Fishman, Betty G. Economic effects of internal migration; an exploratory study, Substantive Report. [n.p., 1968?] 104 p. HC110 C6F54

Freeman, Orville L. Towards a national policy on balanced communities. Minnesota law review, v. 53, June 1969: 1163-1178. Law Library

From inner city to suburbia: Negroes join in exodus. U.S. news and world report, v. 69, December 29, 1969: 17-19. JK1.U65

Gans, Herbert J. The white exodus to suburbia steps up. New York times magazine, January 7, 1968: 25, 85-97. AP2.N6575

Gavett, Thomas William. Migration and changes in the quality of the labor force. Morgantown, Bureau of Business Research, West Virginia University, 1967. 53 p. HB1965.G3

Grossman, Charles S., and others. Migration of college and university students in the United States. St. Louis, University of Washington Press, 1968. 180 p. LA210 M5

Haenszel, William. Concept, measurement, and data in migration analysis. Demography, v. 4, 1967: 253-261. HB881.A1D53

Hamilton, C. Horace. Effect of census errors on the measurement of net migration. Demography, v. 3, 1966: 393-415. HB881.A1D53

Hathaway, Dale and Brian Perkins. Movement of labor between farm and nonfarm jobs. East Lansing, Michigan State University, Agricultural Experiment Station, Department of Agricultural Economics, 1966. 48 p. (Research Bulletin no. 13) HD5725 M5A4

Lansing, John B. and Eva Mueller. The geographic mobility of labor. Ann Arbor, Survey Research Center, Institute for Social Research, University of Michigan, 1967. 421 p. HD5724 L283

Lee, Everett S. A theory of migration. Demography, v. 3, 1966: 47-57. HB881.A1D53

Lowry, Ira S. Migration and metropolitan growth: two analytical models. San Francisco, Chandler Pub. Co., 1966. 118 p. (UCLA Institute of Government and Public Affairs series) HB1965.L6

Mann, Dean E. The political implications of migration to the arid lands of the United States. Natural resources journal, v. 9, April 1969: 212-227. Law Library

Marsh, Robert E. Negro-white differences in geographic mobility. Social security bulletin, v. 30, May 1967: 8-19. HD7123.S56

McKelvey, Blake. The emergence of metropolitan America 1915-1966, New Brunswick, Rutgers University Press, 1968. 311 p. HT123 M22

Miller, Ann R. Migration differentials in labor force participation: United States, 1960. Demography, v. 3, 1966: 58-67. HB881.A1D53

National Manpower Conference, Oklahoma State University. The rural to urban population shift, a national problem. Washington, U.S. Government Printing Office, 1968. 190 p. HB1965 N37 1968

Newman, Dorothy K. The Negro's journey to the city - Part I; Hope for better jobs and more education have led to a migration unparalled in American history. Monthly labor review, v. 88, May 1965: 502-507. HD8051.A78

Raymond, Richard. Mobility and economic progress of Negro Americans during the 1940's. American journal of economics and sociology, v. 28, October 1969: 337-350. H1.A48

Schmitt, Robert C. Travel, tourism and migration. Demography, v. 5, No. 1, 1968: 306-310. HB881.A1D53

Shannon, William V. The Negro leaves the farm. New York times, September 18, 1967: 46. AP2N65

Shyrock, Henry S., jr. and Elizabeth A. Larmon. Some longitudinal data on internal migration. Demography, v. 2, 1965: 579-592. HB881.A1D53

Simmons, James W. Changing residence in the city: a review of intraurban mobility. Geographical review, v. 58, October 1968: 622-651. G1.G35

Smith, Wesley G. and Venkareddy Chennareddy. Movement of labor between farm and nonfarm sectors and multiple-jobholding in the Tennessee Valley. Muscle Shoals, Alabama, National Fertilizer Development Center, Tennessee Valley Authority, 1967. 49 p. HD1527 T2S6

Stinner, William F. and Gordon F. De Jong. Southern Negro migration. Demography, v. 6, November 1969: 455-471. HB881.A1D53

Stockwell, Edward G., and Harold F. Goldsmith. Population mobility in Connecticut and the northeast region. Storrs, Agriculture Experiment Station, University of Connecticut, 1965. 57 p. HB1967.S7

Stone, Leroy O. Evaluating the relative accuracy and significance of net migration estimates. Demography, v. 4, 1967: 310-330. HB881.A1D53

Sundquist, James L. and David W. Davis. Making Federalism work. Washington, Brookings Institution, 1969. 293 p. JK325.S86

Taeuber, Irene B. Change and transition in the black population of the United States. Population index, v. 34, April/June 1968: 121-151. Z7164 D3P83

Taeuber, Karl E. Migration in the U.S.; an analysis of residence histories. Washington, Department of Health, Education and Welfare, Health Services and Mental Health Administration, 1968. 151 p. HB 1965 T3

Tarver, James D., et al. Vector representation of migration streams among selected state economic areas during 1955 and 1960. Demography, v. 4, 1967: 1-18. HB881.A1D53

Tilly, Charles. Migration to an American city. Newark, Agricultural Experiment Station, University of Delaware, 1965. 52 p. HB3527W5T5

U.S. Advisory Commission on Intergovernmental Relations. Urban and rural America: policies for future growth. Washington, U.S. Government Printing Office, April 1968. 186 p. HT123.A4

U.S. Bureau of the Census. U.S. census of population: 1960; migration between state economic areas (PC(2)-2E). Washington, U.S. Government Printing Office, 1967. 372 p.

U.S. Congress. Committee on Banking and Currency. House of Representatives, 91st Congress, 1st session. Population trends. Washington, U. S. Government Printing Office, 1969. 803 p. KF27B387 1969

U.S. Department of Agriculture. National growth and its distribution (Symposium on Communities of Tomorrow, December 11 and 12, 1967). Washington, U.S. Government Printing Office, April 1968. 89 p. HT123.S87 1967

U.S. Department of Agriculture. Economic Research Service. Rural people in the American economy, Agricultural Economic Report no. 101. Washington, U.S. Government Printing Office, 1966. 125 p. HT1751.A91854 No. 101

U.S. National Advisory Commission on Rural Poverty. The people left behind, a report. Washington, September 1967. 160 p. HN58.A29

U.S. National Advisory Commission on Rural Poverty. Rural poverty. Hearings. Part 1, January 26, 27, 1967, Tucson, Arizona; Part 2, February 2, 3, 1967, Memphis, Tennessee; Part 3, February 15, 16, 17, 1967, Washington, D.C. Washington, September 1967.
Pt. 1 HC110 P6A48 1967B
Pt. 2 HC110 P6A48 1967
Pt. 3 HC110 P6848 1967a

----- Rural poverty in the United States; a report. Washington, U.S. Government Printing Office, 1968. 601 p. HC110 P6A485

Urbanization: is the place to stop the problem of urban migration at its rural source?, City, v. 1, November 1967: 28-30.

Wattenberg, Ben J. and Richard M. Scammon. This U.S.A., an unexpected family portrait of 194,067,296 Americans drawn from the census. Doubleday and Co., Inc., Garden City, New York, 1965. 520 p. HA215W3

Woofter, T. J. Migration in the Southeast. Demography, v. 4, no. 2, 1967: 532-552. HB881.A1D53

1970 and 1971

Americans on the move. U.S. news and world report, v. 68, March 16, 1970: 66-67. JK1U65

Flight from the cities. U.S. news and world report, v. 69, September 7, 1970: 33. JK1.U65

Greenwood, Michael J. and Patrick J. Gormely. A comparison of determinants of white and nonwhite interstate migration. Demography, v. 8, February 1971: 141-155. HB881.A1D53

Hansen, Niles M. Rural poverty and the urban crisis, a strategy for regional development. Bloomington, Indiana University Press, 1970. 352 p. HT392.H35

Hauser, Philip M. The census of 1970. Scientific American, v. 225, July 1971: 17-25. T1.S5

Is California's "people boom" over? This is something new for the Golden State. U.S. news and world report, v. 70, June 21, 1971: 37-38. JK1.U65

Kaun, David E. Negro migration and unemployment. Journal of human resource, v. 5, spring 1970: 191-207. HD5701.J6

Lansing, John B. and others. New homes and poor people: a study of chains of moves. Ann Arbor, Publications Division, Institute for Social Research, University of Michigan, 1970. 136 p. HD7293 A3L3

McAllister, Peter A. Dreams end: smog, overcrowding, crumbling economy end California's lure. Wall Street journal, August 4, 1971: 1+. HC1 W2

McKeown, James E., ed. The changing metropolis. Boston, Houghton Mifflin, 1971. 200 p. HT334 U5 M32 1971

Phillips, Bruce D. The relation of migration to regional unemployment. American economist, v. 14, fall 1970: 26-42. HB1.A64

Sundquist, James L. Where shall they live? Public interest, no. 18, winter 1970: 88-100. H1P86

U.S. Bureau of the Census. Distribution of Negro population, by county, supplementary report, 1970 Census of Population, Series PC (S1)-2, Washington, U.S. Government Printing Office, June 1971. 5 p.

----- Mobility of the population of the United States (published annually since 1948). Current population reports, Population characteristics, p-20, Washington, U.S. Government Printing Office. HA195.A53

----- Negro population in selected places and selected counties, supplementary report. 1970 Census of Population, Series PC(S1)-2, Washington, U.S. Government Printing Office, June 1971. 17 p.

----- Social and economic characteristics of the population in metropolitan and nonmetropolitan areas: 1970 and 1960. Current Population Reports, Series P.23, No. 37, Washington, U.S. Government Printing Office, 1971. 122 p.

----- The social and economic status of Negroes in the United States, 1970. Current Population Reports, Series P-23, No. 38, Washington, U.S. Government Printing Office, 1971. 156 p.

U.S. President's Task Force on Rural Development. A new life for the country. March 1970. 49 p. HN59A517 1970

Wertheimer, Richard F., II. The monetary rewards of migration within the United States. Washington, Urban Institute, 1970. 62 p. HB1965 W46

Zuiches, James J. In-migration and growth of non-metropolitan urban places. Rural sociology, v. 35, September 1970: 410-420. HT401.R8

IS IT "MORE BLESSED TO GIVE THAN TO RECEIVE"?

(A Study of Federally-Subsidized Grower Attitudes Toward Federal Assistance to the Poor)

"Giving Causes Loss of Pride"

(Wife of Madera County grower receiving $29,000 from Federal Agricultural Subsidy Program in explanation of her opposition to federal welfare assistance to the poor)

Study conducted from October to November, 1968, under auspices of California Rural Legal Assistance, Inc. by its Deputy Director, Robert L. Gnaizda

PREFACE

"The Bible says a man should work." (Explanation of grower who received $18,000[1] from Federal Agricultural subsidy program in explanation of why he is opposed to federal assistance to the poor.)

In 1966, the Federal Government paid one hundred and eighty-five (185) Madera County, California growers $5,000 to $133,555 not to grow, or to raise the price of, certain basic crops. Payments were made pursuant to the Agricultural Stabilization and Conservation Service Program. (A total of $3,281,621,070 was paid to American growers and $103,881,250 to California growers, primarily to raise the prices of wheat, cotton, wool and sugar.)

During the week ending November 3, 1968, a random sample -- one-fourth or 25.4% -- of these Madera County subsidized growers were questioned by a Stanford University graduate student[2] as to their attitudes toward federal assistance to poor people.[3]

This study was sponsored by California Rural Legal Assistance.[4] The results of the study were compiled by CRLA's Deputy Director, Robert L. Gnaizda.[5] Its purpose was to examine the attitudes of growers receiving federal support toward similar

(1) In order to avoid identification of any specific grower, the dollar amount received by individual growers has been slightly altered up to a maximum of ten per cent.

(2) Miss Robin Yeamans, a third year Stanford Law School student, conducted the study through direct telephone interviews.

(3) Appendix A contains a sample questionnaire.

(4) California Rural Legal Assistance, Inc. (CRLA) is a non-profit California corporation funded by the Office of Economic Opportunity. It is directed by a Board of Trustees, a majority of whom are California attorneys appointed by the State Bar and local bar associations. It provides free legal services to indigents, a majority of whom are migrants, farm workers, and/or Mexican Americans. This service is provided in nine widely-separated rural areas of California. CRLA was recently the recipient of OEO, National Advisory Committee for Legal Services' national award as the outstanding legal service program in the U.S.

federal government assistance to the poor. Of special interest was the grower attitude toward federal programs for the poor which paralleled agricultural crop subsidies.

SUMMARY OF RESULTS

> "I can't understand having things handed to you." (Wife of grower receiving $16,000 from crop subsidy program in explanation of her opposition to federal welfare assistance to poor persons.)

Federally subsidized growers were found to be hostile towards most forms of federal assistance to the poor. The more closely the federal assistance paralleled the assistance they received through agricultural subsidies, the greater their hostility.

More than half of the growers (57%) were opposed to present federal welfare assistance for the poor. Eight out of ten (81%) were opposed to a guaranteed annual income of $4,500 for a family of seven. Nine out of ten (94%) were opposed to providing a minimum of $4,000 to a family of five in order to avoid depressing wages during a period of high unemployment.

The only exception to this hostility was the widespread support for the federal food stamp program for the poor. 85% favored such a program.

No interviewee uniformly responded to the five questions asked and responses were received to 92.34% of the questions asked.

(5) Robert L. Gnaizda is a graduate of Columbia University '57, and Yale Law School '60. Prior to employment with California Rural Legal Assistance he was a California tax attorney. He has lectured on poverty and rural law at Stanford and the University of California Law Schools and is a consultant and lecturer for the Office of Economic Opportunity.

Less than one in ten (8%) recognized, at least verbally, the parallels or similarities between the federal assistance they were receiving and the federal assistance they were opposed to poor persons receiving.

A recently completed Gallup Poll ("New York Times," January 5, 1969, p. 44) indicates that grower opposition to a guaranteed annual income (81%) opposed reflects the national sentiment. Sixty-two per cent of the entire Gallup sample and seventy-two per cent of the "$10,000 and over" group opposed a guaranteed annual income.

FINDINGS

> "Idleness causes many evils." (Statement of grower, receiving $8,000 from federal crop subsidies, who opposed all forms of federal assistance to poor persons.)

> "[The guaranteed annual income] is like the farm program. It is a good idea in time of transition when going to automation." (Statement of the only grower who supported federal assistance to the poor with any degree of enthusiasm. This grower received $12,000 from the federal crop subsidy program.)

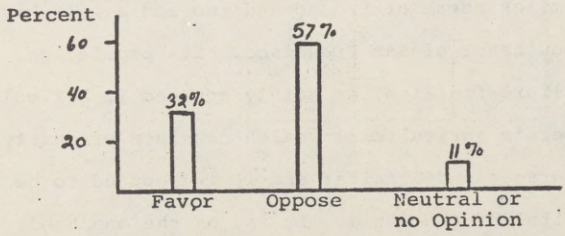
Madera County, California, population 45,400, lies in the fertile San Joaquin Valley. Its county seat, the city of Madera, population 16,800, is at the exact geographical center of California, twenty miles north of Fresno and two and a half hours driving time southeast of San Francisco. Its population, including most of its welfare families, is mainly engaged in agricultural pursuits. Madera's agricultural wealth consists primarily of beef, cotton, grapes and alfalfa; and it is reputed to be the chinchilla capital of the world. It is, on the one hand, the thirty-seventh wealthiest agricultural county in the nation (top 2%); and on the other hand it has the highest concentration of

poor families (29.8%), and one of the highest infant mortality rates in the state of California (10.1 per 1,000).

In 1966, the federal government paid 185 Madera County growers $5,000 to $133,555 in order to encourage them to restrict production, or to raise the price of crops basic to the needs of the American people. These payments, in the aggregate amount of $3,008,901 for Madera, were made pursuant to the Agricultural Stabilization and Conservation Service Program under the auspices of the United States Department of Agriculture. One-fourth of these federally-subsidized Madera County growers, or their wives,[6] (47 or 25.4%) were interviewed by a third year Stanford law student, Robin Yeamans. The interviews were done independently of California Rural Legal Assistance, or any other organization, and were conducted on October 31 and November 1, 1968.

An identical set of five questions was asked of each grower in order to determine the view of persons receiving substantial federal subsidies toward similar federal assistance programs for poor people.[7]

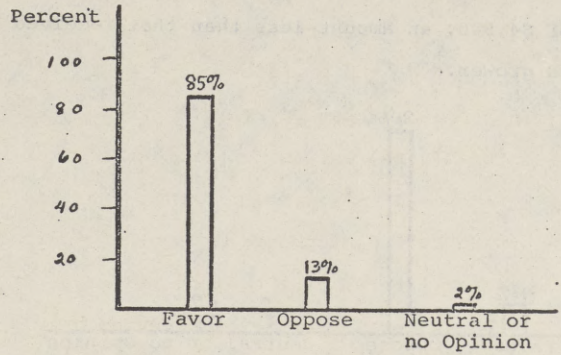
1. 57% of Subsidized Growers Opposed to Present Welfare Assistance



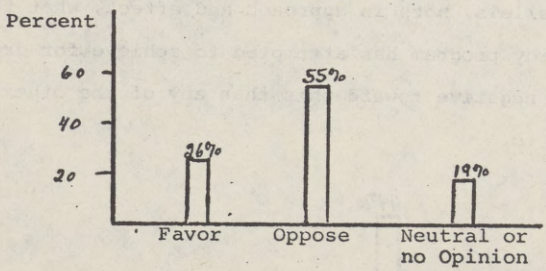
(6) No significant statistical difference appeared between the responses of growers and those of their wives.

(7) See Appendix A for Questionnaire Form.

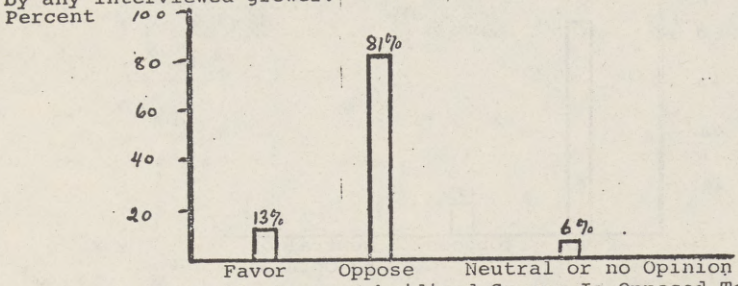
2. 85% of Growers Favor Food Stamp Program: This was the only area in which subsidized growers favored federal assistance to poor persons.



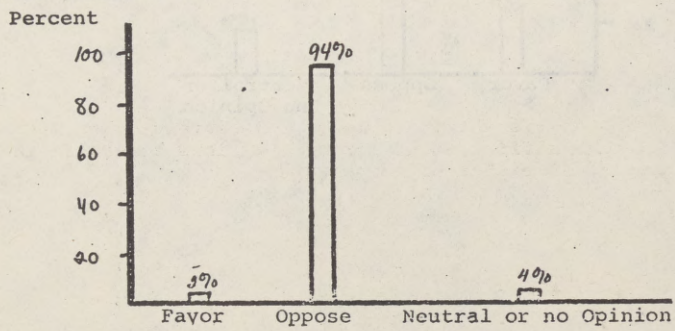
3. Only One-Fourth of Growers Support Raising Welfare Assistance To Meet Government-defined Minimum Needs of Poor Persons: (The present welfare system in California provides between 75% and 80% of the state-defined minimum needs of poor persons, thereby compelling most persons on welfare to go without essential food and clothing.)



4. 8 Out Of Every 10 Subsidized Growers Oppose A Guaranteed Annual Income To Poor Persons: The question asked was whether the grower favored a guaranteed annual income for a family of seven of $4,500, an amount less than that received by any interviewed grower.



5. Virtually Every Subsidized Grower Is Opposed To Providing Assistance For Poor Persons Comparable In Nature And Effect To What He Received From The Federal Government: Growers were asked if they favored providing a family of five with as much as $4,000 a year not to work when there were too few jobs, too many potential workers, and it was thought necessary to pay certain workers not to work in order to keep wages of other workers high. This proposal parallels, both in approach and effect, what the agricultural subsidy program has attempted to achieve for growers. Growers were more negative toward this than any of the other programs referred to.



Only 7% of the growers indicated opposition to all five of the questions posed. None, however, answered affirmatively as to all such questions. Two-thirds (68%) were opposed to a majority of the programs they were questioned about and only 15% favored a majority of such programs.[8]

Sample illustrative comments by the interviewees, in explanation of their opposition to federal assistance to the poor, follows: (The material in parentheses refers to the amount of the annual federal subsidy received by the grower and summarizes his, or her, position as to federal assistance to poor persons.)

A. "Worried about abuses...work's good for everybody." (Received $30,000; opposed to all but food stamp program)

B. "Too much like farm program" (Received $15,000; opposed to guaranteed annual income or programs comparable to farm subsidy program)

C. "Like farm program. Don't like either." (Received $5,000; opposed to all but food stamp program)

D. "Everybody should have it as hard as I did." (Received $7,000; opposed to all programs including food stamp)

E. "Anyone healthy shouldn't get more than what they can earn." (Received $27,000; opposed to all but food stamp program)

F. "I can't understand having things handed to you." (Received $17,000; opposed to all but food stamp program)

G. "Different people eat different ways -- depends on nationality." (Received $12,000; opposed to food stamp program)

(8) The remaining 17% is attributable to some interviewees failing to comment on a sufficient number of questions to enable them to be included in either of these groups.

H. "Idleness causes many evils. Must show people they need to help themselves." (Received $8,000; opposed to all programs including food stamp programs)

I. "They [poor people] make more than anyone today." (Received $12,000;opposed to all but food stamp program)

J. "I'm against any supplement of any kind." (Received $6,000; opposed to all but food stamp program)

K. "We don't want to create generations of idle people." (Received $9,000; opposed to all but food stamp program)

CONCLUSION

"I can't understand having things handed to you."
(Grower who received $17,000)

"That man may last, but never lives,
who much receives, but nothing gives;"
(Thomas Gillon, When Jesus Dwelt)

The results of the study speak for themselves. Although some growers sought refuge in the Bible as support for their opposition, only one sought to follow the New Testament admonition that, "It is more blessed to give than to receive."(9) Perhaps, the nineteenth century American poet Will Carleton best summarized this sanctimonious attitude when he said:

"Thanksgiving-day, I fear,
If one the solemn truth must touch,
Is celebrated, not so much
To thank the Lord for blessings o'er,
As for the sake of getting more!"
(Will Carleton, Captain Young's Thanksgiving)

(9) New Testament: Acts 20:35