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An Agricultural Law Research Article

Agricultural and Law Economics

by

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AGRICULTURAL AND LAW ECONOMICS*

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A few of you will remember the meetings held prior to the formation of this Association. The first such meeting was sponsored by the Farm Foundation, an organization that has historically been at the “cutting edge” of educational developments in agriculture. In calling this first meeting, the leadership of the Foundation decided to invite various “types” of individuals that were perceived to have an interest in the subject of agricultural law.

It turned out to be a rather diverse mixture of people. There were a few law professors, no practitioners (to my recollection), and a rather large number of agricultural college professors. The agricultural professors included a few teachers of agricultural law in undergraduate courses, several agricultural extension specialists and others whose research had resulted in publications that addressed agricultural law topics.

Another interesting dimension of this original “mixed” group was that a large, if not predominant, number of those present were *not* trained as lawyers, but as economists. That fact may seem peculiar to our current and much larger membership, for today the Association consists mainly of lawyers, rather than non-lawyers with an interest in the subject of agricultural law. As our membership increases further in the years ahead, I anticipate that lawyers will far outnumber economists, in even greater proportions than now.

But, I am not concerned about proportions. Rather, I am concerned that the experience and insights of agricultural economists not get lost in the development and future of this Association, and what appears to be the beginnings of a legal “sub-discipline” of educational content and form.

THE BEGINNINGS

Many of us have struggled with the question of what is “agricultural law” or what is an “agricultural lawyer?” Permit me to make the immediate parallel with the questions: what is “agricultural economics” or an “agricultural economist?” The answer in both instances is that law and economics are the parent discipline, and that the adjective “agricultural” merely denotes industry and clientele interest. The agricultural economist is usually *not* a trained “agriculturalist” (whatever that may be) with an interest in economics. But the development of the profession (or discipline) of agricultural economics derived from both agricultural and economic sources.

* Presidential Address, American Agricultural Law Association, Little Rock, Arkansas, October 13, 1983.

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In *The Story of Agricultural Economics*†, an historical treatise, Taylor points to the resolution of public issues as one of the bases for economists being attracted to agriculture. But he also identifies such agricultural sciences as agronomy and animal science as the basis of interest in economic questions as the other root source from which the profession developed.

Taylor did not discuss these developments in the context of "macroeconomics" and "microeconomics," but it is clear that this is close to what he had in mind. In aggregate, farm welfare questions surfaced in the late 1800's for which public policy analysis was required. The economics profession, at societal meetings, at land-grant schools of agriculture and as practitioners, began to address these agricultural policy questions. Most of these public policy concerns are analyzed using aggregate economic models of how the economy and its sub-parts operate: the issues of macroeconomics analysis.

The microeconomics of agriculture more clearly addressed the economic concerns of the agronomists and animal scientists. The matters of pressing interests were the profitability of farm enterprise options and alternative input combinations. This "root branch" of the developing profession of agricultural economics dealt with some of the difficult questions faced by farmers: what and how much should be produced and what types and levels of what inputs should be employed in this production process?

It became clear that economists had something valuable to contribute to these questions. Using budgeting procedures that have now evolved into sophisticated computer programs, the agricultural economist could provide important advice to farmers and to the agricultural scientists concerned with the economic feasibility of their technological developments.

The microeconomic side of agricultural economics expanded to include a wider range of choice decisions by farmers. Farmers sought advice on whether to increase their land holdings and whether to purchase capital equipment. They wanted to know the economic consequence of alternative ways of organizing their farm business. They were interested in marketing alternatives and the formation of agricultural organizations that might provide price or cost advantages.

At the macroeconomic level, agricultural price variations were studied to determine appropriate government policies to encourage price and income stability in the face of weather and, later, market uncertainties. It soon became evident that no single set of policies would resolve the welfare problems of a wide range of farm sizes with different resources and enterprise interests. Policies had to be tailored to meet the needs of different farmer groups and situations.

These policies could not be analyzed and formulated without an adequate statistical base. Surveys and censuses became an important adjunct to the economic policy analysis proposed and instituted. Data needs further

† H. TAYLOR & A. TAYLOR, *THE STORY OF AGRICULTURAL ECONOMICS* (1952).

adjusted to the development of new analytical frameworks and tools as time progressed.

The growth of agricultural economics was thus influenced by the demand for knowledge by farmers and by the needs of policy-makers to develop rational policies. But the profession did not restrict itself to farming. Agribusiness firms and rural area problems came to be the proper subject of agricultural economics inquiry, as did international trade and development. This profession now includes nearly every subspecialty of economics, all with the caveat: "as it relates to agriculture," very broadly defined.

PARALLELS

The legal profession, like economics, has its members who might wish to claim that there is no such thing as "agricultural" law. Law, to them, is properly classified by the type of problem, analytic method or procedure used. But I would hope that the presidential addresses of Harl and Uchtmann have presented sufficiently convincing arguments and evidence to dissuade them of this view.

There are, however, interesting parallels in agricultural law, as it develops further, to the historical evolution of agricultural economics.

The rural practitioner is increasingly encountering farmers as clients. They are seeking advice on a wide range of questions that have become important to them as their operations have expanded in size and management complexity and as larger numbers of regulations have developed that constrain their decision-making. Also, as the role and complexity of government policy has expanded, so too has the need for legal advice on policy statement and application.

There is a destruction in these similar demand forces that did not apply to agricultural economics. The advice of agricultural economists, with limited but notable exceptions, was without direct cost to the farmer and embodied in the government payroll structure for policy-makers.

Many colleges of agriculture now employ lawyers as faculty not only to teach undergraduates and engage in scholarly research, but to conduct extension programs designed to aid farmer decision-making. At the same time, numerous practitioners are seeking individual farmers as clients. The potential for competition is obvious and will need to be accommodated in various ways. Most legal extension programs that I am acquainted with refuse to provide farmers with specific legal advice, but rather outline some of the major considerations that farmers must address in their decisions, leaving individual advice-giving to private practitioners.

In some states, the publicly-supported extension programs dealing with agricultural law have resulted in an increased demand for private practitioner services. In Minnesota, extension staffs attempt to make farmers aware of legal decision-problems and possible consequences, but leave par-

ticular solutions to the private bar. The extension education program in Iowa, much of which was the result of input from Neil Harl, is followed elsewhere.

Educating farmers as to the value of legal advice also comes from the increasing number of situations that farmers encounter as they grow in operational size and interrelationship with credit and marketing organizations. To the extent that farming is projected to consist of more large farm operations in the years ahead—and that is the projection—the services of private practitioners will increasingly be called upon.

I submit that the subject of agricultural law is or will be as broad as the agricultural economy perceived by the economists that also deal with this subject matter. The question will not be should I study agricultural law, but what facet of the subject: particular types of farmer decisions, rural development, agribusiness advising, international trade or agricultural policy?

THE INTERFACES

The lawyer and the economist can and do offer advice that not only interrelates, but occasionally conflicts. This may be due to the overreaching on the part of these professionals in both directions. The client is interested in answers and frequently believes that one adviser should be able to provide a solution that will handle his problem.

The economist can advise the farmer as to the business feasibility of land or machinery purchases, enterprise re-structuring and marketing alternatives, but may be uninformed about the manner in which these decisions are best accomplished. The lawyer may be best equipped to formally organize the business as a corporation or partnership, to deal with the mechanisms for land or machinery acquisition or to protect the interests of the farmer in contract relationships, but may be uninformed as to the basic economic feasibility of these decisions.

Knowing where your expertise begins and ends is a frequent problem for both the economist and legal practitioner. Both can and do contribute to problem solutions, and as the two disciplines interact in the years ahead it will be increasingly important for each to understand one another, and to complement one another.

The solution to this potential problem is not to be found in mere admonishing statements. It, instead, calls for educational programs in law schools and colleges of agriculture that acquaint lawyers with the content and method of economic analysis and that inform the economist of the law and its practice. Beyond the training stage, however, it calls for organizations like this to encourage research and professional interaction.