Removing Legal Constraints on Agriculture—Likely Impacts on Producers, Agribusiness Interests and Consumers

by

W. B. Sundquist

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REMOVING LEGAL CONSTRAINTS ON AGRICULTURE —LIKELY IMPACTS ON PRODUCERS, AGRIBUSINESS INTERESTS AND CONSUMERS

By W. B. SUNDQUIST*

This article outlines economic regulation of the agricultural industry in the United States by describing principal legislation designed for price and supply stabilization. The analysis of the legislation so outlined focuses on the determination of which legislation, if repealed or modified, would remove constraints on United States agriculture production and marketing organization, and how such modifications would otherwise affect the agricultural industry.

INTRODUCTION

A wide range of laws impinge on the economic organization and operation of United States agriculture in one way or another. This article does not attempt to provide a comprehensive listing of such laws. Rather, the major focus is on identifying, and discovering in general terms, those laws, which if rescinded or modified, would remove substantive constraints on the economic organization and operation of the United States' agricultural industry.

Attention is limited to those legal constraints which are under the jurisdiction of governmental units within the United States. That is, excluded from consideration are legal constraints which are imposed on United States agriculture by other national or international entities. Clearly, tariffs, imposed by foreign countries upon the entrance of agricultural commodities into those countries, are a regulatory device of major importance to our domestic agricultural industry. To evaluate the economic implications of legal constraints imposed by foreign countries on United States agriculture would, however, be a prohibitive undertaking. Moreover, many of these regulations are ones over which the United States has little, if any, control.

Emphasis is placed on consideration of those legal constraints which inhibit agriculture from restructuring its organization for purposes of production and marketing. Again, consideration of laws affecting the entire industrial complex providing inputs and raw materials to agriculture and the entire food and fiber manu-

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* Professor of Agricultural Policy and Economics and Head of the Department of Agricultural and Applied Economics, University of Minnesota, St. Paul, Minnesota. B.S. 1952, North Dakota State University; M.S. 1954, University of Kentucky; Ph.D. 1957, Michigan State University.

facturing and distribution systems would be a prohibitive undertaking.

Included will be brief reference to those legal regulations which curtail the flow of agricultural imports into this country since those types of regulations bear directly on the competitive status of United States agriculture and do, as a consequence, have an effect on the economic organization of domestic agriculture.

This article will exclude from substantive consideration, however, regulations imposed via health and sanitation standards. These include, for example, those regulations implemented through operation of the Federal Food, Drug and Cosmetic Act[1] and related laws. Here our assumption is that, for the most part, such regulations are imposed for the purpose of maintaining food purity and sanitation standards which are in the general public interest. Moreover, it would be difficult to appraise the impact of removing such regulations and the effort spent would probably be of questionable value.

In order to effectively evaluate that set of legal provisions which have an impact on agriculture, one must consider both the laws which *prohibit* certain activities and those which *authorize* other activities. For example, the Agricultural Marketing Agreement Act of 1937,[2] which authorizes the development of so-called "Commodity Marketing Orders,"[3] enhances the competitive situation of small scale agricultural producers by authorizing them to join together with other producers in order to achieve certain elements of market power which they could not achieve individually. On the other hand, laws which exclude farming by "corporations" effectively exclude some firms from engaging in agricultural production. Thus, legal regulation of agriculture is achieved through two avenues. One is an "enabling" type of law which exists with little public attention. The other is the "prohibitive" or "restrictive" type law with which we are more familiar. Some laws, of course, have elements of both types.

The above delineation of which legal constraints to consider, and which not to consider, is a broad and arbitrary one. Yet, the general guidelines I have adopted for this article have been (1) to include consideration of those constraints or regulations with economic importance, and (2) those which are under the jurisdiction of governmental units—be they local, state or federal—in the United States. Though most of the laws having important regulatory affects on agriculture are included, the list is by no means a comprehensive one.

1. 21 U.S.C. §§ 301-392 (1970).
2. 7 U.S.C. §§ 601-624.1 (1970).
3. 7 U.S.C. § 608(c) (1970).

AGRICULTURE — DEFINITIONS AND DIVERSITY

One of the important issues facing legislators, regulatory and data gathering agencies, researchers, and farm organizations today is that of defining agriculture. There is little doubt that activities undertaken by farmers, on the farm, and the furtherance of the production of farm commodities, are indeed, agriculture. It is less clear, however, at what point firms which engage in the production and distribution of such farm supplies as chemical pesticides and fertilizers, for example, become part of the agricultural industry. Also, in many cases it is not clear at what point in the processing, wholesaling and retailing of food that activities are no longer part of agriculture, but become part of the food or service industries.

An attempt is made to limit the attention of this article to the farm supply, production, and marketing subsectors of agriculture. To consider production agriculture alone would seem to be too narrow a concern. For example, many of the legal regulations which affect agriculture are applied at the marketing level. And, increasingly it is difficult, if not impossible, to draw a clear distinction between production and marketing, as well as between other stages, particularly in those cases where the agricultural commodity or commodities are handled through a vertically integrated system.

One final point appears of critical importance before moving into the discussion of legal constraints and their implications. This is the point that United States agriculture today is an extremely diverse industry. As a result, any generalizations which one makes about the industry as a whole are likely to be subject to exceptions. Consider, for example, only two of the many products produced in agriculture. These are broilers and wheat. Broiler production today approaches an industrial-type operation in many of its characteristics. Raw materials are assembled on a small land base and put together under a highly integrated, capital intensive, manufacturing-type operation. Raw materials, in the form of baby chicks, feed stuffs, antibiotics, buildings, and others are combined according to a predetermined formula. Laborers employed in the production process exercise few management decisions but mainly follow a set of well defined instructions from corporate management. There are no quotas or allotments for broiler production and the major legal regulations apply only to sanitation and product quality standards as the product moves into interstate commerce.

Wheat production, on the other hand, is still a land extensive type of farming operation. And, individual farmers exercise a good deal of personal judgment in deciding when to perform certain production activities and what set of inputs, owned or leased, to use in the production process. Also, they exercise a good deal of judgment in deciding when to buy inputs, when to sell their product

and whether to sell or store their product. If the latter decision is to store their product, an additional question is whether to use their own or commercial storage facilities. Also, dryland wheat production is still subject to the vagaries of weather, whereas most broilers are produced under highly controlled environments. Wheat, being one of the so-called "basic" agricultural commodities as defined in farm legislation, is produced under a system of regulations which include acreage allotments, price supports, non-recourse commodity loans, land diversion payments, and so forth. And, until recently, domestic flour millers were required to purchase marketing certificates in order to acquire wheat for milling. In addition, the federal government provided subsidies to wheat exporters in order for United States wheat to be sold at prices competitive in world trade. Thus, broilers and wheat are produced under very differing situations with respect to legal regulation and economic organization of the industry.

Production systems for feeder and fed cattle, dairy products, hogs and sheep are all very different types of operations. Similarly, production of tobacco, cotton, rice, soybeans, corn, sorghum, potatoes, sugar beets, sugar cane and others all have unique characteristics with respect to the combination of production inputs utilized, the extent and nature of economies of size in the production enterprise, and in the institutional and legal setting within which production and marketing occurs. These differences between commodities become of crucial importance as we try to assess the effects of deregulation on United States agriculture.

A Broad Categorization of Legal Constraints

Legal regulations which have an economic impact on United States agriculture can be classified in at least two major ways. These are (1) by a categorization along individual agricultural product lines, and (2) by a categorization of the economic functions or stages upon which the regulations have their primary impact. Neither basis for categorization is completely satisfactory but we chose to try the latter. Thus, our general procedure is to classify legal constraints according to whether their major impact appears to be on (1) the terms under which production inputs enter agricultural production, (2) on the production process itself, or (3) on the marketing of products. Some laws, of course, cut across all three of the stages cited above.

A fourth set of legal constraints, those related to import restrictions on agricultural commodities, will also be given some attention. This is because of their key regulatory role for a number of agricultural products, most notably livestock and livestock products and a number of specialty crops including some fruits and vegetables.

LEGAL REGULATION OF INPUTS USED IN FARMING

Regulation of the more traditional inputs coming from the farm supply industry is well documented in a report by Gnauck and Dahl.[4] Briefly, agricultural producers, as well as consumers, are protected by four federal laws which regulate the conditions under which a number of major farm inputs can be produced, labeled and merchandised. These are: (1) The Federal Food, Drug, and Cosmetic Act,[5] (2) The Federal Insecticide, Fungicide and Rodenticide Act,[6] (3) The Federal Seed Act,[7] and (4) The Fair Packaging and Labeling Act.[8] These laws have the general objective of protecting the public interest by requiring adherence to regulations pertaining to manufacturing, registration, packaging, labeling and selling. Thus regulations affect both the content and quality of the product and the manner in which it is represented to the buyer. In addition, most states now have legislation which regulates the manufacture of seed, feed, fertilizer, pesticides, and petroleum. Though these laws may be thought of as those related to "fair trade" regulations, they have the additional effect of prohibiting the exercise of undue economic control of significant sectors of the agricultural industry through unethical practices. Such practices, if not regulated, could permit the manufacturers and sellers of farm supplies to gain much greater economic control of the production sector as well.

More germane to our concerns are those laws which affect restraint of trade and monopolization, merger and acquisition, unfair competition, and exclusive dealing and tying arrangements by firms in the farm supply industry. These regulations flow from the Sherman Act,[9] the Clayton Act[10] and the Federal Trade Commission Act.[11] These acts have the general objective of "prohibiting unfair competition." Of the important farm inputs perhaps petroleum is most importantly affected by these laws, although fertilizer, chemicals and farm machinery are among other important components of the farm supply industry. Since the more interesting applications of antitrust legislation in agriculture lie in the product marketing subsector, our major discussion of these acts is deferred to that section.

Legal Regulations Affecting Employment of Agricultural Workers

Despite a decline in the number of hired workers in agriculture

4. Gnauck & Dahl, Government Regulation of the Farm Supply Industries (University of Minnesota, Agricultural Experiment Station Bulletin 492, 1970).
5. 21 U.S.C. §§ 301-392 (1970).
6. 7 U.S.C.A. § 135-35k (Supp. 1974), *amending* 7 U.S.C. § 135-35k (1970).
7. 7 U.S.C. §§ 1551-1610 (1970).
8. 15 U.S.C. § 1451 (1970).
9. 15 U.S.C. §§ 1-7 (1970).
10. 15 U.S.C. §§ 12-27, 44; 29 U.S.C. §§ 52-53 (1970).
11. 15 U.S.C. §§ 41-58 (1970).

from 2.23 million in 1950 to 1.13 million in 1973,[12] hired workers remain an important resource in agricultural production, and the legal regulation of hired farm workers is changing rapidly. Employment standards and working conditions for hired farm workers are affected by several federal statutes. Perhaps the most important, however, with respect to its impact on the economic organization of the agricultural industry, is the 1966 Amendment to the Fair Labor Standards Act.[13] Minimum wages for farm workers are currently set at $1.30 per hour under this act. Agricultural employers are normally required to pay the minimum wage if they employed 500 man days or more of hired labor during the peak calendar quarter of the previous year. This minimum wage is expected to increase very rapidly over the next several years. An example of minimum wage regulation for a specific commodity is that provided in the Sugar Act of 1948 as amended.[14] This legislation permits the Secretary of Agriculture to set "fair and reasonable wage rates" for workers employed in production of sugar cane and beets.[15] Here the basic hourly minimum wage for 1974 is $2.30 per hour for hourly work. Payment for piece work is graded upward accordingly. Unemployment and workman's compensation legislation, already in effect for agricultural workers in many states, is expected at the federal level, probably yet in 1974.

In addition to minimum wages provided at the federal level, a number of states have recently passed legislation related to hired farm workers. For example, the Minnesota Fair Labor Standards Act of 1973[16] requires that a minimum wage be paid for hired farm workers eighteen years of age or older. A basic minimum hourly wage rate of $1.80 per hour is currently specified with time and one-half for over-time work beyond a basic forty-eight hour work week.[17] Agricultural employers must, in general, pay the minimum wage provided they hire the equivalent of two full-time workers or more on an annual basis. In addition, the Minnesota law provides farm workers with workmen's compensation[18] and unemployment compensation[19] though the requirements for coverage are different than those for minimum wages. A substantial range of minimum wage legislation is currently in effect in a number of other states and the situation is changing rapidly.

Thus recent legislation regulating the employment of agricultural workers, which until recently was virtually nonexistent, is

12. U.S. DEP'T OF AGRICULTURE, AGRICULTURAL STATISTICS (1973).
13. Act of Sept. 23, 1966, Pub. L. 89-601, § 302, 80 Stat. 830-844, *amending*, 29 U.S.C. § 206 (1970).
14. 7 U.S.C. §§ 1100-1161 (1970).
15. 7 U.S.C. § 1132(c) (1970).
16. MINN. STAT. ANN. §§ 177.21-.35 (Supp. 1974).
17. MINN. STAT. ANN. § 177.25 (Supp. 1974).
18. MINN. STAT. ANN. §§ 176.011, 176.041, 176.051 (Supp. 1974).
19. MINN. STAT. ANN. § 268.04 (Supp. 1974).

becoming a major factor in the economic organization of some subsectors of agriculture.

Special Credit Regulations Which Affect Agriculture

Along with land and labor, capital (including credit) is a major resource used in modern day agriculture. In fact, while the land input in agriculture has remained rather constant over time and labor has declined, capital has shown a dramatic increase. Totalling less than $100 billion at the end of World War II, farming sector assets were estimated at $383.5 billion at the beginning of 1973. As of January 1, 1973 estimated farm debt totalled $71.8 billion,[20] an almost tenfold increase from 1945. For this reason laws regulating farm credit lending are of major importance.

Current agricultural lending practices of the Farmers Home Administration (FHA) and the Farmers Credit System (Federal Land Banks, Banks for Cooperatives, Federal Intermediate Credit Banks and Production Credit Associations) are generally regulated by two laws—The Consolidated Farmers Home Administration Act of 1961[21] and the Farm Credit Act of 1971.[22]

Farm loan programs of FHA have regulations apart from the commercial credit market since they have been targeted at farmers who were unable to acquire credit via regular commercial lending agencies. Initially the loan program of FHA was a "direct loan" program for purposes of farm ownership and operating expenses. More recently loaning authority has been broadened substantially. And, activities of FHA now center on insuring or guaranteeing loans made by other creditors. In addition, the FHA now has authority to make loans and sell these loans to private investors. As of January 1, 1973 about ninety-one percent of the $2.24 billion in farm ownership loans handled by FHA were insured loans. The Rural Development Act of 1972[23] first authorized the FHA to make insured operating loans beginning in that year. By as early as mid-1973, over sixty percent of the operating loans made to farmers by FHA were "insured" rather than "direct" loans.

The Farm Credit Act of 1971 provided broadly modified loaning authority to the farmer owned Farm Credit System of which the Federal Land Banks, the Banks for Cooperatives and the Federal Intermediate Credit Banks and the Production Credit Associations are members. These credit agencies make loans to farmers and their cooperatives of over $20 billion a year. Thus they provide a critical element in the non-equity component of financing

20. U.S. Dep't of Agriculture, Farm Credit Administration, Farm Credit Statistical Bulletin Nos. 6 & 7 (December, 1973).
21. 7 U.S.C. §§ 1921-1991 (1970).
22. 22 U.S.C.A. §§ 2001-2259 (Supp. 1974).
23. 7 U.S.C.A. §§ 1941-46 (1973).

of the agricultural industry. Because they are granted lending authority by federal statutes, they are not subject to state usury laws which establish interest rate ceilings and other regulations in a number of states.

Loaning activities of private banks are, of course, subjected to a wide range of federal and state regulations, but these are not unique for agriculture. For example, a number of states currently have so-called "usury" laws which typically limit the maximum interest rates that can be charged to individuals and other non-corporate entities. As the result of these usury law regulations, some firms, including agricultural businesses, have organized as corporations in order to escape these interest ceiling constraints.

Legislation Affecting Ownership and Use of Agricultural Resources, Particularly Land

Policies followed with respect to the whole structure of taxes, ranging from real estate and personal property taxes to excise taxes and personal and corporate income taxes, have a major impact on the use of resources in agriculture. Real estate taxes are levied and collected at the local, county and/or state levels. Hence, we have little capacity to generalize about their impact. Income taxes, being progressive, should have the general effect of limiting the size of businesses and thus of diffusing resource ownership in the agricultural sector. But federal income tax regulations which permit cash (annual) accounting procedures in farming and which permit certain income to be taxed at lower, capital gains rates have been of critical importance to large scale agricultural investors. Tax laws which currently affect agriculture the most may be those governing capital gains. These taxes significantly affect the prices paid for and the profitability of investing in land and, particularly, breeding livestock.[24]

In actuality, farming has for many years been a haven for individuals and corporations, many outside of agriculture, who have desired to reduce their effective rates of taxation. Some perspective can be gained on the importance of tax laws to the agricultural industry by reviewing briefly some of the provisions of the Tax Reform Act of 1969.[25] In an effort to curtail so-called "tax loss farming" by high income taxpayers (those with nonfarm adjusted gross income of over $50,000) this law directed that the excess of their farm losses over $25,000 be placed in a special excess deduc-

24. For a more detailed discussion of these and related issues, *see*: Raup, Public Concerns and Policy Issues on Corporate Agriculture, (University of Minnesota, Dep't of Agricultural and Applied Economics, Staff Paper p72-32, May, 1973); Raup, Corporate Farming in the United States, (University of Minnesota, Dep't of Agricultural and Applied Economics, Dec., 1972). The latter has an extensive and useful bibliography.

25. INT. REV. CODE OF 1954, §§ 1251, 278.

tions account. Gain on a subsequent sale of farm property would be treated as ordinary income to the extent of the balance in the excess deductions account. Balances in the excess deductions account would also be reduced to the extent they were used to offset capital gains on the sale of farm property. The general objective of this provision was to curtail investments and other expenditures made in farming by persons or firms who had the objective of realizing annual losses which could be recovered handsomely through capital gains at the time of subsequent sale of farm real estate. The capital gains income is, of course, taxed at a lower level than ordinary income. Another provision of the Tax Reform Act of 1969 redefined the losses which could be claimed by so-called "hobby farmers." Modifications were made which curbed specifically the ability of tax payers to charge off costs of developing citrus groves as current expenses. This ability, together with the capital gains treatment allowed upon the sale of grove property, had led to investment in citrus groves as tax shelters by nonfarm investors.[26]

More recently, a number of laws have been passed which require land use regulation at the state level. Some compromise between land use policy, planning and management bills proposed by President Nixon, Senator Jackson and Representative Aspinall appears to be a certainty in the near future. Legal regulation of land use for environmental and "quality of life" reasons in the future could turn out to be among the most contraining type of regulation ever faced by the United States agricultural industry. Examples of such regulation are the prohibition of cattle and hog feedlots in some areas, regulation of waste runoff from livestock feedlots and dairy farms, and a wide variety of land use zoning ordinances.

Though this discussion of taxes and land use regulations and their effect on decisions relating to investment in farm inputs, particularly land, has been brief and incomplete, it serves to suggest the importance of tax and land use provisions in determining the economic organization of agriculture.

Legal Regulations Affecting Farm Production Directly

Much of the discussion relating to regulation of agriculture has specific reference to regulations implemented through federal farm programs. These regulations, though probably not too impor-

26. Woods, The Tax Reform Act of 1969—Provisions of Significance to Farmers (U.S. Dep't of Agriculture, Economic Research Service ERS-441, April, 1970); U.S. Dep't of Agriculture, Economic Research Service, Farm Production and Economics Division, Farm Corporations and Their Income Tax Treatment (March, 1970) (Proceedings of Seminar on Interpreting Income Tax Regulations for Research on Farm Corporations), present detailed information on the importance of tax regulations to agriculture.

tant in 1974[27] have been of considerable importance since the 1930's.

The Agricultural Adjustment Act of 1933[28] and its several amendments authorize the Secretary of Agriculture to establish marketing quotas and allotments and related price support programs. Under this legislation, the Justice Department brings action to recover civil penalties from farmers who produce commodities in excess of the quota or allotment.[29] Actions are also brought to require farmers to allow measurement of their farms in connection with their production of certain commodities.[30]

The original Agricultural Adjustment Act was declared unconstitutional by the Supreme Court in 1936 because some of the schemes for production controls and processing taxes were considered to be powers vested in the states and not in the federal government.[31] As a result, the Agricultural Adjustment Act of 1938[32] was enacted which had a large number of regulatory provisions including those for commodity loans, marketing quotas, parity payments, marketing agreements and orders, diversion of surplus production into both domestic and foreign channels, etc. Several of these topics will be discussed in more detail under the sections on marketing and import regulations.

The most recent series of general farm program laws, drawing on predecessor Agricultural Adjustment Acts, provides several types of legal regulation of agriculture. These include, but are not limited to, the following:

(a) Imposition of acreage allotments or production quotas, or both, on tobacco, cotton, wheat, feed grains, rice, peanuts, and other minor crops.[33] Historically, mainly tobacco, of the several major cash crops involved, has been subjected to both acreage allotments and marketing quotas. Most other crops have been subjected to restrictions on acreage allotments only. These production restrictions and marketing quotas have been imposed with the general objective of maintaining a balance between supply and demand which would provide realization of a fair market price to producers. In recent years, adherence to production constraints for the big acreage cash crops—feed grains, wheat and cotton—has been on a voluntary basis.

(b) Availability through the auspices of the Commodity Credit

27. University of Minnesota, Agricultural Extension Service, The Agriculture and Consumer Protection Act of 1973: Its Economic Implications for Minnesota (Minnesota Agricultural Economist, No. 533, February 1974).
28. 7 U.S.C. §§ 601-05, 607-23 (1970).
29. 7 U.S.C. § 608(c)(14) (1970).
30. 7 U.S.C. § 1374 (1970).
31. United States v. Butler, 274 U.S. 1 (1936).
32. 7 U.S.C. §§ 1281-1393 (1970).
33. 7 U.S.C.A. §§ 1312, 1314c.(b), 1314e., 1315, 1326, 1328, 1332, 1333, 1342, 1344, 1352, 1354, 1358 (Supp. 1974).

Corporation (CCC) of so-called nonrecourse loans.[34] Availability of such loans, and, hence, availability of formal income protection in the event of surplus production and low market prices was afforded, however, only to those producers staying within the production allotments or marketing quotas which were established for their farm. Clearly, some price and income benefits have also accrued to nonparticipants as a side effect of the guaranteed price floor to program participants.

(c) Availability of often sizable production adjustment payments only to those producers staying within the program regulations of allotments, marketing quotas and other constraints, such as maintenance of a specified acreage of cropland devoted to "soil conserving" uses. In the current world setting of shortages for feed and food grains and cotton, farmers are not required to adhere to production controls. In fact, "all out" farm production is currently being encouraged. In the event of surplus production and lower prices in the future, however, these production constraints will again become operative since they are still part of the federal statutes in effect. Domestic production capacity for tobacco and peanuts still exceeds effective market demand. As a consequence, acreage allotments for peanuts and tobacco and marketing quotas for tobacco are still in effect.

The Agricultural and Consumer Protection Act for 1973 also establishes a subsidy ceiling on payments made to any individual farmer of $20,000 per year.[35] This ceiling includes subsidy payments made under the cotton, feed grains and wheat programs. It excludes, however, resource adjustment payments (currently so-called set-aside payments)[36] made to farmers.[37] Acreage allotments imposed for farmers on wheat and feed grain crops are not transferable except through the transfer of farms to which the allotments are assigned. Tobacco and cotton allotments, on the other hand, can be leased and/or sold within a specified set of limitations. Generally speaking, transfer of these allotments is restricted to intracounty or intrastate transfers, mainly on a lease basis. Rice production allotments are of two types, one type of which is assigned to specific farms and the other type to individual producers. In the latter case, it is possible for the producer to shift the location of his production from year to year as economic conditions, including crop rotation requirements, warrant.

Though the details of production allotments and marketing quotas for the so-called "basic crops" vary somewhat, they provide

34. 7 U.S.C.A. § 1421 (Supp. 1974).
35. 7 U.S.C.A. § 1307(1) (1973), *amending* 7 U.S.C. § 1307 (1970).
36. The counterpart of set-aside payments in pre-1969 farm programs were payments made for diverted or conservation reserve acres during prior agricultural productions adjustment programs.
37. 7 U.S.C.A. § 1307(2) (1973).

two basic types of economic constraints. First, they provide an economic penalty to producers not adhering to the regulations on allotments during periods of depressed prices. In the case of some allotment crops severe price penalties have also been inflicted upon producers who do not stay within the allotment limits. Consequently, producers are under substantial economic pressure to comply. Secondly, these constraints do, within limits, restrict, to a historical base period, both the size of enterprise for these crops and their geographical location. Thus, as production technology changes and as the competitive position of different crops changes over time, the economic maladjustments caused by production controls can be of substantial magnitude.

A second set of laws which directly regulate the farm production sector, as such, are those which restrict or prohibit the extent of farming by corporations. Current laws which prohibit corporate farming are heterogeneous with respect to coverage. For example, corporate farming in the United States is not prohibited by federal law. It is, however, prohibited or constrained in varying degrees by several states. For example, Kansas statutes initiated in 1931 and modified in 1965 prohibit production of specified agricultural commodities by corporations but excludes "small business" corporations if there are not more than ten shareholders, controlling no more than 5,000 acres, etc.[38] North Dakota is currently the only state with statutory prohibition against corporate farming of all kinds.[39] The 1973 Minnesota Corporate Farming Act[40] regulates the entry of corporations into farming, restricts the rate at which certain corporations now engaged in farming can acquire additional land and requires annual reports from every corporation engaged in farming in Minnesota. Thus, it is difficult to generalize about legislation regarding corporate farming. It appears, however, that the legal constraints on corporation farming have not been a major factor in controlling the economic structure of agriculture but they may well become so in the future.

Though other laws could be cited, those cited above provide insights into the most important statutes which regulate farm production directly.

Legal Regulations Affecting Marketing

Certainly one of the broadest, if not the broadest, categories of legal constraints affecting agriculture is that category affecting marketing. Most of these regulations affect marketing of farm supplies as well as farm products though our emphasis is on the latter. Here several laws are of key importance. First, the Sher-

38. Kan. Stat. Ann. § 17-5901 (Supp. 1973).
39. N.D. Cent. Code § 10-06-01 (1960).
40. Minn. Stat. Ann. § 500.24 (Supp. 1974).

man Act of 1890[41] generally prohibits contracts, combinations, or conspiracy in restraint of trade and attempts or conspiracies to monopolize. In brief, a key objective of the act is that of protecting the public interest by maintaining competition. The Sherman Act was followed by the Clayton Act of 1914.[42] The latter act was targeted principally at prohibiting the lessening of competition through acquisition of firms by other firms. Sections 2a to 2f of this act as amended, commonly known as the Robinson-Patman Act, prohibit price and nonprice discrimination in order to gain monopoly or to excessively reduce competition.[43]

These two comprehensive laws, though not limited to the agricultural industry, form the background which prohibits the establishments of monopolies and restraint of trade in agricultural marketing. Against this background several laws have been passed which provide devices for agricultural firms to organize with the objective of improving their marketing function. One such law is the important Capper-Volstead Act of 1922.[44] This federal statute enables producers to act together through cooperatives without violating the earlier passed federal antitrust laws.

The Capper-Volstead Act, which provides the general authority for the establishment of agricultural marketing and supply cooperatives, has the following general provisions: (1) It authorizes persons engaged in production of agricultural products, *e.g.*, farmers, planters, ranchers, dairymen, and nut or feed growers, to act together in association in collectively processing, preparing for market, handling, and marketing in interstate and foreign commerce, the products of persons so engaged, (2) it provides that such associations may have marketing agencies in common, (3) it specifies certain requirements with respect to the organization and operation of such associations, (4) it prohibits any such associations which may monopolize or restrain trade from unduly enhancing the price of any agricultural products, and (5) it authorizes a procedure whereby the Secretary of Agriculture may file a complaint against any such association, and after hearing, he may issue a cease and desist order which is subject to judicial review.[45]

The Capper-Volstead Act might be considered to be the enabling legislation by which cooperatives became a competitive force in the agricultural marketing process—both with regard to farm supplies and farm products. This legislation has been utilized extensively in establishing crop and livestock marketing cooperatives as well as farm supply cooperatives.

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41. 15 U.S.C. §§ 1-7 (1970).
42. 15 U.S.C. §§ 12-27, 44; 29 U.S.C. §§ 52-53 (1970).
43. 15 U.S.C. § 13 (1970).
44. 7 U.S.C. §§ 291-92 (1970).
45. *Id.*

The Agricultural Marketing Agreement Act of 1937,[46] as amended, provided the additional enabling legislation for establishing: (1) *marketing agreements* for any agricultural commodity or derivative product,[47] (2) *marketing orders* for milk, fruit (except for canning and freezing), tree nuts, tobacco, vegetables (except for canning and freezing other than asparagus), soybeans, hops, honey bees, and naval stores[48] and (3) *import restrictions* which prohibit the importation of specified commodities if domestic production is regulated by marketing orders unless the importation meets the grade, size, quality, and maturity requirements of such orders or comparable restrictions.[49] Thus the latter authorization, that for import restrictions, was closely tied to regulations in effect to restrict domestic production.

Key provisions of these regulations were aimed at providing marketing conditions for agricultural commodities in interstate commerce which would: (1) provide "parity prices" for producers of commodities other than milk, (2) provide prices to producers of milk which reflect various economic factors affecting the market supply and demand for milk and its products in a marketing area, (3) insure a sufficient quantity of pure and wholesome milk, and (4) serve the public interest. Further objectives were: (1) to establish and maintain such minimum standards of quality and maturity in grading and inspection requirements for commodities other than milk which will effectuate their orderly marketing and be in the public interest[50] and (2) to provide, in the interest of producers and consumers, an orderly flow of the commodities to market to avoid unreasonable fluctuations in supplies and prices.[51]

Marketing orders, when authorized, become mandatory for all handlers of the commodity in the identified production or marketing area. Marketing orders have been of most crucial importance in the dairy industry and in fruits and vegetables. Milk is afforded special treatment in that federal milk orders provide for payment of at least minimum prices by handlers to producers. Fruit and vegetable marketing orders are authorized to engage in such regulations as (1) specification of grades, size, or quality of products that may be shipped to market, (2) establishment of allotments of the commodity which each handler may purchase, (3) establishment of the quantity that may be shipped to market during some specified period, (4) equalizing the burden of surplus disposals among all growers, (5) establishing size, capacity, weight, etc. of

46. 7 U.S.C. §§ 601, 602, 608, 610, 612, 671-74 (1970).
47. 7 U.S.C. § 608(b) (1970).
48. 7 U.S.C. § 608(c) (1970).
49. 7 U.S.C. § 608(e-1) (1970).
50. 7 U.S.C.A. § 602(3) (Supp. 1974).
51. 7 U.S.C. § 602(4) (1970).

containers used, and (6) conducting market research and development.[52]

Of the several types of legal constraints that are in effect in the agricultural industry, it appears that the regulations which have been adopted through the use of marketing orders have had perhaps the greatest impact on the economic organization of both the production and the marketing subsector for a number of perishable agricultural commodities. Federal market orders have been either augmented or substituted for by a number of marketing orders established at the state level by a number of states which have authorized them.

The Packers and Stockyards Act of 1921[53] has been a major regulating force in United States livestock markets. The Packers and Stockyards Act, with major amendments in 1935 and 1938, is essentially an antitrust, trade practice, and public utility regulatory act. Its principal purpose is to maintain effective competition for livestock, meats, and poultry so as to bring to farmers and ranchers true market value for their livestock and poultry. Members of the livestock, poultry, and meat industries are also protected against unfair business practices in the marketing of meats and poultry and against restrictions on competition which could unduly enhance meat and poultry prices.[54]

The Act specifically prohibits unfair, deceptive, or unjustly discriminatory practices. Prohibited practices include those which would give particular persons or localities undue competitive advantage or subject particular persons or localities to undue disadvantages; those which would have the effect of apportioning supplies, manipulating or controlling prices, or restricting competition; and those which would create a monopoly in the acquisition of, buying, selling, or dealing with articles regulated by the act. The Act requires reasonable and nondiscriminatory services at public stockyards at reasonable rates.[55] It provides for honest weights and financial stability in the marketing of livestock and poultry.[56] It authorizes reparation awards for money damages against stockyard owners, market agencies, dealers, and live poultry licensees.[57]

The Packers and Stockyards Act affects marketing of livestock and poultry from over a million producers. It affects the meat and dressed poultry purchases of United States consumers, which typically exceed one-fourth of their expenditures for food. On

52. 7 U.S.C. § 608c.(6) (1970).
53. 7 U.S.C. §§ 181-231 (1970).
54. 7 U.S.C. § 192 (1970).
55. 7 U.S.C. §§ 205, 206 (1970).
56. 9 C.F.R. §§ 201.71, 201.14 (1973).
57. *See* 9 C.F.R. §§ 202.3(a)(2)(vi) & (3). *See also* Technical Study No. 10, National Commission on Food and Marketing, United States Government Printing Office, Washington, D.C., June 1966.

the agribusiness side it supervises the marketing operations of public stockyards, private livestock buying yards, meat packers, commission firms and dealers, and poultry dealers and processors in commerce.

The Agricultural Marketing Act of 1946[58] authorizes and directs the Secretary of Agriculture to inspect and certify the class, quality, quantity and condition of agricultural products in interstate commerce and to conduct such other activities as will facilitate the marketing, distribution, processing, and utilization of agricultural products through commercial channels, and to issue orders, rules, and regulations to carry out the act.[59]

The Agricultural Fair Practices Act of 1967[60] protected individual producers or producer organizations from unfair coercion and/or discriminatory practices of commodity buyers defined as handlers.

The Commodity Exchange Act[61] is intended to prevent unfair trade practices, manipulation of prices, and cornering of markets for major farm commodities in which there are contract markets. Implementation of the act is through such activities as establishing limits on trading in commodity futures,[62] excluding unethical traders from membership on boards of trade,[63] registering commission merchants and brokers,[64] and establishing rules which generally effectuate an orderly market in commodity contracts.[65]

Other acts such as the United States Grain Standards Act,[66] the Federal Seed Act,[67] Wholesome Meat Act,[68] Poultry Products Inspection Act,[69] etc. provide market quality standards for major farm products.

Legal Regulations Affecting Agricultural Imports

Another set of laws of key importance as a regulatory device affecting the economic organization of United States agriculture are those statutes which relate to foreign trade in agricultural commodities. Of particular importance, are laws set by the United States Government to govern the conditions under which agricultural commodities may be imported into the United States from other countries.

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58. 7 U.S.C. §§ 1621-1627 (1970).
59. 7 U.S.C. § 1622 (1970).
60. 7 U.S.C. §§ 2301-2306 (1970).
61. 7 U.S.C. §§ 1-17 (1970).
62. 7 U.S.C. § 6 (1970).
63. 7 U.S.C. § 9 (1970).
64. 7 U.S.C. § 12(a) (1970).
65. 7 U.S.C. § 7 (1970).
66. 7 U.S.C. §§ 71-87 (1970).
67. 7 U.S.C. §§ 1551-1610 (1970).
68. 21 U.S.C. §§ 601-623, 641-645, 661, 671-680, 691 (1970).
69. 21 U.S.C. §§ 451-469 (1970).

Several arguments have been used by proponents of laws to control the imports of farm commodities. These major arguments are the following: (1) To protect national security in the event of war or other international emergency, (2) to protect the health of consumers by excluding the importation of poor quality food products, (3) to offset the "unfair" trade policies of other countries, (4) to protect existing economic policies and programs, (5) to protect struggling new industries, (6) to improve the international balance of payments for the United States, and (7) to avoid or diminish painful economic adjustments within our domestic agricultural industry.[70]

Among the earlier laws affecting agricultural imports was the Anti-Dumping Act of 1921.[71] Dumping, as defined in the General Agreement on Tariffs and Trade (GATT) is a means by which products of one country are introduced into another country at less than the normal value of the products.[72] Historically, dumping has been a procedure by which countries with surplus agricultural commodities have, on occasion, exported these surpluses to avoid a depressed domestic market price and/or excessive storage costs at home.

Passage of the Smoot-Hawley Tariff Act of 1930[73] resulted in a shift to very high tariffs on agricultural imports in the United States. Tariff levels began to drift downward again with the passage and implementation of the United States Reciprocal Trade Agreements Act of 1934 now popularly known as the Trade Agreements Extension Act of 1958.[74]

Effective enforcement at reasonable costs of the production controls established in the Agricultural Adjustments Acts of the early 1930's was thought to be possible only if competing foreign agricultural imports were controlled. As a result, import quotas were defined and specified under section twenty-two of the Agricultural Adjustments Act as amended in 1935. The most significant import restrictions in this section were aimed at commodities with acreage allotments or marketing quotas. This legislation directed the President to impose quotas on agricultural imports whenever they were found to be interfering with any program operating under the Agricultural Adjustment Act.[75] As a consequence, cotton imports were placed under quotas in 1939, wheat

70. Houck & Kendrick, The Protectionist Mood and Midwest Agricultural Trade (University of Minnesota, Agricultural Extension Service, North Central Regional Extension Pub. No. 24, Oct. 1968).
71. 19 U.S.C. §§ 160-71 (1970).
72. Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, June 30, 1967, [1967] 19 U.S.T. 4349, T.I.A.S. No. 6431.
73. 19 U.S.C. § 1202 (1970).
74. 19 U.S.C. §§ 1351-54 (1970).
75. 7 U.S.C. §§ 601-05, 607-23 (1970).

in 1941, etc. Typical of the import restrictions placed on livestock and livestock products, including dairy products, were those established in the Meat Import Law of 1964.[76] This legislation set import targets for meat products equal to the average quantities of these items imported during a five year base period (1959-63) with adjustments in imports permitted to equal the subsequent increase or decrease in domestic production since the five year base period.

Establishment of the GATT at the end of World War II has tended to result in a negotiated step by step reduction in tariffs since 1948. Notable exceptions were the establishment of the so-called "variable import levies" by the European Common Market in order to protect its domestic agricultural industries. Despite the passage of the Trade Expansion Act of 1962[77] in which official United States trade policy became that of reducing trade barriers, high import tariffs and binding import quotas for agricultural commodities have been maintained by the United States. Only the high food prices and short supplies of meat, dairy products and other farm commodities in recent months have resulted in relaxation of these quotas.

A Perspective of the Total Set of Laws Regulating Agriculture

Previous sections of this article have covered, in a somewhat cursory fashion, a broad range of legal constraints affecting agriculture. This approach has been followed with this central purpose in mind: In order to really understand what regulation or deregulation of agriculture means, one must first obtain some overview of how a whole set of regulations interrelate into a total package. For example, implementation of acreage allotments, marketing quotas and commodity price supports can be prohibitively costly if other nations export their surpluses of competitive products to the United States at prices below those targeted in conjunction with operation of domestic control programs. Similarly, quality control regulations imposed on livestock and livestock production produced and processed domestically can be rendered ineffective if similar control standards are not imposed on competing imports. And, though the interrelation is less direct and less obvious, availability of special farm credit programs, modifications in tax regulations, and legal prohibition of some types of corporate farming are highly related to the effectiveness with which the family scale farm producers can utilize market orders, price support programs, etc., in order to be a viable component of the agricultural sector.

The broad perspective pictured here is, of course, simplified

76. 19 U.S.C. §§ 1801-1991 (1970).
77. 19 U.S.C. § 1801 (1970).

by exclusion of a number of important regulations affecting the farm supply industries, the food fabricating and merchandising industries and the increased complexities of foreign trade. Recognizing these oversimplifications, we turn to a brief discussion of some broad effects of deregulation of agriculture.

Impacts of Deregulation of Agriculture

Any appraisal of the impacts of deregulation of agriculture must be a highly qualitative one. In addition to the type and extent of regulations in effect for individual farm commodities, several other variables are of key importance. These include, but are not limited to, the following: (1) The mixture of resources—labor, land, and capital—involved in production and the degree of difficulty in shifting these resources into production of other products, (2) the perishability of the products, and (3) the extent of competition from foreign producers.

Tobacco exemplifies a farm commodity which is labor intensive, has a high per unit value, is highly regulated through acreage and poundage allotments, and for which price supports have been in effect for many years. An estimated 843,000 acres of tobacco were produced in the United States in 1972. Yet there were more than 500,000 farms receiving tobacco allotments. Average allotment size per farm is about three acres for flue cured and less than one acre for burley, the two major tobacco types grown domestically. And, though about half of the flue cured tobacco has been exported in recent years, burley production has been almost exclusively for domestic use. Many of the hired workers who worked only seasonally in tobacco have migrated from rural areas to metropolitan centers within or adjacent to the production regions. And, minimum wage legislation is beginning to shift upward the production cost structure of tobacco. Yet, in order to economically mechanize the harvesting of tobacco, units of thirty to forty acres are required. And, even though leasing and multiple allotment ownership results in some consolidation of allotments into larger producing units, production is, in the main, on small fragmented tracts.

What would happen if the United States tobacco industry was deregulated? First, a large number of the several hundred thousand people currently receiving some income either as producers or as hired workers in the production, marketing and manufacturing of tobacco products would be displaced and many would be left unemployed. Secondly, tobacco production would likely shift over time to larger mechanized units located in the level land areas more suitable for mechanization. In the case of flue cured tobacco, for example, this would mean a shift out of the small fragmented tracts in the hilly Piedmont areas of North Carolina, South Caro-

lina and Virginia to the level Coastal Plains. Accompanying this shift in size and location of production units would be the displacement of small dispersed agribusiness firms currently servicing the small production units. These smaller firms would be replaced by larger agribusiness firms located in the concentrated production areas. And, one might expect the competitive position of the industry in world trade to be enhanced at least modestly by the development of a more efficient production, marketing and processing tobacco industry. Land values would be depressed from current levels in many areas where the value of tobacco allotments is currently capitalized into land values. Consumer prices would probably be affected little, if any, by deregulation since tobacco leaf is a small part of the retail cost of tobacco products. Moreover, tobacco can hardly be considered a crucial consumer good.

Wheat and corn are commodities which represent a drastically different situation from tobacco. In 1972, wheat was grown on about 1.7 million farms in the United States.[78] These farms harvested between 47 and 48 million acres of wheat in 1971 and 1972. With relaxation of production constraints, about 53.7 million acres of wheat were harvested in 1973 and the acreage will be larger in 1974. With the exception of some small acreages produced in the Corn Belt and the South, most wheat is produced on well mechanized production units in the Great Plains and the Pacific Northwest. Through the period of the 1960's and early 1970's, well over half of the wheat produced in the United States was exported. Corn is the major feed grain crop produced in the United States though there are a number of other important feed grain crops including sorghum, barley and oats. Corn was produced on approximately 2.5 million United States farms in 1972. Acreage planted to corn generally ranged between 65 and 70 million acres through the 1960's and early 1970's. And, a high percentage of the corn planted was harvested either for grain or forage. As in the case of wheat, a high proportion of the corn is produced on farms of a size which facilitates mechanized production. A high percentage of corn produced is utilized domestically in feeding livestock and poultry. However, a very substantial amount (about 790 million bushels in 1971) moves into export markets.

What would happen if regulations were removed for wheat and feed grains? The answer to this question is probably twofold. One answer applies to the current situation of short world food

78. These are farms as defined by the Agricultural and Stabilization Service (ASCS) of the United States Department of Agriculture for purposes of operating farm programs. The number thus defined differs somewhat from the number of production units or farms otherwise defined. Corn and cotton farm numbers cited later are also those defined by the ASCS.

supplies and high grain prices. The second applies to a longer term period during which the volume of wheat and feed grain supplies relative to market demand could again result in depressed prices for these commodities. Since the regulations concerning wheat and feed grains are largely nonoperative during the current period of short world grain supplies and high prices, the question of deregulation is a somewhat academic one. More relevant, however, is the situation which would prevail should the world supply-demand situation for wheat and feed grains return to more normal relationships. Government payments to farmers for operating the wheat farm program totalled $860 million in 1972 as compared to $1.865 billion for feed grains. Of the latter amount about $1.470 billion was for corn. Assuming 1972 to be the most recent year prior to the current short supplies and high prices, future deregulation of the wheat and corn subsectors would result in a substantial reduction in government payments made to farmers. Several studies have indicated, however, that the removal of farm programs for the major crops (feed grains, wheat and cotton) would have reduced aggregate net income of farmers by about twenty-five percent in 1967.[79] Because of increased demand both domestically and abroad, however, it is unlikely that removal of wheat and corn program regulations in the future would reduce net farm income by a similar percentage. But, the reduction would likely be very substantial. Though consumers would likely realize some benefit in the form of reduced food prices these would be proportionately much less than the income reductions realized by farmers because the cost of wheat is a relatively small percentage of the price of bread and corn prices are only one input affecting the prices of meat and poultry at retail. Agribusiness firms, on the other hand, might be expected to suffer a significant reduction in income if the net income of farmers was adversely affected. Deregulation of wheat and corn subsectors would produce nowhere near the same relative impact as would deregulation of tobacco. Even during the period when acreage allotments and price supports have been in effect, wheat and feed grain producing farms have grown in size to units which are, for the most part, of a size capable of utilizing modern production technology. And, despite the presence of farm program constraints, there has been a continual shift to the production of corn and soybeans in the production areas (particularly the Corn Belt and the eastern fringe of the Plains States) where they are most efficiently produced. Also, there has been a shift to specialization in wheat and sorghum production in the areas of the Great Plains where these commodities are efficiently produced relative to other crops. Removal of other regulations

79. Studies made by Iowa State University and the Economic Service of the United States Department of Agriculture provide results of similar magnitudes.

such as laws authorizing cooperatives and prohibiting tax loss farming, could result in a more rapid shift to large scale production units. It is likely, however, that family-scale wheat and feed grain producing units would remain competitive in the face of deregulation. Perhaps the regulations upon which they are most dependent for their competitive position are those which permit establishment of marketing and supply cooperatives and which provide farmers with access to adequate supplies of capital and credit via the Farm Credit System and the Farm and Home Administration.

Cotton and peanuts are both crops which have been heavily influenced by farm program regulation but somewhat less so than tobacco. A national peanut acreage allotment of about 1.6 million acres coupled with increasing yields and high price supports has resulted in the acquisition by the Commodity Credit Corporation of large stocks of peanuts. These peanuts cannot be marketed because of a low price elasticity of product demand once normal market requirements for edible peanuts and peanut products have been supplied. Until very recently, at least, the high support prices for peanuts have exceeded their value in non-edible uses such as livestock feed supplements. And, price support levels have been well above prices existing in world markets. Moreover, some of the peanut varieties which have been grown particularly in Texas and Oklahoma have been an inferior product in the edible peanut market. Removal of program regulations for peanuts would likely result in a substantial reduction in income to peanut growers and a shift from production of peanuts to other crops in several producing regions. This is particularly true for those regions producing peanut varieties with only limited market demand. Other production regions would be affected very little. Agribusiness firms (including farm supply, marketing, storage and processing firms) in those areas currently servicing a noneconomic peanut production subsector, would probably be forced to undergo severe economic adjustments. Aside from a reduction in government program costs, consumers would be affected very little since those peanut varieties preferred by consumers would still be available and probably at about the same costs. In terms of world trade, peanuts are not a commodity which can be profitably produced in the United States for export markets. By the same token, competition from imports is not likely to be severe, even in a situation where import tariffs are minimal or nonexistent.

Cotton represents a very complex subsector of the agricultural industry. Over the years, very sizable government costs ($800 million in payments to farmers in 1972) have been incurred in the operation of government programs for cotton producers. At the same time, cotton was losing a substantial portion of its domestic and foreign market to synthetic fibers and to foreign cotton producers. More recently, the increased costs of producing synthetic

fibers and the shift in consumer preference toward products containing at least some cotton, have changed the picture materially. As in the case of peanuts, government programs, particularly price supports, fostered the production of some cotton varieties which were inferior for use in the textile industry. Specifically, the short fiber varieties produced in the Texas-Oklahoma High Plains region were less desirable from the standpoint of the textile industry than the longer fiber cottons produced in the irrigated areas of Arizona and California and in the Mississippi Delta region. But support prices did not reflect these quality differences. More recently, a modification in price support levels, which prices the short staple cotton varieties more in line with their market value, has resulted once again in the textile mills purchasing these varieties to the extent that Commodity Credit Corporation stocks, which were very large only two or three years ago, are now depleted. Even though the cotton industry has been heavily subsidized by price supports and other payments to farmers, it has become increasingly uneconomical to produce cotton on small tracts in the Southeastern portion of the United States. As a result, the economies of size associated with mechanization, and the higher yields attainable in the irrigated regions of the Southwest and in the fertile Mississippi Delta region have resulted in a shift of cotton off the small inefficient production units of the Southeast. These, or similar shifts, would have undoubtedly occurred more rapidly in the absence of program regulations.

What would be the likely impacts of deregulation of the cotton industry? Removal of regulations on cotton would certainly reduce farmers' incomes provided cotton prices decline somewhat from their currently extremely high price levels. The approximately 300,000 cotton farms received government program payments of slightly over $800 million in 1972. It is unlikely that deregulation would cut farmers' income by an amount that large though the income reduction would be substantial. With respect to the impact on agribusiness firms, there would probably be only a modest and a transitory effect since it would appear that the major geographical relocation of the cotton industry in the United States has already been accomplished. And, there is no longer any significant market for agribusiness firms dealing with very small, unmechanized producers. Hence, economic impacts to the agribusiness sector should be minimal.

From the standpoint of consumers, deregulation of the cotton industry, as such, is not likely to have a major impact. One factor used in reaching this conclusion is the strong long term prospects for cotton demand and prices. This prospect will likely be attained provided there are no new major cost reducing technologies in the production of synthetic fibers. The major interests of consumers in deregulation would probably be as taxpayers. Here their inter-

ests center on the elimination of government payments to cotton producers and especially the large payments made to large producers. The current payment limitations of $20,000 per farm, if effectively implemented, will probably alleviate this concern in large degree.

In the fruit, vegetable and specialty crop subsector of agriculture, one encounters a wide range of situations. Thus any generalizations about deregulation are extremely hazardous. Within this subsector, however, three types of regulation are currently of particular importance. These are regulations affecting commodity marketing orders, employment conditions for hired workers, and import restrictions. Some of the most highly regulated and controlled agricultural commodities are the fruit and nut crops produced by a relatively small number of producers and in a limited geographical area, *e.g.*, cling peach and walnut producers in California. These producers have found marketing orders to be an extremely effective device in controlling the production and marketing of their product in order to obtain satisfactory prices. The latter is done, for example, by exercising close controls over the volume of produce moving into the higher value "fresh" market and diverting excess production into processed products. If the total crop is excessively large, a specified portion of each producer's crop is left unharvested.

Historically this subsector has used large numbers of hired seasonal workers who were readily available at low wage rates. More recently, and to the extent possible, producers have attempted to mechanize production in response to minimum wage legislation, unionization of hired workers, etc. Clearly, improved employment conditions have been needed for a large number of workers employed only on a seasonal basis and often under adverse working conditions.

Producers of vegetables for "fresh produce" markets, particularly, have effectively utilized a wide range of import restrictions, including some size and quality restrictions of questionable consumer relevance in order to exclude imports from Mexico and from other offshore producing areas where labor supplies are plentiful and cheap. Effective domestic control of market supplies, a rising cost structure due to high capital requirements and higher wage rates makes the fresh vegetable industry, particularly, vulnerable to competition from lower cost production regions outside of the United States.

What would be the effects of deregulating the fruit, vegetabl and specialty crop subsector? Such deregulation would undoubtedly result in market instability and, in some cases, near chaos. Without the availability of effective marketing orders, overproduction would result in lower prices at least during peak pro-

duction periods and during good crop years. Thus, producers would be subjected to both a reduction in income and increased income variability. A likely tendency would be the one to move toward rapid mechanization of large scale production units in an effort to reduce per unit production costs. But it is hard to predict the outcome of producer-worker struggles which would in all likelihood occur. Consumers would likely face greater variability in product prices at retail. Imports, particularly from Mexico, could drive product prices to extremely low levels during seasons when the imported crop was available for marketing. At the same time, unless the domestic fruit and vegetable subsector could earn reasonable levels of income and income stability, consumers might face the prospect of reduced production and short supplies at least during some periods. Thus, some continued regulation of this subsector of agriculture appears necessary to maintain market stability.

The set of regulations most important to the domestic livestock industry are probably regulations affecting the imports of meat and meat products, those affecting feed grains (a major cost factor in the livestock producing subsector), and those pertaining to corporate farming and tax laws. Within the near future, meat imports do not appear to be a substantial problem to the domestic livestock industry, provided reasonable quality, health and sanitation requirements are in effect. Faced with increasing markets in other affluent countries of the world, foreign exporters would not likely flood United States markets with large supplies of livestock and livestock products but would prefer to build more permanent markets in meat deficit countries such as Japan.

Other things being equal, livestock production is encouraged by large supplies of relatively low cost feed grains. Hence, there is a strong interrelationship between regulations in the domestic feed grain subsector and the livestock subsector. Large variations in the supply and price of feed grains would likely generate large variations in the supply and price of meat and other livestock products. Some segments of the livestock and poultry industry, most notably cattle feeding and broilers, have successfully mechanized and automated some large scale, manufacturing-type enterprises. And, there appears to be some strong possibility that the swine subsector may also be on the verge of developing large scale production operations. Clearly, regulations pertaining to the types of legal organization possible and tax regulations in effect are of substantial importance to these segments of the livestock industry.

What would be the impact of deregulation of the livestock subsector? Again, generalizations are difficult. It appears likely, however, that a continued shift toward large scale operations and geographical relocation would result. If deregulation of the feed

grain subsector resulted in lower feed grain prices, this would also reduce the cost structure of the livestock industry. And, at least a portion of these lower costs would probably be passed on to consumers at retail. There is little reason to believe that deregulation of the livestock subsector would greatly affect agribusiness firms dealing with this subsector except for some locational shifts which can be expected with or without deregulation. On balance, the most significant aspects of deregulation would appear to be those relating to tax regulations and regulations pertaining to legal organization of firms in the subsector. Family-scale units would probably suffer an adverse change in their competitive situation if these regulations were removed.

The final subsector of the agricultural industry to which substantive attention will be given is the dairy industry. Rapid changes have occurred throughout this industry, both in production and marketing, since World War II. At the time of the 1959 census of agriculture, about 1.79 million United States farms had milk cows. At that time cow numbers totalled about 17.9 million and milk production 122 billion pounds. By 1969 only 650,000 farms reported milk cows and milk cow numbers were down to 12.3 million milk cows producing about 116 billion pounds of milk. And, the 11.4 million milk cows reported in 1973 produced about 117 billion pounds of milk. No accurate totals are available, but it is estimated that somewhere between 400,000 and 500,000 farms now have milk cows. Total milk production hit a peak of about 127 billion pounds in 1964 and has been declining steadily since that time. Recent increases in the demand for and production of cheese and some other dairy products have resulted in tight milk supplies and increased imports. On the marketing side, utilization of marketing orders has resulted in a high degree of organization and regulation within the dairy industry.

The complexity of institutions and regulations affecting milk marketing are such to require description beyond the limitations of this article. Some generalization does appear warranted, however. Clearly, the dairy industry has made effective use of enabling legislation, particularly that pertaining to marketing orders, to strengthen prices for milk and dairy products and to improve materially the orderliness of milk marketing. In the process, milk producers have consolidated their marketing organizations to the point where a relatively few large producer organizations wield substantial market power. On the production side, despite major increases in prices for milk, the number of milk producers has declined as have cow numbers and total milk production. The reasons for this decline in production are probably many and complex. They include the high labor requirements of dairy farming, alternative opportunities for resource use within the agricultural sector, improved off-farm employment opportunities for dairy farmers and

the difficulty of employing competent year around hired workers even with much improved wage rates. With surplus milk production in a number of foreign countries, domestic producers have a continual concern for the adverse price effects which could develop if imports of dairy products were permitted without regulation.

What then would be the major impacts of deregulating the dairy subsector? Two types of deregulation are of central importance to this question. One is the dissolution of marketing orders and the second the removal of import restrictions. It seems clear that milk marketing, in the absence of marketing orders, would be much more variable as would the income of dairy producers. In fact, without the market stability provided through marketing orders, and faced with a reduction in income, dairy producers would probably shift out of milk production at a more rapid rate than is currently the case. Similarly, unrestricted imports of dairy products would reduce milk prices and accelerate the decline in domestic milk production. Consumers might benefit from lower prices in the short run, but they would probably find short and variable supplies of dairy products, and higher prices, to be the result over the longer term. A decline in the volume of domestic milk production, marketing and processing would most certainly have an adverse impact on the agribusiness firms associated with the dairy industry though no significant geographical relocation of the domestic dairy industry would appear likely. Thus, some regulations are almost a necessity if the dairy industry is to prosper and consumers are to have adequate supplies of dairy products, particularly the more perishable fluid products.

Concluding Comments

A number of important agricultural commodities which are regulated in one way or another have been excluded from discussion in this report. One example is the sugar beet industry which is important in some areas of the United States. Soybeans and rice are other important commodities and the list could go on and on.

Clearly regulations within the agricultural industry do result in some redistributions of income which are questioned by many. For example, about sixty percent of the direct government payments to farmers in 1971 went to about twenty percent of the farmers, so these payments were of little benefit to small producers. There are also other repercussions, both beneficial and adverse which result from regulation.

Perhaps the most significant lesson that can be learned from the discussion in this article is that deregulation of United States agriculture would be a complex undertaking with very diverse and, often unpredictable, impacts. Moreover, though some selective de-

regulation might be accomplished with a minimum of adverse effects and with some benefits, any effort to deregulate agriculture on a mass basis could have serious adverse effects on producers, agribusiness firms, consumers, hire workers, and the stability of the entire agricultural industry. Clearly, any perception of agriculture as being a homogenous industry about which broad generalizations can be made, is an increasingly erroneous perception.