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# THEORIES OF DISHONESTY AND CORRUPTION AND THEIR RELEVANCE TO FARM PRODUCE REGULATION IN AUSTRALIA*

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## ABSTRACT

Regulatory policy in Australian farm produce markets is supported by a belief in beneficient competition, and is predicated on the assumption that dishonesty and corruption can exist only as isolated instances. There is some evidence that this is a dubious proposition. The prevalence of dishonesty and corruption could be taken as evidence of market failure. In this paper this kind of market failure is called market malfeasance and is intended to indicate socially detrimental market conduct and performance. It is asserted in this paper that simplistic policies designed to improve competition, such as improving the information state of markets, may do little to rectify market malfeasance. Rather, the approach that policy makers should take is to develop a better understanding of the forces which generate malfeasant conduct.

This paper contains a review and evaluation of multi-disciplinary theories of dishonesty and corruption. It is argued that such theories are relevant to achieving a better understanding of malfeasant markets and the specific regulatory problems of farm produce markets in Australia. The theories discussed in the paper are derived from the literature on political and administrative corruption; the sociology of crime, in particular criminogenic structural theories; and, from an economic viewpoint, the theory of adverse selection is included. These theories have been selected because they depart from traditional neo-classical economic theories in that they purport to offer valid reasons for widespread and persistent malperformance in markets. It is concluded that these theories can contribute to better policy analysis. They could also contribute to the creation of policies which more directly address causes of market malfeasance than is possible if policy makers rely on narrow neo-classical economic concepts.

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# 1. INTRODUCTION

## 1.1 The Purpose of the Regulations and the Conventional Perception of the Problem.

The wholesaling of fresh fruit, vegetables, and flowers (farm produce) is subject to state legislation in Queensland, New South Wales and Victoria. In South Australia a system of industry self-regulation has recently been instituted. In NSW the original legislation was the Farm Produce Agents Act 1926. This type of legislation can be seen in the context of the general movement to use State powers to improve market outcomes for primary producers. Although there are minor differences between the States, the basic objectives of farm produce regulation is to protect producers from the depredations of commercial sellers (wholesalers). To achieve this the States variously require wholesalers to be licensed, stipulate trading terms, the proper documentation of sales, and require disclosure of information on sales and prices to authorized persons. Commonly inspectors are employed by Departments of Agriculture to enforce the law.

The rationale for the regulating the commercial activities of farm produce wholesalers is is based on similar arguments as used for consumer protection generally. It has been argued that producers are in a weak market position, particularly with respect to their understanding of market processes and their lack of information (Hallam 1983, Doohan 1983, Tunstall 1987). Further, a tenet underlying regulatory strategy is that only a minority of wholesalers would seek to exploit these weaknesses. Falsely, this tenet is given

substance by the fact that only a minority of wholesalers are ever prosecuted.

Despite a number of inquiries, reviews, including a Royal Commission in Victoria in 1960, subsequent legislative amendments, and "administrative will" (Buffier cited in ABC 1987), it seems that the problems which the legislation attempts to address remain. Indeed according to the New South Wales Farmers Association (NSWFA 1987), there is a strong prima facie case that government intervention has failed.

It is contended in this paper that the inability of the regulatory approach to deal with the problem has much to do with the way the problem has been percieved by regulators. They have relied on simple notions of competition and economic rationality, and have followed the orthodox neo-classical economic paradigm, to establish theoretically that dishonest and corrupt dealings cannot be sustained in such a market. Such selective use of economic theory, to deny the existence of systemic wrong doing, is seen as a fundamental weakness of policy analysis in this industry. One path to reform is better policy analysis.

## 1.2 A Rationale for Multi-disciplinary Analysis

In terms of the contribution of policy analysis to policy making, there appears to some agreement that better analysis is an important factor in achieving better policy (Edwards

1987). The question is, `what sort of analysis?'.

A number of authors have criticized the agricultural economics profession for it's narrow adherance to neo-classical equilibrium economics and the wide spread use of econometric techniques to answer policy questions. The following authors *inter alia* have written on various aspects of this theme: Castle (1989), Alston (1988), Lawrence (1987), Standen (1983), Musgrave (1976), Sten. (1976), Farrell (1976) and Gasson (1971). This is not the place to take-up these arguments in any detail. But it interesting to note that introspection on the part of agricultural economists is often stimulated by their appeciation of an apparent lack of real impact on policy making (Standen 1983). The limitations of `monism' in agricultural economics is well illustrated in the old story told by Musgrave (1976 p.137);

"We could also be accused of being selective in our choice of problems like the wellknown drunk who, having dropped his keys one dark night was found searching for them under a street light, not because he had dropped them there but that was where he could see."

The weight of learned opinion from within and outside agricultural economics appears to be that effective policy analysis must transcend the limitations of individual disciplines. Weller (1980 p.503) called people trained to do this `a sort of numerate Machiavelli'. How would a numerate Machiavelli go about public policy analysis? The course adopted here is to follow the concept of methodolgical pluralism advocated by Fisse and French (1985a). This involves adopting the following procedure.

"The initial step is to assemble as much interdisciplinary material as possible on a given problem of law reform. That material is sifted carefully for clues as to defects in the present law and for insights about promising future directions. Basic criticisms and proposals for reform are then generated and by dint of concentration, reiterative analysis, lateral thinking, comparison and weighing of alternatives, and feats of estimation and imagination, a commendable policy and program is formulated. Ultimately, after further review in light of consultation with others, the policy and program are revised and presented in expanded or contracted form as a prescription for change." (Fisse and French 1985a p.5).

This paper is a step towards methodological pluralism. It contains an evaluation of three disciplinary perspectives of the failure of markets to perform as required by society. The term "market malfeasance" is adopted to indicate socially detrimental market conduct and performance. The strategy of rational interdisciplinary choice (Fisse and French 1985a) is pursued to elucidate alternative theoretical constructs of market malfeasance. However the scope of the paper limits the amount of material which can be evaluated. A sense of Linblom's (1979) `strategic analysis' is used to reduce the task to manageable proportions.

First, insights from the literature on political corruption are considered. This is extended to include some socio-political analyses of the role of cultural influences on the acceptance and reproduction of corrupt behaviour. Second, sociological perspectives of criminality, occupational crime and especially the concept of criminogenisis are considered. Third, the economic concept of adverse selection is reviewed and contrasted with other

theories of sustained market malfeasance.

## 2 INSIGHTS FROM STUDIES OF POLITICAL AND ADMINISTRATIVE CORRUPTION

### 2.1 Concepts of Corruption

Corruption is a term which escapes precise definition. The literature tends to be descriptive rather than theoretical (Nas, Price and Weber 1986). Heidenheimer (1970a) categorizes definitions of political corruption into three groups, namely;

(i) public-office centered definitions which are based on the misuse of public office for private gain,

(ii) market-centered definitions which views a bribe as a price to be paid in order to make rigid bureaucracy respond like a free market,

(iii) public-interest definitions which focus on damage to the public interest as the key distinguishing characteristic of corruption.

What is intriguing about these three is that they each offer useful ways of conceptualising the problem of wholesaler malfeasance. First a wholesaler can be seen as the holder of a publicly sanctioned privilege. But a licence from the state confers certain obligations. To abuse the privilege, and observe the obligations only in the breach, could be seen as corrupting the `public office' which the licence

implies. Second, producers may accept corrupt behaviour if it promotes the sale of their produce. The market may function better if the restraints on free market conduct were removed but a second best solution is to get around the restrictions as best as possible. Third wholesaler malfeasance may eventually turn producers away from the central market facility contributing to the demise of an important economic institution. Hence the public interest may suffer.

But as Caiden and Caiden (1977) point out each of these definitions have short-comings. Importantly, they focus on the behaviour and motivation of individuals. They rely on corrupt behaviour being defined as a deviation from the norm. When corruption becomes entrenched and pervasive (ie the norm) the conduct of individuals is no longer the issue. Systemic corruption becomes the issue.

## 2.2 Systemic Corruption

Systemic corruption presents a different problem for analysis because the behaviour labelled as "corrupt" is the accepted norm of the system which fosters the corrupt behaviour. Caiden and Caiden (1977 p.307) make number of inferences about the impact of systemic corruption. In summary, they see systemic corruption as a force for social repression, contributing to economic waste by diverting public resources and resisting change. Systemic corruption works to ensure it's self-perpetuation because it is an

integral part of the system which sustains it.

Where the functioning of the system depends on corruption, corruption produces results which can be viewed as `not all bad'. Morris (1987) for example claims that corruption has contributed to the stability of the Mexican economy. Perhaps alleged dishonesty by wholesalers of farm produce is merely the grease which keeps the wheels of commerce turning.

Werner (1983) develops the analysis of systemic corruption. He argues the case for considering the `spill-over' effects of corruption. Corruption not only spreads but also undermines public faith in leaders and social institutions. An important problem for control and elimination of systemic corruption is that;

"When corruption is institutionalised, systemic, or an intrinsic part of everyday life, the traditional wisdom that corruption can be effectively contained or eliminated only by legal and police measures is disproved." (Werner 1983 p.151).

In fact prosecuting a few `unlucky' individuals when the system is corrupt can lead to the type of embarrassing defence described in Chibnall and Saunders (1977 p.142):

"I will never believe I have done anything criminally wrong. I did what is business. If I bent any rules, who doesn't? If you are going to punish me, sweep away the system. If I am guilty, there are many others who should be by my side in the dock....."

## 2.3 Corruption, Fraud and Dishonesty

Corruption is not normally a term applied to legitimate markets. The use of the term `corruption' by the New South Wales Farmers Association (NSWFA) to describe the Flemington

Markets (see Tunstall 1990) seems particularly emotive and attention grabbing. However, it is argued that substitute descriptors for market malfeasant practices such as `fraud', `malpractice', `rip-off', and `rort' have limitations. The chief limitation is that such terms do not engender a sense of entrenched systemic wrong doing. An acceptable synonym could be market corruption, implying the systemic corruption of the institution of the market.

In an editorial (Australian and New Zealand Journal of Criminology (A & NZ J Crim.) 1981 p.193) an unconvicing attempt is made to distinguish between corruption and fraud. It is contended here that the editorial makes a distinction without a difference. The relevant passage is quoted below.

"In the case of corruption the desired outcome is that a procedure is seen to have been executed (a contract issued,a candidate appointed, a consignment checked) and *seen* to have been done according to certain guiding principles, when in fact it is not, whereas with fraud the *appearance* is designed to conceal the event altogether (at least long enough to "get away with it"). Futhermore, the benefit to be gained from corruption does not, in any strict sense, revolve around the theft of private property." (A & NZ J Crim. 1981 p.193).

No clear distinction has been made. Both corrupt officials and, say embezzelers, design there actions to conceal it's true nature. The embezzeler may also wish it to be seen that certain procedures have in fact been carried out, for this is how the crime is concealed. Presumably both are covert actions concealed by an outward appearance of `normal business as usual'. Furthermore it is questionable whether corruption `does not, in any strict sense, revolve around

the theft of private property'. The money of taxpayers wrongly diverted could be either the result of a corrupt action or the result of embezzelment by a public official. Bribes paid by corporate managers deplete the assets of shareholders as much as petty thievery by company employees. Therefore the difference between corruption and fraud is insubstantial and at the most a matter of contextual semantics and conventions of use.

In this thesis the literature on political corruption is seen as being relevant directly to the analysis of market malfeasance. It is possible to draw appropriate analogies between the behaviour of a corrupt official and the behaviour of a fraudulent wholesaler.

## 3. CULTURAL INFLUENCES ON MARKET MALFEASANCE

### 3.1 Introduction

Socio-anthropological theories of culture contribute to the analysis of market malfeasance in two ways. First, in Australia, fruit and vegetable growing has attracted many migrant groups of diverse ethnic backgrounds. Irish, Chinese, Italian, Turks, Greeks and many other nationalities are represented in what is probably the most multi-cultural of agricultural industries. The horticultural district around the NSW town of Griffith is, for example notable as a Calabrian community (Francis 1981). Many of these people originate from poor peasant farming backgrounds. They bring a diverse set of attitudes and cultural imperatives to the tradition of horticultural production and marketing. They may be attracted to horticulture in Australia because of

it's nostalgic familiarity. They were encouraged by community leaders to follow traditional lifestyles (Christie 1988).

Second, the competitive market environment, where small business is subject to attack from all sides, has been likened to societies subject to systemic brigandage ( Sutton and Wild 1988). In particular Sutton and Wild (1988 p.89) highlight the organizational role played by "brokerage" elements.

Sutton and Wild draw particular inspiration from Blok's (1974) study of the Sicilian mafia. The differences between pre-industrial Sicily and advanced capitalist Australia are vast. Sutton and Wild are therfore able to make only an indirect analogy between Third World brokers and modern small business. However, in the case of the fruit and vegetable industry the differences may not be quite as vast. There may be lessons that can be learned from studies of 'Third World brokers' which may be applied more directly to an understanding of the intermediary function of farm produce wholesalers.

## 3.2 Some Cultural Reactions to Corrupt Conduct

In some societies corruption is an accepted fact of life. Over time, in both political office and in quasi-government market transactions, corruption has become enshrined as the normal pattern of institutional behaviour. Francis (1981 p.121) writing on the behaviour of migrants from southern

Italy and the Balkans observes that;

"Decades of experience of misrule have enshrined brigandage into their normative system and it requires considerable culture contact to eliminate these [intra-ethnic violence] modes of response."

Further, systemic corruption can lead to cultures which emphasize individual and family well being at the expense of the `public interest' ( Banfield 1970). As Banfield (1970 p.136) argues, in such a society of `amoral familists' no one `ever gets what he regards as his fair share'. Mistrust of office holders is inherent and by experience justified.

The role of extended family and patronage is especially strong in some cultures. Boissevain's (1970) discussion of patronage in Sicily is instructive of how culture can influence market relationships. Boissevain argues that a system of patronage (a system of protector-follower relationships) emerged in Sicily in response to a society where violence and bloodshed are commonplace. In such a situation `help' from the government is rejected. Instead through family and friendship the protection of a patron is sought. A patron is a respected and powerful person with influence. sufficient to influence the behaviour of ones enemies.

3.3 Possible Implications For Farm Produce Marketing

It is interesting to speculate on the consequences of such socio-political conditioning for producer behaviour in the marketing of farm produce. Three key consequences, all observable in farm produce markets, c n be suggested.

(i) Producers would exhibit a strong preference for selling their own produce. They would be reluctant to keep records and would be unwilling to approach officials with complaints.

(ii) If produce was not sold personally, then preference would be shown for dealing with a family member, possibly a patron to whom the producer feels a sense of obligation. Regardless of whether such a person disobeys the law, the producer is unlikely to complain. Similarly individuals with a greivance would look to the family, or patron for a solution.

(iii) Individuals would otherwise show no preference when dealing with officials, or wholesalers, as holders of an officially sanctioned office, as all would be viewed equally bad and corrupt.

In societies where corruption and conflict are endemic cultural factors behaviour and attitudes emerge which advance self-preservation. State control and regulation is likely to be ignored in favour of traditionally accepted means of conflict resolution. The intercession of a 'neutral' bureaucracy is likely to be resented. In such circumstances the rule of law is ineffectual.

## 4. OCCUPATIONAL CRIME AND THE CRIMINOGENIC HYPOTHESIS

### 4.1 Sociology and Criminology of White-Collar Crime

Coleman (1987 p.407) defines white-collar crime as, "violations of law commited in the course of a legitimate occupation or financial pursuit by persons who hold

respected positions in their communities". Wholesalers as holders of a state confered licence hold 'respected positions' in the farm produce community. Though clearly wholesalers may not be held with the same regard as doctors and lawyers. Like used car dealers they have uneviable reputations. Producers have for a long time regarded them with suspicion (Cole 1979 p.125, Christie 1988 p.102). Following Higley (1985 p324) and the definitional stance taken by Croall (1989), it is analytically useful to treat wholesaling as a "white-collar" occupation.

The theory of white-collar crime appears to be directed analytically at three distinct levels of criminality. In this respect the analysis of white-collar crime has followed a similar path to the analysis of political corruption. First there is the level of the individual acting alone. The sociology of deviance is commonly used to explain such 'abnormal' behaviour. But the concept of 'deviance' is itself frought with conceptual difficulties, in particular the subjectivity of defining 'normal' (Coleman 1987 p.407). It is suggested that this problem is particularly acute in the case of defining deviant market conduct.

The second level of investigation is at the level of the organization or corporation. A narrower definition of 'corporate crime' has been used to describe "crimes commited to further the legitimate purpose of the organization" (Grabosky 1984 p.95). Corrupt individuals commonly rationalise their behaviour by regarding that the ends justify the means. Similar behavioural responses have been

found in studies of corruption.

The third level of inquiry is at the level of the market system. Systemic crime is the criminolgical corollary of systemic corruption. It is best illustrated in the concept of criminogenisis, which is evaluated in detail below.

## 4.2 Concepts of Criminogenesis

Literally, criminogenic means crime generating. The term criminogenic originated in the United States literature on occupational crime. The criminogenic hypothesis is an attempt to explain occupational crime in terms of social and economic imperatives of market systems. The criminogenic hypothesis was first used by Leonard and Weber (1970) in a study of the US automobile market. Leonard and Weber (1970 p.408) criticized previous sociological studies of occupational crime for their neglect of structural concentration of market power as a causal agent in certain patterns of criminal conduct. The pattern of coercive conduct identified by Leonard and Weber (1970), which was subsequently confirmed by Faberman (1975), was one where car manufacturers squeeze the margins of dealerships which in turn are compelled to 'squeeze' retail customers in order to preserve profits. It is the second squeeze which is likely to have criminal overtones while the first is seen as a legitimate expression of market power. Faberman's (1975, 438) definition of criminogenic market structure typifies the crime coercive approach: "the deliberate and lawful

enactment of policies by those who manage economically concentrated and vertically integrated corporations and/or industries which coerce lower level (dependent) participants into unlawful acts".

This type of business conduct where not overtly illegal, borders on the illegal. In fact it could be called 'regulogenic' for it has been a factor in generating a multitude of regulations for its control. But the essence of Leonard and Weber's case is that such regulations, directed at the activities of dealers, are misplaced and likely to be ineffectual because the problem is due to concentrated power at the manufacturing level. They say; "the need is for a market structure in each industry to allow competitive forces rather than government to do the regulating" (Leonard and Weber 1970 p.410). However, Braithwaite (1978, 110) in an Australian study of used-car fraud, found that "fierce competition (rather than the lack of it) is a criminogenic force".

The possibility of coercive criminogenisis in the farm produce industry should not be dismissed lightly. Monopoly capital in the form of supermarket chains have in recent years come to play a dominant role in the market. One area where they have coercive influence is sales credit. It is said that supermarkets which purchase from wholesalers on 60 to 90 day terms places pressure on wholesalers to breach the terms of required payments to their producer clients (variously set between 7 to 14 days).

Coercive criminogenisis offers a partial explanation of how crime generating systems might function. But there are at least two aspects of criminogenisis which need further elaboration. First, the effectiveness of regulating occupations, the main weapon against occupational crime, has been seriously questioned. Can governments control criminality in market systems? Indirectly this question reaches to the root of how societies define criminal conduct. Second, does competition create crime, or is it a controlling agent? The role of competition is most unclear.

Needleman and Needleman (1979) describe a second model of criminogenisis, namely crime facilitative systems. Crime facilitative systems "present extremely tempting structural conditions - high incentives and opportunities, coupled with low risks - that encourage and facilitate crime" (Needleman and Needleman 1979, 512). Szasz (1985) categorizes a US case dealing with non-compliance with hazardous waste disposal regulations as facilitative criminogenisis.

Facilitative criminogenisis is similar, theoretically, to the approach taken by economists to studying the economics of crime, (for a recent Australian study see Buchanan and Hartley 1990). In particular there are parallel concepts in emphasising the role of incentives and penalties, and in the notion of capture of the regulations by the regulated.

Needleman and Needleman maintain that environments can be created which are conducive to crime. A key factor in that

environment the nature of the regulatory structure used to control crime. First it seems that criminogenic behaviour may be a result of antithetic attitudes of the regulated towards the regulations. Denzin (1977) for example does not find a simple pattern of top-down coercion. Instead criminogenic conduct is manifested as much in mutually profitable agreements between industry participants as in coercion of the powerless by the powerful.

The normal pattern of behaviour in the liquor industry, as described by Denzin, simply contradicts the law. In fact all tiers of the liquor industry from distiller to drinker benefit from ignoring the law. The law is seen as an impediment to normal (profitable) business conduct. Regulations can facilitate crime rather than suppress it. Indeed both the complexity and irrelevance of laws may be criminogenic.

"We break the laws everyday. If you think I go to bed at night worrying about it, your crazy. Everybody breaks the law. The liquor laws are insane any way." (An interviewee quoted by Denzin 1977 p.919).

But when compliance with the law is inconvenient or contrary to business principles illegal conduct may be rationalised away. In the words of the manageress of a computer dating service, accused of overcharging and other fraudulent and illegal business practices, "I never break the law.....If the law is no good, then I'm not breaking the law" (Brisbane Courier-Mail 15-2-1990 p.6).

Szasz (1986) examines the involvement of organized crime in

the disposal of hazardous waste. Szasz accepts that lax enforcement is a factor in the poor performance of hazardous waste disposal law. However, the weakness of the regulatory structure is also a factor. Szasz claims that the generators of hazardous waste undertook a powerful legislative campaign designed to secure a regulatory structure which limited their liability for ensuring the safe disposal of the waste they produced. They were content to transfer their obligations to a state licensed waste disposer.

To return to the farm produce industry where it is clear that regulations are complex, in fact apparently so complex in Victoria as to be beyond the capacity of producers to understand them (Rowe 1989). A situation probably brought about by attempting to take into the law the actual trading practices of the industry. Further there seems to be strong indications that over reliance on the powers of the state has lead to an abrogation of responsibility on the part of producers to play an effective monotoring role in the market place. Further, inspectors employed by State Departments can find themselves caught between a rock and a hard place so succinctly expressed (in the case of auditors) by Ryan (1990, 2):

"*This is the rock*: "Did you know the true financial position in that company which just crashed and ruined me? If you didn't, you are incompetant".

*This is the hard place*: "If you did know, why didn't you speak up? Why did you let the accounts pass? You are a fraud." "

# 5. ADVERSE SELECTION AND OCCUPATIONAL LICENSING

## 5.1 Introduction

Occupational licensing is probably the most often used measure to regulate minimum quality standards in both blue and white collar occupations. The wholesaling of farm produce is no exception. Economists have contributed considerably to the public policy debate over licensing as a means of regulatory control. Much of this work, exemplified by Friedman (1962), has found against the use of restrictive licensing. However, informational asymmetry, a key factor generating adverse selection, is seen as the most credible argument for licensing occupations (Albon and Lindsay 1984a p.5).

## 5.2 Adverse Selection

Adverse selection, a variant of Gresham's Law, is a phenomenon of market behaviour where market processes select against high quality products in favour of lower quality. Hirshleifer and Riley (1979, 1389) characterize it's cause in the following terms: whenever 'buyers can only observe average quality there is a tendency for sellers not rewarded for high quality to withdraw from the market'. Wilson (1987, 32) uses a slightly different definition 'without some device for buyers to identify good products, bad products will always be sold with good products'. Informational asymmety can be involved because in general the seller has superior information over what is being sold than the buyer has over what is being bought. That is, the seller is able

to discriminate `good quality' from `bad quality' but the buyer cannot.

Akerlof (1970) considered a market where goods could be sold honestly or dishonestly. A purchaser, if unable to detect the difference between an honest sale and a dishonest one, will be sold dishonestly. A dishonest sale is likely to be more profitable than an honest one. Consequently, "dishonest dealings will tend to drive honest dealings out of the market" (Akerlof 1970, 495).

"The cost of dishonesty, therefore, lies not only in the amount by which the purchaser is cheated; the cost also must include the loss incurred from driving legitimate business out of existence" (Akerlof 1970 p.495). Where legitimate business is unable to operate profitably the integrity of the market system is brought into question.

Akerlof's conclusions have been questioned by Heal (1976). Heal argues that bad products (dishonesty) will drive out good products (honesty) only if traders are "sufficiently shortsighted". In particular the propensity for dishonesty is high when sellers place low values on the benefit of future trade with the buyer. It is of interest that under perfect competition the Net Present Value of future trade with any particular customer is zero. (There is no special reason to patronize a particular business if they are all the same.) In such a market the optimal level of fraud would be positive (Darby and Karni 1973).

Nelson (1976 p.281) contributes to the discussion of honesty in business by proposing that `it is more consistent with the spirit of economic theory to assume that behaviuor will be honest only when it is profitable'. Importantly, large firms have an incentive to be honest, because, due to their greater prominence and larger market share, news about their malperformance spreads more quickly. Similarly smaller firms are better able to conceal dishonesty. This helps to resolve the earlier dilemma on the role of competition in promoting malfeasant markets.

Clearly occupational licensing can be placed in the set of institutions designed to counter the problem of adverse selection. Licensing, as a minimum quality constraint, is evaluated by Leland (1979). Leland argues that adverse selection also operates in markets for professional services. Fee scales and salaries reflect `average quality' hence poor quality is excessively rewarded and high quality poorly rewarded. Hence there would be a tendency for average quality to fall over time. Customers are unable to detect poor quality (until it is too late). Therefore, in the `public interest' it is seen as essential to prescribe minimum quality standards for such occupations. The licensing of farm produce wholesalers and the regulation of their business conduct falls within this class of argument.

Leland argues that the case for licensing is particularly strong in markets where increasing price is likely to attract lower rather than higher quality. He gives the example of the market for human blood. "As the price paid

increases, supply increases, but quality tends to fall, as the paid donors have tended to have higher levels of serum hepatitis" (Leland 1979, 1340).

The quality of provision of wholesalers services may follow such a pattern. High marketing margins can be linked directly with poor quality because a high price implies dishonesty in the provision of the service. However, producers are unable to tell when price is unduely high because they are not in a position to judge the quality of service being provided.

It can be seen that adverse selection can perpetuate dishonesty. In circumstances where adverse selection prevails it is possible that a system of licensing will compound the problem. This may be so if over time the regulations evolve to more closely reflect the business and ethical principles of the coterie which has grown up around them.

In the regulation of farm produce wholesaling notions of 'ideal conduct' and 'normal conduct' are apt to be confused. Well-meaning attempts to impose through regulation a common standard of behaviour may be counterproductive. Ideals, such as honesty, may be no more part of proper business practice as they are of prudent political conduct. Also, what may be seen as abnormal in business may be merely an attempt to differentiate one business from the mass of competing businesses. Market regulations which seek to impose a

predetermined pattern of normality may be stultifying. In this regard, where adverse selection may prevail, to impede by regulation the quality differentiation of services, invite market malfeasance.

## 6.CONCLUSION

The objective of this review was to undertake a multi-disciplinary search and evaluation of insights into the problem of market malfeasance. Thus opening the eye of the public policy analyst to broader frames of reference. A wide ranging, though necessarily constrained, search of literature was made. By concentrating on concepts which seemed to be reasonable parallels to market malfeasance a number of useful theoretical insights were revealed. The concepts reviewed were systemic corruption and crime, particularly criminogenisis, and the economic concept of adverse selection. The overwhelming general conclusion from using this 'strategy of rational interdisciplinary choice' is that market malfeasance is a part of a wider social problem. It is associated with systemic corruption and crime because it can be traced to the same root causes and same inability of conventional institutional responses to deal with them.

In farm produce wholesaling, coercion, through the use of economic power, could be a factor in the generation of crime in market systems. However, the empirical support for the hypothesis is mixed. Indeed it may be conceptually difficult to distinguish between coercion and cultural acceptance of

malfeasant markets since both could produce similar outcomes. The role of regulations, including creating and maintaining the regulatory environment, appears to be a significant factor in facilitating crime. The role of competition in the market is unclear. The part played by the motivation and opportunity for deception in the market system seems crucial. The key question seems to be, does competition help to cleanse crime and corruption, or is it a factor in generating it? This question is clearly a point of departure between sociological theories of competition and the simple neo-classical economic theories.

Further the continuing relevance of farm produce law must be questioned. The law may reflect a set of social mores which are not strictly transferable from one class or time to another. Recall the words of Mr Bumble in Dickens 'Oliver Twist' when he was told that the law deems him responsible for his wife's actions: "If the law supposes that.....the law is a ass - a idiot. If that's the eye of the law, the law is a bachelor; and the worst I wish the law is, that his eye be opened by experience - by experience" (Dickens 1947 p.425). The eye of the analyst of public policy needs also to be opened by experience, the experience of marriage with other disciplines.

Finally, it is useful to gather together the various key criminogenic factors and to ponder on the question of whether they can be found in farm produce wholesaling. A list of factors seen to be sustaining influences of market

malfeasance are as follows:

* Complex and irrelevant law;
* Lax or under-resourced enforcement;
* Social acceptance of corruption as inevitable;
* Regulatory systems which have low expected penalties but where the breach of the regulations offers high rewards;
* Regulatory systems where the regulated have a strong influence on development and implementation.
* A market system where power and information is unevenly distributed;
* An industry structure where small firms have little regard for repeat business and where they can slip easily into and out of the system;
* An industry where greed is an important motivator; and.
* A market where the service offered is impossible to assess qualitatively.

Markets which fit most if not all these criteria are well known; used car dealers, financial usury, small appliance repair, academics and the market for the services of farm produce wholesalers come readily to mind.

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