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AGRICULTURAL LABOR RELATIONS IN CALIFORNIA

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PREFACE

This casebook was written for an undergraduate course in agricultural labor in the Department of Agricultural Economics. Most students in the department have studied economics and quantitative methods but have no background in agricultural labor. Many graduates work in agricultural or food processing firms ranging in size from family farms to multinational corporations.

An understanding of the California Agricultural Labor Relations Act (ALRA) and negotiation strategies can smooth labor relations and save legal fees. This book uses a modified version of the law school casebook method. Legal principles are included in the cases and explained in text so that the student is not left to derive the principles out of the cases alone.

Most legal decisions contain the following six parts:

1. Legal issue
2. Principle of law
3. Facts of the case
4. Application of law to facts
5. The holding or decision of the case
6. Remedy or order.

A helpful exercise is to identify the six parts of each case. Some case excerpts do not include all six parts, but they can be identified in one of the longer excerpts, such as the D'Arrigo cases on pages ____ through ____ and identify each part.

Clarification of case holdings, questions for study, and further applications of the legal principles appear in the Notes and Review Questions

sections. These explanations are meant to help deepen the understanding of the legal principles.

Recognition and grateful thanks are due to Danny Egan, an undergraduate student who excelled in the course, for his suggestions, proofreading, and general assistance in the preparation of the revised version.

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1. Agriculture and Farm Labor

The first U.S. Census of Population in 1790 found that 95 percent of the 4 million Americans lived on farms. Almost all Americans were farmers, and farming was "a way of life" as well as a business operation that supported the farmer and his family. The dominance of family farms in the northeast led to an agrarian philosophy that exalted agriculture. The French physiocrats had argued that land and agriculture were the true pillars of a society's wealth, and Thomas Jefferson promoted this agricultural fundamentalism by arguing that a system of family farms was healthy for the economy and essential for American democracy.

The agrarian philosophy helped to shape the values that made America unique for both Americans and Europeans. The single most important factor responsible for this unique American outlook was the availability of land. European immigrants were conditioned to the idea that land ownership conveyed wealth and status on the owner, so the availability of 160 acres to everyone supported the notion of exceptionalism, the idea that America was unique and that Americans were a uniquely favored people.

The availability of land and the philosophy of agrarianism made diversified family farms the goal of American agriculture. The model farm contained a hard working farmer, his family, and perhaps a hired hand who was working for wages in order to save enough money to buy his own farm. There was an important exception to this family farm ideal: the large plantations based on slave labor in the southeast. But the family farm philosophy dominated attitudes toward agriculture and farm labor.

The handful of "hired hands" on northeastern and midwestern farms in the early 1800's were thought to be temporary additions to the farmer's family,

that is, the hired farmworker lived and ate with the farm family. This idealized notion that a hired hand was a temporary occupation on the path to farm ownership became less and less credible as land prices escalated much faster than farmworkers' wages, but the myth persisted that hired workers were temporary family members. Today it is clear that farmworker and farmer are two different occupations: most farmers get into agriculture via inheritance or with money earned in a nonfarm job, not from money saved by being a hired farmworker.

The Seasonal Farm Labor Problem

The major farm labor problem in California has been and remains seasonality--most farmworkers are needed for only two to six months of farm work every year. Farmers worry about the cost and availability of farmworkers during critical seasonal operations, while workers worry about how long they will be able to do farm work, what they will earn, and what they will do during the off season. Throughout history, most seasonal farmworkers have been left on their own when seasonal farm work is completed.

Experts who have grappled with the seasonality issue usually end up advocating labor law reforms. Varden Fuller urged the enactment of labor laws that would set minimum wages and working conditions in agriculture and establish a framework that allowed farmworkers to organize and bargain with employers for further improvements. Other reformers urge farmers to restructure their farm operations to hire fewer workers for longer periods. Since the 1960's federal and state governments have stepped forward with a variety of programs to assist migrant and seasonal farmworkers (MSFWs) and their children, at first by training MSFWs to leave agriculture and more recently offering training that makes field workers useful year-round.

The seasonal farmworker problem persists because seasonal agriculture "has no regular labor force of its own and does not compete in the general labor market. Instead, it relies on the residuals of other labor markets" (Fuller 1939, p. 137). Farmers have long complained that the seasonal farmworker issue is the most complex labor problem they face. In 1960, Robert Hanley of the California Farm Bureau argued that, "there is an insufficient amount of capable domestic labor to meet the peak harvest needs of California agriculture. Therefore, farmers have been compelled to make use of such domestic labor as is available--resident, inter and intrastate migratory, and casual. Many of these seasonal farmworkers are unemployable elsewhere." Farmers complain that they are unfairly tainted because they do offer jobs to these otherwise unemployed workers, "placing a problem of society as a whole on the farmer's doorstep."

Farmers argue that labor-intensive crops cannot be grown without an ample supply of seasonal workers. Farmworker advocates do not quarrel with the fact that hired workers are needed for short periods of time in agriculture, but they complain that agriculture wants thousands of seasonal workers who will work for low wages and under often poor working conditions and then depart to fend for themselves. The Agricultural Workers Organizing Committee (AWOC) in 1960 argued that, "farmworkers are the disinherited of our society--they labor under a set of standards which are different from and inferior to those under which other industrial workers labor." Liberal reformers have been upset frequently by housing and working conditions. In 1960, a UC student committee examining farm labor in California reported that conditions were "inhuman, uncivilized, and degrading."

Conditions for many farmworkers have improved, but there are still enough poor condtions in California agriculture for these quotes to

illustrate both the past and present seasonal farm labor problem. California farmers hire over 600,000 workers each year. Farms are often located at considerable distances from farmworkers' homes, giving rise to some migrancy and some migrant housing. Farmers are reluctant to pay high wages to these seasonal farmworkers because few employers voluntarily grant raises, because farmers believe they cannot pass higher wage costs on to processors and consumers, and because the seasonal work force is not usually in a position to extract higher wages from a seasonal farm employer. Farmers are reluctant to build and maintain permanent housing for employees who are on the job only two to five months each year, especially since the hired work force changes every year.

Farmworkers, on the other hand, are reluctant to promise individual farmers that they will return every year when needed (although many do). Seasonal farm work is a last resort for many farmworkers, and many hope that next year they will not have to do farm work. Wages and working conditions are usually similar in a farming area, so the individual farmworker has little incentive to stay working for one farmer if he learns that better yields or a slightly better piece rate is available elsewhere.

The picture painted by descriptions of the seasonal farmworker problem and the incentives confronting farmers is one in which most farmers do not care who picks their crops and do not worry about what will happen to this year's work crew when seasonal farm work is completed. Farmworkers, on the other hand, are not committed to doing farm work as a career and are often not loyal to any particular farmer.

The Evolution of California Agriculture

California farm labor history is the story of how seasonal farm work emerged as a "last resort" for workers with few alternatives. The California

farm labor market matches several hundred thousand seasonal farm jobs and seasonal farmworkers every year, and throughout history immigrant farmworkers without options have largely determined the wages and working conditions for all farmworkers. This unstructured or salvage farm labor market has caused considerable anxiety for farmers, although most farmers eventually get their farm work done with few losses. However, the farm labor market left many farmworkers with relatively low earnings for doing seasonal farm work, poor housing and working conditions, and few prospects for advancement within agriculture.

The major historical questions surrounding California agriculture are:

1. How could California agriculture develop large and labor-intensive farms at such low wages?
2. How did the supply of farmworkers preserve the large land grants (ranchos) made by the Spanish?

The history of California agriculture falls into several periods. From 1769 to 1833, the 21 Spanish missions established along El Camino Real (Hwy 101) employed Indians to work on surrounding farmland. This mission agriculture was not productive or efficient because, according to Fuller, the primary purpose of mission agriculture was to keep the American Indians at work in order to minimize disciplinary problems. After the 1833 Secularization Act, private individuals could own 4,500 to 50,000 acres of California land in "ranchos" devoted to cattle grazing. In 1850, California entered the United States as a no-slave state because the gold rush had brought enough anti-slave prospectors to California to tip the balance against slavery. When California entered the United States, it agreed to recognize the Spanish Land Grants that had been made to individuals before the 1848

Treaty of Hildalgo, but confusion and corruption allowed a few wealthy settlers to acquire large tracts of the best land.

In the 1850's and 1860's, California agriculture consisted of cattle and sheep grazing on large ranches in the central and coastal valleys. However, the completion of the transcontinental railroad in 1869 and the demand for wheat in the eastern United States and in Europe encouraged large California farms to convert pasture into dryland wheat farms, establishing a tradition of crop specialization and monoculture by the 1870's.

Dryland agriculture required large acreages, but the acquisitive instincts of land buyers and the federal government's willingness to give land to the railroads for laying track concentrated land ownership in the hands of a few. In the 1860's, a few thousand people owned most of California's arable land. These landowners retained enough of their land so that 70 years later 16 Californians each owned 54,000 acres. The Southern Pacific Railroad (SP) received 12,800 acres of land for every mile of track laid, and SP is still among the largest private landowners in California (an acre is about the size of a football field).

The 1870's were the critical decade that shaped the structure of California agriculture. Refrigerated transportation and irrigation were changing the economics of farming in California, making it profitable to grow labor-intensive fruit for distant markets. California farmers could (1) minimize labor needs by continuing to produce wheat and raise cattle, (2) subdivide their land into family-sized units and switch to labor-intensive fruits and vegetables, or (3) develop an army of migrant farmworkers who would do seasonal farm work on large fruit and vegetable farms. Most California farmers planned to subdivide their ranches and sell family-sized parcels to

the midwestern farmers who were expected to arrive on the transcontinental railroad and develop family-sized fruit farms. Until these family farmers arrived, the 12,000 Chinese who had built the railroad through the Sierras were employed as hired workers on large and irrigated wheat and fruit farms.

The availability of Chinese labor just when California agriculture found it profitable to switch to labor-intensive fruit farms established the pattern of crop specialization, large farms, and seasonal workers who migrated from farm to farm that persisted for 100 years. Scale, specialization, and migrancy persisted because California farmers had capital and the management skills needed to operate large and complex enterprises. Until 1887, for example, irrigation districts were organized privately. A farmer could drill a well on his own property, but it was more efficient to form a private irrigation district to provide water. In addition, the level farmland of the central valley and the fact that periods of rainfall were predictable promoted the mechanization of the wheat harvest.

The Chinese preserved large and specialized farms, institutionalized migrancy, and developed the farm labor contracting system that persists today. Few farmers spoke Chinese, so Chinese farmworkers organized into crews of 20 to 40 workers and negotiated with growers through a bilingual spokesperson. Initially, the spokesperson was simply another worker who understood both languages, but these spokespersons evolved into full-time farm labor contractors who recruited workers, supervised the harvest, and arranged housing and meals. The Chinese and Japanese contractors tended to be the workers' advocates. By the 1920's, Mexican contractors emerged with an independent business interest in maximizing the difference between grower costs and workers' wages, so that contractors became as much "the enemy" as growers, and the object of many farm labor reforms.

By the 1880's, California agriculture had changed from livestock ranches and wheat farms to irrigated fruit farms that relied on large numbers of migrant workers. The historical question is whether this transition from an extensive to an intensive agriculture was planned and manipulated by large farmers or whether the dependence on seasonal workers was an accident of large Spanish land grants and the availability of Chinese farmworkers. Regardless of the cause, once established in the 1870's, specialized fruit farms that depended on seasonal farmworkers were not converted into family farms in the 1880's because midwestern family farmers learned that they had to sell their farms at relatively low prices, pay the cost of migrating to California, and buy farmland at high prices that reflected the profits obtainable if a farmer hired low-cost Chinese farmworkers. The mid-western farmers who did come to California did not have enough capital to survive sustained low prices, especially if they also experienced crop losses because they failed to understand the nature of California's micro-climates and its unpredictable soil variations.

Large and specialized California farms that depended on crews of migrant workers survived and prospered during the 1870's and 1880's. Most California landowners still expected to eventually subdivide their land and sell it to family farmers, but by the mid-1880's many large California farmers were beginning to believe that their good management and crews of migrant workers would preserve the prevailing agricultural system. In 1882, labor unions persuaded Congress to halt Chinese immigration. White workers opposed to "cheap" labor sought to round up and deport Chinese workers, so California farmers formed associations to protect the rural Chinese already here from deportation campaigns. In the early 1880's, the Chinese were 80 to 90 percent

of California's hired workforce, and they drained swamps, built irrigation canals, and harvested crops.

In the mid-1880's, California farmers discussed and debated whether to reorganize agriculture to reduce its dependence on hired farmworkers or assure themselves a new supply of migrant farmworkers. Some farmers noted that diversified family farms would employ fewer hired workers year-round and bring stability to rural communities. The Pacific Rural Press in an editorial on February 11, 1888, noted that the end of Chinese immigration meant that California agriculture would have to change: "Farmers must now look to a normal population, for the age of the single male laborer will gradually slide away ... diversified (farming) industry that will give some employment all the year-round is the solution."

Diversified farms and year-round employment remained unnecessary because an economic depression in the mid-1880's forced many whites into the hired farmwork force. Another recession in 1893 brought new waves of unemployed whites into agriculture, where they destroyed Chinese housing in an effort to open up jobs for themselves. The labor supply question moved into the background, and California farmers concentrated on improvements in irrigation and fruit production and drying techniques.

By the end of the 1890's farm labor once again became an issue for California agriculture. To stave off farm labor shortages, farmers imported 56,000 Japanese workers between 1900 and 1909. Farmers quickly became disillusioned with the Japanese because Japanese workers exhibited a propensity to organize and strike during the harvest season to demand higher wages.

These "quickie" harvest strikes were effective because other Japanese farmworkers refused to cross the picket lines set up by their striking

countrymen and the Japanese collectively refused to work on certain farms. The Pacific Rural Press on February 13, 1909, wrote that Chinese farmworkers would be vastly preferred to Japanese and that "only enough Japanese to keep some lines of our agriculture going" should be imported.

To minimize their dependence on the Japanese in the early 1900's California farmers tried to recruit whites from the east and midwest by offering better housing and working conditions. These experiments largely failed because migrant farmworkers from other parts of the United States soon left the fields for California's cities, often before they repaid the farmers' transportation expenses. Most people recruited to do farm work in California quit to take urban jobs as soon as possible, establishing California agriculture's "last resort" status 100 years ago.

The Japanese were the only immigrant farmworkers who managed to move from hired worker to owner status in significant numbers. Despite Alien Land Laws in 1913 and 1919 that prohibited "aliens" from buying California farmland or leasing land longer than three years, the Japanese were able to buy marginal land in the names of their American-born children and dominate by 1920 the production of labor-intensive berries (91 percent), onions (81 percent), asparagus (65 percent), and green vegetables (59 percent) on 75,000 owned and 383,000 leased acres (Nelson Nagai, "Japanese in California Agriculture," unpublished, UCD, 1977).

Other immigrant farmworkers arrived in California at the turn of the century, but in smaller numbers. Farmworkers from Europe did not suffer the discrimination directed against the Chinese and Japanese; and the Portuguese and Dutch soon owned dairies, the Italians and Yugoslavs owned vineyards, and the Armenians specialized in marketing fruits and vegetables. The goal of

every immigrant group was to get out of hired farmworker status as soon as possible.

The Japanese, unemployed whites, and other immigrant farmworkers maintained the structure of large and specialized farms until 1916, when World War I created year-round war production jobs for workers who ordinarily did seasonal farm work. In 1917 and 1918, farm labor shortages were remedied by the employment of Mexicans in California agriculture. Many of these Mexican farmworkers were not recruited actively by farmers but came north to escape the disruptions of the Mexican civil war.

During the 1920's the traditional residual farm labor supply was augmented by a rapid increase in the number of Mexicans and Filipinos. The Mexican population in California increased three-fold in the 1920's to 368,000, while the Filipino population rose from 2,700 to 30,500. Even though the Immigration Acts of 1921 and 1924 restricted immigration from Europe and Asia, Mexico and other western hemisphere nations were not covered by immigration quotas and Filipinos were allowed to come to the United States without visas until 1934. During the 1920's, Mexicans comprised an estimated 50 to 75 percent of California's average 20,000 farmworker employment, and the availability of Mexican workers permitted cotton production to expand rapidly in the Southwest. In the 1920's, migrant families began traveling around California in autos.

During the 1930's, the Depression brought Okies and Arkies to California. About 1.3 million people migrated from other states to California in the 1930's, and at least 150,000 of these new Californians became migrant farmworkers. Throughout the 1930's, many California farmers and workers complained that too many workers were trying to find farm work, prompting the "repatriation" of 400,000 Mexicans; but some California farmers increased the

labor glut by advertising for two or three times as many workers as were needed and offering a high wage which was then reduced when too many workers appeared. The 1930's influx of white farmworkers prompted a series of violent strikes in the central valley to protest the housing and working conditions that inspired John Steinbeck's book, The Grapes of Wrath.

In the 1940's, white farmworkers began leaving agriculture to take wartime industrial jobs or join the army. The Japanese were placed in internment camps, and Filipino youth left agriculture for urban jobs or the armed forces. In the spring of 1942, California farmers asserted that between 40,000 and 100,000 Mexican farmworkers would have to be imported to complete the September harvest. This alleged labor shortage was contested by American unions and by Mexican-American organizations that argued that no imported farmworkers were needed. However, 1,500 Mexican farmworkers were brought to California in September 1942. Early in 1943, Congress passed PL45, the Farm Labor Supply Appropriations Act.

Congress enacted three more labor agreements with Mexico: PL229 in 1944, PL893 in 1948, and PL78 in 1951. Each of these "bracero" laws was justified by arguments that agriculture needed a supplemental seasonal farm work force. During the war years, the maximum number of braceros was 36,600 in August 1944, and the average 26,000 braceros in California were about 20 percent of the seasonal work force. The Bracero Program grew in size and importance so that by 1956-57, a maximum 101,000 braceros were in California and the average 51,000 braceros constituted 28 percent of California's seasonal labor force.

The Bracero Program brought almost 5 million Mexican farmworkers to the United States before it was terminated in December 1964. (Some braceros

returned year after year, so only 1 to 2 million Mexicans participated.) Since that time, California's hired farm work force has been composed of white adults, teenagers, and housewives; citizens and (green-card) immigrants of Mexican origin; illegal aliens or undocumented workers, especially from Mexico; and a variety of other immigrant groups, including Filipinos, Yemenis, Punjabis, and Vietnamese.

California agriculture got addicted to a never-ending supply of seasonal and often immigrant workers because the large land units necessary for dry land grazing were not broken up into diversified family farms in the 1870's. The large and specialized fruit and vegetable farms that emerged in the 1880's were preserved because they were managed by entrepreneurs with the capital and skills necessary to maintain large units and because a seasonal and migratory work force was readily available. California farmers soon came to believe that California agriculture could and should continue to be large scale, specialized, and dependent on hired farmworkers. The option of family farms and improved wages and working conditions for white farmworkers gave way to a conviction that the federal government should recruit or tolerate the presence of alien workers in California agriculture. By 1900, the framework of the farm labor debate was set by farmers who, in Fuller's words, "declared that California agriculture by nature was such as to demand a permanent supply of itinerant laborers. Since white people refuse to perform such 'menial tasks,' such a labor supply by its very nature had to be 'un-American'."

Large and specialized California farms dependent on migrant farmworkers with few alternative job opportunities turned the farm labor market into a "residual" market, a last-chance employer for workers who were often immigrants. Farmers did not want to develop expensive personnel systems to recruit, train, and retain seasonal farmworkers, so farmers encouraged the

crew leader or farm labor contractor (FLC) system in which a middleman recruits and and supervises farmworkers for a fee. Under the FLC system, workers are often paid piecerate wages, minimizing supervisory responsibilities.

Farmworker Unions

California fields have witnessed struggles between organized farmers and unorganized workers for over 100 years. Successive waves of immigrant farmworkers organized and called strikes to improve wages, but most of the documented history of union activity in agriculture refers to periods when recession pushed white workers into agriculture (1910-1917 and the 1930's) and the rise of the United Farm Workers in the 1960's. A brief review of early union activities illustrates the difficulties inherent in maintaining unity among seasonal farmworkers who want to escape from agriculture.

The Industrial Workers of the World (IWW) or "Wobblies" was a decentralized union committed to overthrow the wage system in the early 1900's. IWW organizers were adept at forming protest committees to channel worker discontent over several common agricultural employment practices: advertising for too many workers and then cutting wages when extra workers appeared; charging for water in the fields; and requiring workers to live in and pay for substandard housing. The Wheatland Hop riots of 1913 illustrate the employment practices that generated strikes and the inability of the IWW to effectuate lasting changes in agriculture.

Wheatland is a small community 30 miles northeast of Sacramento that grew the hops used to make beer. Chinese and Japanese workers dominated the fruit, sugarbeet, and vegetable work forces, but whites did most of the work in field crops such as wheat and hops. Following common practice, the Durst

ranch advertised for 3,000 hops pickers, even though only 1,500 were needed. When 2,800 mostly white workers showed-up, the piecerate wage was cut because Durst believed that enough workers would be desperate for work despite the wage cut. In typical IWW style, the workers formed a protest committee and presented a list of demands to Durst, including a demand for a wage increase. Law enforcement officials were called, and when they tried to dispel the crowd, shooting broke out that killed several deputies and workers.

Repression and reform followed quickly. IWW leaders were arrested, tried, and sentenced to long terms in Folsom prison. Governor Hiram Johnson appointed a commission to recommend farm labor reforms, and the commission urged housing improvements and an end to over-recruitment and wage cuts. These reforms had lasting effects in parts of California agriculture.

During the 1920's, nonfarm businesses attempted to stave off unions by developing formal grievance mechanisms to handle worker complaints and to put controls on the power of the foreman or first-line supervisor who dealt with workers every day. The U.S. government curtailed immigration in 1921 and 1924, and nonfarm employers began to realize that the stick of being fired was less effective than carrots such as fringe benefits and written personnel policies. However, in agriculture the continued availability of Mexican farmworkers and the language barriers that separated employers and farmworkers yielded few changes in impersonal employment practices.

The 1930's was a decade of mass unemployment that drove whites into agriculture as farmworkers. Farmers suffered from low prices and, realizing that there was a surplus of labor, cut wages--by one estimate from 35 cents hourly in 1928 to 14 cents in 1933. These wage cuts prompted spontaneous strikes, and the Communist-dominated Cannery and Agricultural Workers

Industrial Union (CAWIU) stepped in to lead these strikes as the IWW had done during its heyday.

The year 1933 was the high-water mark of farm labor strikes and CAWIU influence. During 1933 there were 37 strikes involving 48,000 farmworkers in 14 crops, including the October cotton harvest strikes in the Central Valley that involved 18,000 farmworkers (75 percent Hispanic). The CAWIU relied on roving pickets to draw workers out of the fields and to discourage strikebreakers, while growers responded by evicting strikers from company-owned housing. UC historian Ira Cross eventually proposed a compromise wage that settled the 1933 cotton strike.

The CAWIU faded quickly in 1934, after the newly-formed Associated Farmers persuaded counties to enact anti-picketing ordinances and after the state government arrested and convicted CAWIU leaders in Sacramento. CAWIU influence melted because union leaders were essentially "outsiders" who were attempting to organize farmworkers to transform society, a goal that was quite distant from a seasonal farmworker's concern for higher wages. Strike activity during the 1930's showed that wage cuts could provoke strikes, but no union emerged to negotiate lasting agreements for change.

The 1935 National Labor Relations Act granted organizing and collective bargaining rights to most nonfarm workers in the private sector, but farmworkers were excluded because agriculture was considered a unique industry. Farmers argued that their annual incomes depended on their ability to harvest perishable crops within a few weeks, so that a union of seasonal farmworkers could wield enormous bargaining power at harvest time. Even though seasonal farmworkers who went on strike could lose several critical weeks of earnings, farmers won the argument and farmworkers remain excluded from the federal NLRA.

The late 1930's were a period of private and public farm labor reforms. Prompted by increased enforcement activities, growers upgraded farmworker housing for a farm workforce that was mostly white by 1939. Conditions were improving in 1939 when two books appeared that still set the tone for farm labor debates: John Steinbeck wrote The Grapes of Wrath and Cary McWilliams wrote Factories in the Field. These books prompted the U.S. Senate's La Follete Committee to hold 28 days of public hearings on farm labor conditions in December 1939 and January 1940, and these hearings yielded a 27 volume report on California farm labor in October 1942 that included the doctoral dissertation of Varden Fuller.

The Congress of Industrial Organizations (CIO) chartered a union that organized fieldworkers and packingshed workers in the 1930's and 1940's, but World War II drew union members into the Armed Forces and nonfarm jobs, and the Mexican braceros who began arriving in 1942 proved hard to organize. Mexican braceros were typically young men recruited from towns along Mexico's north-south railroad lines who came to work seasonally in U.S. agriculture. Even though contemporary critics alleged that the Bracero Program was "legalized slavery," farmers noted that braceros were eager to work in the U.S. at wages that were five to ten times higher than they could earn at home. Whether the Bracero Program was a blessing or curse for Mexicans, it depressed wages and discouraged mechanization in U.S. agriculture, encouraging American workers to take nonfarm jobs and guaranteeing that an expanding labor-intensive agriculture would need more and more alien farmworkers.

During the 1940's and 1950's, the AFL-chartered National Farm Labor Union (changed to the National Agricultural Workers Union [NAWU] in 1952) attempted to organize California farmworkers. Ernesto Galarza became the driving force

behind the NAWU, and he believed that farmworkers could never mount effective strikes if legal Mexican braceros and illegal Mexican workers were available. Galarza campaigned tirelessly for an end to the Bracero Program, and protested bitterly when braceros were used (illegally) to break NAWU-called strikes. The AFL-CIO chartered yet another farmworker union in 1959, the Agricultural Workers Organizing Committee (AWOC) that organized Filipino grape workers in the Delano area.

Unions made persistent efforts to organize farmworkers before the 1960's, but no union achieved lasting collective bargaining agreements with farm employers. Periods of union activity coincided with an influx of white workers to the fields: the Industrial Workers of the World (IWW) was active from 1910 to 1917 and the Communist-dominated Agricultural Workers Industrial Union in the 1930's. The Agricultural Workers Organizing Committee in the 1950's became a Filipino-dominated organization that was merged into what became the United Farmworkers Union (UFW) in 1967. The UFW, an organization headed by Ceasar Chavez and dominated by Mexican-Americans, is the largest farmworker union in the United States and California.

Pre-UFW efforts to organize farmworkers failed because the usual surplus of farmworkers was augmented by braceros and illegal aliens; the short harvest season allowed farmers to recruit strikebreakers; many farmworkers were unsure whether the FLC or grower was their employer; and the tendency to rely on nonfarm organizers left pre-1960's unions vulnerable to charges that "outside agitators" were stirring up trouble in rural communities. Farmers sometimes raised wages during the heat of a strike, but rarely signed contracts that required a continuing relationship with a farmworker union. One exception was Bud Antle, a Salinas lettuce grower which signed a contract covering

fieldworkers with the Teamsters who already represented packingshed and transportation employees and also obtained a \$1 million loan from the Teamsters pension fund.

The UFW

Cesar Chavez, a community organizer in San Jose, moved to Delano in 1962 to organize farmworkers. The first convention of the Farm Workers Association (FWA) was held in Fresno on September 30, 1962, and the FWA offered to help its members with government paperwork and access to a credit union in exchange for \$3.50 monthly dues. In 1964, the FWA was renamed the National Farm Workers Association (NFWA), and in 1965 the NFWA conducted a successful rent strike against the public housing authority in Tulare County.

In May 1965, Coachella table grape growers prompted a strike by Filipino farmworkers who belonged to the Agricultural Workers Organizing Committee (AWOC) by paying P.L. 414 braceros the required \$1.40 per hour but the Filipinos only \$1.25 hourly. The AWOC called a strike, and even though grape growers refused to recognize the AWOC as bargaining agent for the Filipino workers, wages were raised to \$1.40.

When the grape harvest moved to Delano in September 1965, grape growers offered \$1.25 hourly plus 15 cents per box. The AWOC called a strike, and some growers locked the striking Filipino workers out of the labor camps that were their winter homes. The NFWA also declared a strike and sent letters to growers demanding wages of \$1.40 plus 25 cents. Farmers harvested the 1965 grape crop with FLC-supplied workers.

The NFWA called for a boycott of Schenley Industries Scotch and Bourbon before the 1965 Christmas buying season. In March 1966, Harrison Williams brought a Senate Subcommittee to Delano, and Robert Kennedy had a televised

argument with the Kern County Sheriff that generated national publicity. In March and April 1966, the NFWA marched to Sacramento, and Schenley agreed to negotiate a contract (for \$1.75 hourly plus 25 cents). The NFWA switched to a boycott of DiGorgio products, another large grape grower, and DiGorgio announced that it had signed a contract with the Teamsters. This contract was nullified, and in the August 30, 1966 election the Teamsters won the right to represent packingshed workers and the United Farm Workers Organizing Committee (UFWOC), a merger of the AWOC and NFWA, won the right to represent DiGorgio fieldworkers (DiGorgio sold its farmland in 1968, terminating the contract). On July 21, 1967, the renamed UFW and the Teamsters signed a jurisdiction agreement that left fieldworker organizing to the UFW.

During 1967 and 1968, the UFW secured contracts for grape workers at major wineries such as Almaden and Gallo by threatening consumer boycotts. By 1969, the UFW had 12 contracts covering 5,000 wine grape workers.

After its initial success with wine grapes, the UFW sent letters to table grape growers in January 1968 requesting that they recognize the UFW as the bargaining agent for their fieldworkers. The table grape growers did not respond, and the UFW launched a national boycott campaign that urged consumers not to buy California grapes. Throughout 1968 and 1969, the UFW obtained endorsements of the grape boycott from unions, religious leaders, students, and urban politicians. Per capita grape consumption fell from 4.3 pounds in 1966 to 2.4 pounds in 1971. Beginning in March 1970 Coachella table grape growers began to recognize the UFW and sign contracts that offered a \$1.75 hourly wage plus 25 cents per box, a union hiring hall, pesticide protections, and grievance procedures. In July 1970, 23 Delano table grape growers signed UFW contracts, so that UFW contracts covered about 20,000 of the peak 72,000 table grape jobs on 150 ranches.

Between 1970 and 1973, UFW fortunes rose and fell. The UFW sent letters to Salinas lettuce growers in 1970 requesting recognition as the bargaining agent for their fieldworkers, and many of the lettuce growers responded by signing contracts with the Teamsters (in violation of the 1967 UFW-Teamsters agreement). Despite a sometimes violent strike, a nationwide lettuce boycott, and some pressure from the Teamsters national leaders to avoid antagonizing the UFW, Teamsters represented workers employed by growers who supplied 70 percent of the iceberg lettuce and the UFW managed to win contracts covering 15 percent.

In 1971 and 1972, the UFW organized several smaller wineries and won recognition as bargaining agent for the orange harvesters employed by Coca Cola's Minute Maid subsidiary in Florida. In February 1972, the UFWOC became the UFW and an official affiliate of the AFL-CIO.

By March 1973, the UFW had 180 contracts covering 40,000 jobs at 500 California farms. However, by the end of 1973, the UFW was down to 14 contracts covering 6,500 workers while the Teamsters ended 1973 with 305 contracts covering 35,000 fieldworkers. In the spring of 1973, table grape growers in Coachella and Kern County decided to sign Teamster contracts instead of renegotiating the expiring UFW contracts. Expiring UFW lettuce contracts were replaced by Teamster contracts, and Gallo, which had a UFW contract from 1967-1973, switched to the Teamsters. Finally, Delano table grape growers switched to Teamster contracts in August 1973.

Throughout 1973, AFL-CIO leaders pressured the Teamsters to leave fieldworkers to the UFW. The Teamsters, a union not affiliated with the AFL-CIO, negotiated a tentative jurisdiction agreement with the UFW during the fall of 1973, but the agreement unraveled and the Teamsters stepped-up their organizing efforts in 1974. Thus, on the eve of the ALRA in 1975, the

Teamsters had largely replaced the UFW as the major union representing California farmworkers.

The UFW-Teamster rivalry was widely publicized in the early 1970s. Sosnick's review of this rivalry suggests that the Teamsters opposed the UFW because (1) they did not want another union to be in a position to call a strike and put Teamster truckdrivers and packingshed workers out of work, (2) Teamster dues of \$8 monthly (2 hours pay after 1976) swelled the union's treasury, (3) the UFW might eventually try to move from the fields into the Teamster-dominated packingsheds, (4) Jimmy Hoffa, who was challenging Teamster's President Frank Fitzsimmons for control, was bitterly anti-UFW, and (5) the Teamsters resented being portrayed as the "bad guys" in farm labor disputes. Growers allegedly favored the Teamsters because it was a "business union" that did not press for a union-run hiring hall, veto power over mechanical harvesting equipment, and the regulation of pesticides.

Jerry Brown won the November 1974 gubernatorial election and promised to push for a farm labor relations law. Food and Agricultural Director Rose Bird (currently Chief Justice of the California Supreme Court) wrote a compromise farm labor bill that won the eventual support of the UFW, growers, Teamsters, and other unions. Governor Brown called a special legislative session to consider the ALRA, and it was quickly enacted by the legislature. The ALRA was signed on June 5, 1975 and became effective on August 28, 1975, in time for the fall harvest. Of the first 361 elections that were resolved, the Teamsters won 115 (61 percent of the 188 elections in which they participated), the UFW won 198 or 68 percent of the 291 elections it contested, "no union" won in 30 elections, and the remaining elections were won by FFVW, CLA, and other unions.

The ALRB ran out of money early in 1976, and State senators unhappy with early ALRB decisions and regulations blocked a supplemental appropriation, forcing the ALRB to cease operations for five months. During this hiatus, the UFW qualified Proposition 14 for the November 1976 ballot, an initiative that would have amended the California Constitution to require the legislature to fund the ALRB. Proposition 14 lost--only 38 percent of the voters supported it.

In March 1977, the UFW and the Teamsters signed a 5-year jurisdiction agreement that took the Teamsters out of fieldworker organizing (except for the Bud Antle contract first signed in 1961), and the UFW agreed not to organize truckdrivers and indoor shed workers. This pact has been renewed annually since 1982.

Since the ALRA was enacted in 1975, the UFW has become the dominant union representing fieldworkers. The UFW modified its strategy; instead of reliance strikes and boycotts, the UFW devotes considerable effort to documenting unfair labor practices and urging the ALRB's general counsel to vigorously enforce the ALRA. The UFW apparently believes that political decisions will continue to have important effects on farmworkers and the UFW has become a major contributor of time and money to state and federal politicians. The ALRA and ALRB have become political footballs, with both unions and employer groups more likely to have legislative friends denounce ALRB actions and decisions than to work within the ALRA framework.

Worker and union charges have established a record of specific allegations against employers, but these charges do not provide a comprehensive picture of the evolution of labor relations in California. Even though most strike and boycott activity has been replaced by legal proceedings, the UFW did call a strike against vegetable growers in 1979 that

illustrates why farmworker unions prefer political action and boycotts to strikes.

In January 1979, the UFW called a strike against major lettuce companies in the Imperial Valley to support its demand for wage increases, including a request that the general farm laborer wage rate be raised from \$3.70 to \$5.25 hourly, an increase of 42 percent. The 28 lettuce growers resisted, arguing that President Carter's 7 percent guideline for wage increases prevented them from considering any demand above 7 percent. The growers hired a public relations firm to encourage striking workers to return to work and threatened to make citizens' arrests of UFW picketers. Picketers around the fields where strikebreaking workers were harvesting lettuce and the private security guards hired by growers soon clashed, and a UFW picketer was killed. Fences were erected around some fields, and poor weather and the strike combined to triple lettuce prices and double lettuce revenues. Growers not affected by the strike (because they had contracts with other unions) reaped windfall profits, and even some of the growers able to harvest part of their lettuce with strikebreaking crews obtained extraordinary profits because of higher lettuce prices.

The lettuce strike had not been resolved when the lettuce harvest moved northward to Salinas in the summer of 1979. The UFW threatened to boycott Chiquita bananas to increase the pressure on Sun Harvest, the United Brands subsidiary that harvested lettuce. The UFW charged that law enforcement officials were siding with the growers by arresting picketers and ignoring strikebreaking illegal aliens. Growers noted that roving caravans of pickets assaulted strikebreaking workers to drive them out of the fields.

The strike continued throughout the summer of 1979, and the Teamsters renegotiated the contract with Bud Antle for a base wage of \$5.00 hourly. The

UFW soon negotiated \$5.00 per hour contracts with two Salinas tomato growers, and near the end of August, West Coast Farms became the first lettuce company to agree on the \$5.00 general field wage. A Sun Harvest agreement followed on August 31, 1979, and in September most of the remaining Salinas vegetable companies agreed to three year contracts.

The 1979 Sun Harvest agreement, covering 1,200 vegetable workers, became the UFW model contract. The Sun Harvest agreement included ALRA good standing, which permits the union to be the sole judge of the good standing of its members; recruitment through a union-run hiring hall; binding arbitration over mechanization disputes; full-time company-paid union representatives; and automatic cost-of-living wage increases.

As the lettuce harvest moved south to the Imperial Valley for the winter of 1979-1980, many of the Imperial-only growers remained without contracts (the large Salinas-based vegetable companies operate throughout California and Arizona to supply fresh vegetables year-round). Most of the Imperial-only vegetable growers did not sign contracts during the Winter of 1979-1980, but in July 1980 the UFW achieved a three-year contract with the Vintner Employers Association that represented 1,500 grape harvesters employed by Almaden, Paul Masson, Minstral, and Las Colinas vineyards. The vintner's contract increased wages from \$3.80 to \$5.10 (34 percent) and stipulated that vineyards harvesting all of their wine grapes by hand could machine harvest no more than 30 percent of their acreage by 1983. In July 1980 a three-week garlic workers' strike in San Benito and Santa Clara counties ended with an increase in the minimum hourly wage from \$3.00 to \$4.00 and a piecerate of \$2.50 per basket.

When the lettuce harvest moved south in 1980-81, UFW members returned to work on the ranches still without contracts. The UFW stepped up its boycott

of Bruce Church's Red Coach lettuce, and early in 1984 Lucky Stores announced that it would no longer handle Bruce Church lettuce. Most of the Imperial-only growers remain without contracts in 1984, and many of the vegetable companies that signed contracts have gone out of business, including Sun Harvest. The UFW is aggressively pursuing charges and complaints that the Imperial vegetable growers bargained in bad faith since 1979, and that workers are entitled to make-whole wages, but a March 1984 ruling by a San Diego Appeals court overruled the ALRB finding that the 28 lettuce growers had engaged in bad-faith bargaining and concluded that the growers were simply engaged in hard bargaining.

Farmworker collective bargaining has shifted from the picket lines to ALRB hearing rooms. Instead of picket line confrontations between strikers and strikebreakers, farm labor disputes are increasingly arguments over why the union or employer took a certain action or whether the parties were really trying to reach an agreement. The UFW alleges that the ALRB staff is becoming pro-grower, and threatens to resume its strike, picketing, and boycott activity. Farmers planned to qualify and initiate for the November 1984 ballot that would have conformed the ALRA to NLRA, but suspended the effort after organizations such as Farm Bureau refused to endorse it because it included the (probably unconstitutional) retroactive annulment of the make-whole remedy.

The California Agricultural Labor Relations Act

The ALRA was enacted in 1975. The purpose of the Act is "to insure peace in the agricultural fields by guaranteeing justice for all agricultural workers and stability in labor relations." The ALRA guarantees farmworkers "the right to self organization, to form, join, or assist labor organizations,

to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection" and the right to refrain from such activities. (ALRA, section 1152). The ALRA establishes election procedures and defines unfair labor practices which interfere with these employee rights. The ALRB investigates, prosecutes, and adjudicates charges of election misconduct or unfair labor practices.

Under the ALRA, a union must be elected by majority vote in a secret ballot election before it can represent workers in collective bargaining. Thus, we begin with a study of election procedures and the standards for pre-election conduct of the parties (Chapter 2). Once certified, a union requests that the employer bargain with the union. The goal is to reach a collective bargaining agreement, a contract, which establishes wages and working conditions. The collective bargaining agreement also serves as the "law" of the work place because it creates work place rules. To enhance their bargaining power, the parties sometimes put pressure on each other by declaring strikes, lockouts, boycotts, or picketing.

The ALRB certifies that a union is the representative of the workers, but it plays no role in negotiations. The collective bargaining relationship continues until the union is decertified by secret ballot election.

An unfair labor practice charge may be filed anytime it is believed that worker rights have been violated. Charges are often filed during election campaigns and collective bargaining, but unfair labor practices can also be committed after a collective bargaining agreement is reached or when workers engage in concerted activity to improve wages or working conditions without a union. Chapter 3 explains the various types of unfair labor practices and the remedies for each.

Chapter 4 describes the different kinds of strikes and strike activity, picketing, and boycotts and explains the legal significance of each.

The ALRA is patterned after the NLRA. Section 1148 of the ALRA directs the ALRB "to follow applicable precedents" of the NLRA. Because of their many similarities, the ALRA and the NLRA can be studied together. A few NLRB cases are used, since they provide the precedent for ALRB decisions.