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Hired Hands in California's Farm Fields

Varden Fuller

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HIRED HANDS IN CALIFORNIA'S FARM FIELDS

Collected Essays on California's Farm Labor History and Policy

by

VARDEN FULLER

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Foreword

The author of this volume, Varden Fuller, has achieved national recognition as an authority on agricultural labor and for his many contributions in the area of agricultural policy and rural development. His work has been distinguished by its scholarly content, its objectivity, its high degree of perception with respect to emerging socio-economic developments, and a vigorous and persistent concern for social change through governmental action.

Born on a farm in Utah in 1909, Dr. Fuller received his A.B. degree in Economics in 1934 and Ph.D. degree in Agricultural Economics in 1939, both from the University of California, Berkeley. He worked for the Bureau of Agricultural Economics, U.S. Department of Agriculture from 1939 to 1943, rising to senior agricultural economist and head of the Division of Farm Population and Rural Welfare, Western Region. From 1943 to 1948 he held the position of economist and statistician for a San Francisco law firm specializing in labor relations. After a short appointment with the U.S. Department of Interior, he joined the University of California, Berkeley in 1948.

Dr. Fuller's doctoral dissertation, *The Supply of Labor as a Factor in the Evolution of Farm Organization in California*, attracted nationwide attention as one of the first objective analyses of agricultural labor supply. The dissertation refuted the long held belief that the growth of large-scale farming in California was due mainly to favorable soil and climatic conditions. Dr. Fuller provided convincing evidence that an abundant supply of seasonal labor preceded rather than followed the development of large-scale agriculture. Fuller's analysis revealed that with the completion of the transcontinental railroad and the layoff of thousands of workers employed in its construction, the California labor supply was rapidly augmented, so much so that it was possible to recruit large numbers of workers to perform the seasonal farm work generated by large-scale labor intensive agriculture. This landmark study was published in Hearings before the Subcommittee on Education and Labor, U.S. Senate.

Dr. Fuller's subsequent work with the BAE while stationed in California was concerned with the plight and economic well being of displaced migratory labor from the southern Great Plains and their assimilation in the western states. Much of this research was sought and used by congressional committees. His continued work in farm labor and rural development has produced a flow of highly regarded research reports and articles and service to many national and regional bodies. This has included service as Executive Secretary to the President's Commission on Migratory Labor in 1950-51, membership on the National and the Western States Manpower Advisory Committees, chairmanship of the Wage Board, State Industrial Welfare Commission, and consultive advice to the U.S. Department of Labor, U.S. Department of Agriculture, and many other agencies.

Dr. Fuller did pioneering studies in collective bargaining and labor relations for agricultural workers. His expertise, writings and consultation contributed sig-

nificantly over a period of years to the final enactment of the California Farm Labor Act, the first of its kind in the nation. Many of his early proposals for improved management-labor relations and for worker fringe benefits and rights are now embraced as standards. He was among the first to call attention to the need to decasualize seasonal farm employment for the benefit of both employer and employee. Many of his suggestions, which were originally received with some hostility by agricultural employers, are now regarded as efficient and effective personnel policies by leaders in California agriculture.

Although a major portion of Dr. Fuller's activity has been in the field of agricultural labor, it has by no means been his only area of study. An astute observer of the political content of agricultural policy, he has written widely on farm policy issues and the subject of rural development. He was editor of the *American Journal of Agricultural Economics* from 1968-71 and was a member of the editorial board for *Industrial Relations*.

At the University of California Dr. Fuller has had a distinguished career on two campuses. Serving at Berkeley from 1948 to 1970, he taught courses in agricultural policy noted for their emphasis on the political issues of agriculture. He also participated heavily in the affairs of the University, serving on the Graduate Council and a wide variety of Academic Senate and administrative committees and, for a time, as Vice-Chairman of the Department. In 1970, he transferred to the Davis campus where he continued to teach in the areas of agriculture policy and farm labor and expanded his early interest in rural community development. He retired in 1977.

Dr. Fuller has enjoyed a long and productive career and is a teacher and a scholar in the truest sense of the words.

HAROLD O. CARTER
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Editor's Note

The nine chapters in this volume are a retrospective collection of some of Varden Fuller's insightful research and analysis of the California farm labor scene over nearly half a century. Most of the included essays have been originally published elsewhere; they are here collected for the first time. Taken together they represent a fairly complete historical treatment of the evolution of farm labor-management relations in California agriculture from the state's earliest days until shortly after passage of the California Agricultural Labor Relations Act in 1975.

The volume is divided into three parts. The first three chapters are condensed from Dr. Fuller's 1939 Ph.D. dissertation, "The Supply of Agricultural Labor as a Factor in the Evolution of Farm Organization in California." This pathbreaking study was published in 1940 by the La Follette Committee in its Hearings under Senate Resolution 266 (Pt. 54). The document is long since out of print; although it can be found at most major research libraries, the revised condensation appearing here provides a more accessible and concise view of the historical antecedents of today's labor system.

Part Two includes three chapters on California labor-management relations during the 1950s and 1960s. These essays appeared originally as part of the monograph *Labor Relations in Agriculture* (Berkeley: Institute of Industrial Relations, 1955); in *Social Order* (January, 1960); and in *Industrial Relations* (May, 1967), respectively. They are collected here both because they are not now readily available and because they serve as bridges over time, discussing the issues underlying the long struggle for equitable farm labor legislation.

Part Three contains two original essays on the historical development of national and state farm labor policy and a reprint of one co-authored (with John Mamer) article on the outlook for unionization following the passage of California's Agricultural Labor Relations Act.

Students and scholars of farm labor should find the collection a useful addition to their resources, putting many of today's ongoing issues into perspective and providing valuable insights into the evolution of California's farm labor-management relations.

It has been a pleasure to be associated with Dr. Fuller in the completion of this project, and to make a small contribution toward preservation of his work.

ANN FOLEY SCHEURING

Davis, California

May 15, 1991

INTRODUCTION

A Few Personal Notes of Explanation and Reflection

My interest in the California casual farm labor system could scarcely have started with less sophistication. It was 1937, and my need was for a Ph.D. dissertation subject. The Department of Agricultural Economics at Berkeley, however, was not then deep in experience with such needs or with any other aspects of its quite new Ph.D. program. My efforts to engage faculty members in discourse about my problem brought only meager response. Graduate students who had been there longer than I tended to shrug off my concerns by remarking. "You can work on anything you want to, provided you entitle it "The Farm Management of . . ." or "The Marketing of . . ."

The most senior and most advanced of graduate students in agricultural economics at that time was John Kenneth Galbraith. We never became well acquainted; he was only a coming and going very tall shadow to me. As I afterwards became aware, this was unfortunate. Many years later I learned from his autobiography that he was then in his third year of graduate work at Berkeley, during which he commuted to Davis to be "in charge of teaching economics, agricultural economics, farm management and accounting and, apart from assistance from an elderly dean, provided all the instruction in these subjects During that year I also wrote a Ph.D. thesis, which was without distinction, on the expenditures of California counties. The purpose was to get the degree." (*A Life in Our Times*, 1981, p. 22.)

Too bad. If only I had become better acquainted with John Kenneth Galbraith, perhaps some of his confidence and perspective realism might have rubbed off on me. But in contrast to the Galbraithian approach to the dissertation requirement, mine was deeply embedded in pursuit of what, in contemporary White House Bush-speak, might be called the "knowledge-thing." Some of this may have been imparted by earlier instructors at Utah State, who had given me the impression that the Ph.D. was a lofty degree, based upon high scholarship and original research contributions—and not achieved just because it was one's purpose to obtain it.

Another influence on my mindset came from Graduate Dean Lipman. He called me by telephone one afternoon and invited me to his office for a visit. It may have been only his way of maintaining a minimum of communication with at least a few graduate students, but I was highly flattered. That half-hour visit left me even more convinced that I wanted somehow to produce something to add to the collective store of knowledge, for Lipman did not give me the impression that a Ph.D. dissertation was something you wrote in your spare time.

Within the agricultural economics faculty, the only professor with whom I had considerable communication was George M. Peterson, then probably in his early forties, but destined to live only a few more years. As my thoughts about a dissertation began to mature, I began to impose considerable discourse upon him

about it. He developed a moderate interest in the hypothesis of my proposal, but very little enthusiasm for my way of going about investigating it.

Peterson had attained his Ph.D. under the tutelage of John D. Black at Minnesota. His most abiding preoccupation seemed to be that everyone should understand he did not believe the Black doctrine that parity support prices offered salvation for farm problems. Beyond that, he had many other dubieties and a great propensity to develop new ones. Perhaps it was mostly this propensity that caught his attention regarding my dissertation proposal.

Peterson's responses enforced and developed my own propensity to dubiety. My youthful years in rural Utah had imbued me with an implicit belief that farming was a modest, egalitarian industry, for Utah farms were small and family-based, organized around the Mormon village pattern of settlement. Whenever seasonal labor needs exceeded what family and neighbors could provide, townspeople pitched in, as they were expected to do, either for a small share or a very modest wage. Whatever the arrangement, treatment of hired hands and family members was the same.

The newspaper and radio reports of strife and bloodshed in California harvests during the latter 1930s were shocking to me, and certainly contrary to that awe which I experienced in 1930 when I first saw the great green fields of California's productive wonder. Anyone following the public controversies came to know that several diverse explanations for the conflicts were being offered and that some prestigious fact-finding commissions were attempting to resolve the issues.

Among the several explanations offered for the current troubles, probably the most prominent one was that workers were being radicalized by communist agitators. There were others: that California's farming system, with its heavy dependence on large numbers of low-paid seasonal laborers, was an outgrowth based upon the Spanish-Mexican land-grant patterns; that California agriculture was built upon irrigation, which required tremendous capital outlays that in turn demanded great acreages; that California crops required export markets, which could be supplied only by large volume production. There were some other miscellaneous arguments, but none of these appealed to me, for I viewed them as at best no more than improvised rationalizations.

As I related my thoughts to George Peterson, it was maybe his propensity to dubiety that invoked a sympathetic response; but, if I recall correctly, he tended to think there was some kind of grower conspiracy. In contrast, I had a notion that the California farm labor system must have deeper antecedents. But who were the antecedents of the "Okies" who now were being so rebellious? And in what way had they influenced the state's pattern of farming, which now was afflicted with so much distress? It seemed reasonable to believe that California's large-scale casual labor system had identifiable historical roots, just as had the southern plantations, the homesteads, the Mormon settlements and other religiously or philosophically inspired colonies.

My wife, a librarian, had told me of the wonders of the Bancroft Library at Berkeley. Further, since there was no apparent source of support for such an unorthodox research idea as mine in agricultural economics, she suggested that we try to live for year on the \$116.67 per month wage she was being paid in Doe Library, while I investigated historical resources at the Bancroft. George Peterson, possibly approaching the brink of becoming a quantitative determinist, was not enthusiastic about my trying of find answers to my questions in the old papers of a library. But, sharing my distrust of superficial rationalizations, he agreed to go along with me.

With a prospective dissertation subject and financing in hand, there remained the matter of a committee. I persuaded Peterson to be my chairman. As my undergraduate major had been in economics, I was aware of Paul Taylor, although not well acquainted. Since one member of a dissertation committee was to be from another department, I approached him; he was agreeable but not particularly enthusiastic. Carl Alsberg, the new director of the Giannini Foundation, an M.D. and a distinguished scientist in areas quite remote from my subject, actually volunteered (maybe he was trying to compensate for having previously asked me to assess Clark Kerr's Ph.D. dissertation). At any rate, Alsberg was a kindly, scholarly gentlemen, prone to giving encouragement if not detailed advice.

The job got done on schedule. My wife and I were able to survive comfortably, though not luxuriantly, on her library wage. But after completion of my dissertation, Paul Taylor was the only member of my committee to perceive any utility in it. He was then (1939) in communication with the staff of the La Follette Committee (a subcommittee of the U.S. Senate Committee on Education and Labor), which at the time was investigating some of the issues involved in the farm labor strikes. Taylor told them about my work, gave them a copy, and they responded by inviting me to testify and ultimately printing the dissertation in their hearing records.

The La Follette hearings were authorized by a Senate resolution "to investigate violations of free speech and assembly and interference with the right of labor to organize and bargain collectively." For a newly emerging corps of self-motivated entrepreneurs, who provided articulation of position and posture on behalf of California's major farm employers, nothing was needed beyond the language of that authorization to alert their adverse attention. Their feelings were not soothed by the staff's intrusiveness in conducting its investigations.

My appearance in the La Follette hearings was followed by one before the House Select Committee to Investigate the Interstate Migration of Destitute Citizens (Tolan, 1941). By then, my employer—the USDA's Bureau of Agricultural Economics—decided I should be a specialist in farm labor and transferred me from its Berkeley regional office to Washington, D.C.

Prior to these events it had not been my goal to become a continuing scholar of farm labor. It still was not my intent upon returning to Berkeley in 1948 with a tentative appointment in agricultural economics. But in 1950 there came another unexpected determining point, the President's Commission on Migratory Labor, to

which I was invited to served as executive secretary. Establishment of this commission was Mr. Truman's way of soothing his guilty conscience for acceding to political pressure in the enactment of the federal *bracero* program (a temporary emergency measure in the Korean era, which didn't last quite as long as has our military role there). My area of interest identification was now quite firmly fixed, whatever might have been other choices and preferences.

I never resented my identification with farm labor issues, even though such labeling was not always a joyful experience. A major downside was my inability to establish effective communication with either side of the ensuing conflicts.

The farm employers with whom I conversed were usually friendly and responsive, but they were of a recent generation—buyers or inheritors from earlier ones who had not been so sure that the California casual farm labor system was simply a “given” and everlasting. From 1930 onward there developed a prevailing notion that the labor system came with the land title; that with no particular effort on the part of the employer, a farm labor force would emerge when needed, do its work, and then disappear—accepting the terms and conditions offered, without question. These expectations came under serious assault in the 1930s even though the new infusion of labor brought on by the depression was ample. The trouble was that the substandard wages that California farmers offered to seasonal workers were not acceptable to people with their own tradition of independence—the drought refugees (Okies) displaced from small farms across the south and southwest.

The depression era witnessed the emergence of a new component in California's labor picture, to which for convenience and for lack of a better term I give the name “fixer corps.” These were entrepreneurs of posture and position, and of course pressure, who attempted to enforce and assist farmers in their belief that they had an inherent right to a docile labor supply. These individuals seldom had real experience as farm employers. Some had been employees of commodity associations or processors, some had worked for employment agencies, some were not much more than unprosperous rural lawyers. Their first major stages for performance came in the 1930s with the several wage commission hearings concerning the farm strikes and, later on, with the La Follette Committee. Their grand fulfillment came when they were able to influence and shape the labor program of the War Food Administration (World War II) and the *bracero* program later.

The emergence of this fixer corps reminds one of a theorem of wild life biologists: if there comes along a new species or genetic variant to provide a new element of nutrition, there soon will emerge a population prepared to ingest it. In this instance the source of nutrition was the willingness of one generation to pay for relief from uncertainty about prospects with which they felt unwilling or unprepared to cope. The ingestors were the emerging fixers. As they circulated around agencies and Congress in Washington, D.C., they began to use the term “labor user”—an abhorrent term—instead of farmer or farm employer. This fixer corps was not interested in promoting long-term solutions; disorder and uncertainty were the

sources of their prosperity, although they could not admit this. To their clients they gave promises of short-term relief, though they would not or could not guarantee a permanent one.

My interest, in contrast, focused on finding reasonable solutions to long-standing problems. If our collision of perspectives had ended there, and with the corps only, it would not have mattered much. But I eventually encountered some evidence that corps members had pre-positioned me with real farmers. I remember particularly two instances. In one, a 1950s San Joaquin Valley field study of personnel and hiring practices, things were going along well; but suddenly the farmer cooperators (and the local farm advisor) became cold and non-cooperative. There was no explanation. I was left to conclude that a fixer had told them to beware, that such a study was only a prelude to unionization. In the second case, one of the more ethical of the fixers, whom I knew quite well, invited me to speak to a meeting of his grower principals. Although he may not have intended it, my appearance there gave other speakers an opportunity to portray me as an impractical academic bubblehead, with an anti-farmer leaning.

Nevertheless, I was never anti-farmer as a matter of stance--nor was I pro-labor. I never met Cesar Chavez, except through television. I met Dolores Huerta only once, when I presided over a wage commission hearing; she was annoyed with me because I would not agree that a state-determined minimum wage should be set high enough to produce a satisfactory level of income. The UFW and their supporters in the legislature were not in accord with my testimony in Sacramento when the state farm labor relations act was under consideration. I believed they were leaning too much on state legislation; my view was that coverage under the NLRA or its counterpart was about as much as could be managed. The UFW victory in obtaining an excessively intrusive labor relations enactment has proved to be illusory; unionization of farm workers has not prospered under it. That their view proved wrong and mine right has never been a source of satisfaction to me.

There were other instances in which union organizers found me dull and non-revolutionary. I remember one instance in a meeting of prospective union organizers when I raised this question: If you obtain an annual work contract with a grower, will you have enough discipline within your membership to insure him against losing all his workers as the waning days of harvest approach? They were shocked that I would raise such a pro-employer question.

Whatever the reasons, I never got to be highly regarded by either partisan side in the long enduring conflict--dormant or active--in the California farm labor scene. Most of the players probably never heard of me; those did no doubt classified me as a theorist who had never met a payroll or organized a union. My "public" thus was truly public. A main component of it was composed of the various "do-good" organizations or of civic-minded citizens or churches; they were fine folk with good motives but never enough resources to get anywhere. Then there were the several federal agencies that invited me to serve on their advisory committees; they had

some limited means and program responsibilities. At times my service to them involved the convening of various academic specialists—often enough, these were arid affairs in which little of use was learned by anyone. When confined to just a few advisors and program administrators, however, the hazard of pomposity was diminished, and some worthwhile ideas received at least a bit of serious attention.

During my days as a faculty member at Berkeley, farm labor studies never got to be popular, but I was never constrained in my choice of activities. Once, a respected administrative superior quietly commented to me that I ought to make sure of being right about what I said and wrote. There was no suggestion of an admonition in his remark, however, so I concluded it was only his way of letting me know that somebody had been nipping at his heels. At another time there came a rumor that President Kerr had received a demand to fire me. Nothing further came of it, so I assumed he made an appropriate response.

I must not leave these personal reflections with the impressions that farm employer practices have been completely dominated by what I have called the “fixer” mentality. Memory goes back to the labor bureau operated by Frank Palomares in the San Joaquin Valley, which early practiced orderly recruitment and cooperative sharing of a labor force. Recently some associations of farm employers have also operated with broader and more enduring policies. My colleague John Mamer has written about their doings. At Fresno State, Bert Mason continues trying to build and expand effective farm labor policies and practices. And there have always been some individual employers with a propensity to care about fair and humane employment practices, with large enough acreages and sufficient diversification to allow for orderly planning and stable employment.

My career as a farm labor economist has had its rewards as well as its disappointments. These collected essays give an overview of my discoveries and concerns over time. I wish to acknowledge gratitude to Hal Carter and Ann Scheuring for caring enough to have them reprinted, and for their patience and diligence in getting them into final shape.

VARDEN FULLER
Santa Rosa, California
April 30, 1991

Chapter 1

LAND, LABOR, AND FARM ENTERPRISE, 1850-1900

What we want, above all things, to give us universal prosperity and constant and remunerative employment for all classes, is a diversified agriculture so varied in its products and so constant in its operations that it will require about an equal amount of labor every month of the year That nature designed California for an agriculture as diversified in its character as are the soils and the climate of her thousands of valleys and innumerable mountain and hill sides, and as valuable as the world has ever known, cannot be doubted.¹

When California was admitted into the Union in 1850, its census said there were 872 farms; their average size was 4,466 acres; with an average value of 99 cents per acre; and the average farm had just 37 acres of improved land. Less than one half of one percent of the land that ultimately would be brought under cultivation was then in use.

The population of 1850 is usually reported as 92,597. Census returns for three counties were lost, however, and Indians and Chinese were not counted. Making allowance for these lapses, the state's population, excluding "nondomesticated" Indians, must have been at least 150,000. In any event, the significant fact about the population was not its size but its composition. "Whites" were in the majority; males outnumbered females by 12 to 1; more than half the males were 20 to 30 years of age; and the overwhelming majority had recently been attracted to California by the discovery of gold. Of gainfully employed males, more than half reported they were miners, while less than 3 percent said they were laborers. As a contemporary observer wrote later on, "we were the flower of the west: nearly all young, active, healthy, many well educated, all full of hope and enthusiasm."²

It is not surprising that few in such a population would consider themselves as laborers, even after yields from surface mining began to decline, as they did in 1852. The atmosphere was electric with great schemes, and it was not imaginable by those down on their luck that they were fit only to become the hired hands of other entrepreneurs. Those adventurers who had betaken themselves against great risk to "find their fortunes" in California were not likely to settle willingly for mere wage labor.

The economic life these entrepreneurs were to develop in the first half century of statehood divides readily into two segments, for which the completion of the transcontinental railroad in 1869 is the dividing line.

1 California State Agricultural Society, *Transactions* 1868-69, pp. 12-13.

2 Hittell, John S., *Resources of California* (San Francisco, 1874), p. xiii.

Agricultural Beginnings in the Pre-Railroad Years

Boundless Land; Scarce Labor.

In early California the possibilities of obtaining land were staggering. Competitive land markets did not exist, and price was no obstacle. Spanish and Mexican land grantees had never supposed their land to be worth much. Disinclined toward energetic use of land, they used their properties for simple grazing.

Yet not all of the land grantees were so fortunate as to dispose of their property through sale. Many immigrants were under the impression that land ceded by Mexico to the United States was public domain, and they proceeded to settle down wherever conditions appeared favorable. Even those otherwise informed followed the same practice and were not dislodged. Ambiguity in titles and in boundaries and, in addition, weak administration of justice in so remote a territory, contributed to both temporary and permanent land occupancy by "squatter's right." Most land in the northern Spanish and Mexican grants passed out of the hands of original grantees within the first few years of the American period.

In addition to available land within the grants, there was considerable ungranted public domain, particularly in the interior valleys. Everywhere, land was available in large or small size units as the settler chose. As compared with timbered, sodded, or uneven frontier elsewhere, much land in California could be converted into agricultural use without appreciable expenditure. The principal item of cost for a farmer who wanted to raise crops was to build fences. In some cases, the fence cost more than the land.³

Production Opportunities

It is commonly said that travelers to California seeking gold were not initially impressed with its agricultural possibilities. However, there was a considerable immigration prior to the gold rush, and these people came to California because of favorable accounts of agricultural prospects. Even before the yield of gold had begun to decline, many gold-seekers—newcomers as well as those who had deserted their California farms to hunt gold began to realize that the best way to "skim the cream off the diggings" was to raise produce for sale to miners. After they witnessed the productive possibilities of California soils and climates, many began to realize that permanent wealth lay not be in mining but in agriculture.

The mission padres had demonstrated the land's adaptability to a wide range of fruits, including temperate and subtropical varieties. It was commonly believed that tropical fruits, silk, sugar, tobacco, tea, and coffee could also be produced. Claims of wheat yields as large as one hundred bushels to the acre had been accepted by

³ Ibid., pp. 219-21.

travelers and circulated in the East even before gold-rush time.⁴

Another factor favorable to expansion of agriculture was the opening of external markets as well as internal markets due to the sudden influx of population. Western penetration into Asia was just beginning; European countries were beginning to launch upon free trade; and industrialization on the Atlantic Coast was expanding rapidly. All of these factors were favorable to California agricultural production for external markets.

"Where Shall the Laborers Be Found?"

Not surprisingly, this was one of the foremost questions of the day. Less intensely, it had been heard in the latter years of the Mexican regime. Officially, the Mexican government was opposed to slavery, yet its administrators were not able to abolish various forms of impressment of natives and did not obstruct the immigration of slave holders with their chattels. Accordingly, a substantial pro-slavery element was present in California's population of the pre-gold years. During the territorial years, 1848-1850, it was generally recognized that slavery would be an issue in Congress when the matter of statehood came up for debate. Newly arriving gold miners were not reticent about their anti-slave sympathies.

When the delegates of the constitutional convention met at Monterey in September of 1849, the newer elements of the population were in the decided majority: of the 48 delegates, only six had been born in California; foreign-born who had been in California any length of time were not greater.⁵ A resolution excluding slavery from the territory was adopted without debate or dissenting vote. Pro-slavery sympathizers in the convention had been expected to assert themselves, but they were entangled in office-seeking and could not afford to be troublesome.⁶ The convention went on to support a measure providing that the first session of the legislature should pass laws to prevent migration of free negroes into California. Supporting argument for this provision asserted that racial inferiority would make assimilation impossible, that labor would be degraded and desirable immigration be discouraged, that monopolies and social inequalities would result, that negroes would constitute a vicious and disorderly element in the community, and that they would be a costly social burden. Despite these arguments the proposal was finally defeated, but its defeat was attributed to fear of the delegates that such a provision might delay admission into the Union.⁷ Popular support for adopting the measure was particularly

4 Hastings, L.W., *The Emigrant's Guide to Oregon and California* (Cincinnati, 1845), p. 89. Edwin Bryant, *What I Saw in California*, p. 246. John T. Hughes, *California: Its History, Population, Climate, Soils, Productions, and Harbors* (Cincinnati, 1848), p. 79.

5 Bancroft, H. H., *History of California*, VI (San Francisco, 1888), pp. 287-90.

6 *Ibid.*, pp. 289-91.

7 Eaves, Lucile, "A History of California Labor Legislation," University of California, *Publications in Economics*, 2 (Berkeley, 1910), pp. 84-88.

strong in the mines.⁸

The slavery question had not been settled, however. Its sympathizers had for the moment acquiesced, but they were not downed. When the question of boundary came up, they stood in favor of making the territory sufficiently large that it could be subdivided at some future time. Anti-slave delegates, who previously had also been in favor of a large territory, recognized this possibility and proceeded to reverse their positions. When finally the constitution was presented to Congress, there was debate and delay, and "the long delays in admission, occasioned by the discussions of the slavery question, seem to have given the subject a different significance in California. Her lawmakers became a little more cautious about legislation on this topic, and those who had secretly desired slavery began to hope that, with this evidence of strong support from other section of the country, the matter was not an entirely closed issue in California."⁹

California entered the Union as a free state in 1850. Nevertheless, slave owners and their chattels continued to arrive through 1851 and 1852.¹⁰ This fact further served to encourage pro-slavery partisans to come into the open. The only feasible course of action now open to them was to attempt a division of the state, the southern part of which, under the terms of admission—the Compromise of 1850—was open to slavery as a territory. Efforts toward such action were begun in 1851, the immediate excuse being the disproportionate amount of taxation borne by southern counties and neglect in the distribution of political patronage. Bills calling for a constitutional convention were introduced at every session of the legislature for six years beginning with 1852, but the underlying purpose for calling the convention was recognized and these efforts failed. All hopes for securing an opening for slavery in California were put to an end in 1857, when a proposal for a constitutional convention was placed before the people and failed to obtain the necessary majority.¹¹

If Not Slaves, Then What?

Even before the slavery issue was settled, arguments were in progress over the relative merits of the Chinese "coolie" and the negro slave. Immigration of Chinese laborers on their own initiative had already commenced; the state census of 1852 estimated numbers to be 25,000. Although Chinese workers were ultimately to have a prominent role in California agriculture, it was not because farmers had tried to import them or induce their immigration. Initial efforts by farmers to manipulate

8 Tower, G. E., *Sentiment in California for American Government and Admission into the Union* (Los Angeles, 1927), pp. 57, 63.

9 Eaves, op. cit., p. 89.

10 The census of 1850 enumerated nearly one thousand negroes. The California State Census of 1852 enumerated 2,642 negroes and mulattoes. Part of the number at each period were freemen. See also C. A. Duniway, "Slavery in California after 1848," American Historical Association, *Annual Report* for 1905 I, p. 244, and Eaves, op. cit., pp. 90-91.

11 Eaves, op. cit., pp. 92-94.

the labor supply were directed mainly toward encouraging immigrants from Europe and migrants from eastern and midwestern United States.

Industrial employers as early as 1853 began working individually and through associations to encourage migration of laborers from the eastern states.¹² The *California Farmer* of January 2, 1857 mentions that a group of Californians was in New York attempting to encourage migration to California. They were engaged in giving out information, securing traveling accommodations, and encouraging the passage of the Pacific railroad and wagon-road bills. The *Farmer* further added that eastern papers were accustomed to suppress glowing accounts of conditions in California which would tend to encourage migration.¹³

The necessity for encouraging immigration was one of the principal subjects discussed by the California State Agricultural Society for many years. In 1865: "We know that we have within our borders the elements of greatness and prosperity equal, if not superior, to those of any other State in the Union. Then what do we lack? The answer most emphatically is *labor* and capital . . . and capital for investment in our material resources will not, for obvious reasons, precede labor—it will follow."¹⁴ And a year later: "For the past ten years it has been evident to all who have given the subject a careful thought, that nothing would contribute so much to the advancement of our prosperity as a common wealth, as the influx of a large immigration of industrious citizens. Every class of the community experiences the want of labor."¹⁵ At this time, the idea was expressed that if some of the surplus female population of the Atlantic Coast could be brought west, some 30,000 Chinese would be transferred from household work to farm work and to construction of the transcontinental railroad.

Members of the State Agricultural Society suggested that the State Board of Agriculture be given such powers as were lodged in bureaus of immigration in other states, that books and information circulars to describe economic resources be prepared, and that an immigrant aid society be incorporated.¹⁶ All such proposals were given tentative but limited support, because the high cost of transportation was recognized as a barrier to be lowered by completion of the transcontinental railroad. The railroad, it was anticipated, would bring immigration from Europe as well as from the Atlantic states.

Nevertheless, early employer interests trying to encourage migration of laborers to the Pacific Coast met counteraction from the San Francisco labor unions. Circulars warning laborers that California was no place for a poor man were sent

12 Cross, Ira B., "A History of the Labor Movement in California," University of California, *Publications in Economics*, 14 (1935), p. 28.

13 *California Farmer*, VI (January 2, 1857), p. 177.

14 California State Agricultural Society, *Transactions* 1865, p. 61.

15 *Transactions* 1866-67, p. 7.

16 California State Agricultural Society, *Transactions* 1865, p. 61; 1866-1867, p. 7; 1868-1869, p. 8.

throughout the eastern states.¹⁷

In 1869 the California Immigrant Union was incorporated with the object "to encourage immigration from Europe and the eastern part of the United States to California."¹⁸ The Union apparently intended to serve the whole community rather than any particular group interest. One of its first publications was a summary of press opinions, which reached the conclusion that white immigration should be encouraged not only for its own sake but because it would be the best way to discourage, or at least counteract, Chinese immigration.¹⁹ An apparent spokesman for the Union said that it felt under no obligation to encourage Chinese immigration; the Chinese had been serviceable makeshifts, had performed valuable labor under peonage condition without privileges of equality of citizenship, but their presence might discourage the immigration of Europeans and Americans unless they could be kept as a political and social minority and in isolation.²⁰ By 1870 and 1871 the Immigrant Union was distributing its pamphlet, *All About California*, throughout the eastern states. The emphasis of this pamphlet was upon the great opportunities in agriculture. It is worthy of note that its persuasive efforts were directed toward stimulating migration of small farm operators rather than laborers. California was said to be greatly in need of a farming population that would do away with current evils by building up small farms and diversifying agriculture. That the intention of the Immigrant Union was to encourage the migration of a small entrepreneurial rather than a laboring class is further indicated in a statement made in 1870 by its manager to Edward Young, Chief of the United States Bureau of Labor Statistics, who was making a survey of immigration possibilities within the United States:

... California at the present time does not present any brilliant inducements to the immigration of men having no capital but their labor, and who are content to remain mere laborers. Industrious, enterprising men, who understand farming, usually find employment without much difficulty at higher rates than prevail elsewhere, and in a few years lay up sufficient capital to commence business upon a small scale on their own account.²¹

Chinese Labor in Agriculture before the Transcontinental Railroad

In the beginning, Chinese immigrants were cordially welcomed.^{22, 23} This cor-

17 Hittell, John S., "Benefits of Chinese Immigration," *Overland Monthly* VII Sec. Ser. (1886), p. 8.

18 California Immigrant Union (San Francisco, 1870) in *California Pamphlets V* (Bancroft Library, University of California).

19 California Immigrant Union, *Opinions of the Press, etc.* (San Francisco, 1870), pp. 9, 11, 17, 19 in *California Pamphlets V*.

20 Hopkins, C. T., *Common Sense Applied to the Immigration Question, etc.* (San Francisco, 1869), pp. 21-22 in *California Pamphlets XX*.

21 Young, Edward, *Special Report on Immigration* (Washington, D.C., 1872), p. 183.

22 The early immigration of Chinese to California has modern parallels. Actually, their reasons for leaving home lay less in the enticements of California than in the poverty and ruin brought about by the great Taiping rebellion beginning in 1850. See M. R. Coolidge, *Chinese Immigration* (New York, 1909), p. 17.

23 Eaves, op cit., pp. 105-07.

diality was not to last long, however, for it was soon apparent that Chinese, like most others, preferred to hunt gold rather than work for others. Their presence at the mines provoked outbursts of illwill, and before long they became the most harried of the harassed—which also included Mexicans, Chileans, and negroes. They became the objects of discriminatory taxation as well as of miscellaneous molestations perpetrated with the intent of driving them from the mines.²⁴ Already by 1855 a series of bills had been proposed in the legislature to exclude from the mines all aliens not eligible for citizenship. The legislative committee to which these bills were referred reported on them in part as follows:

... The American laborer claims the exclusive privilege and right of occupying and working the immense placers of our State. They look upon the mines as being the just inheritance of the laboring poor of America, and the only class of laborers they are willing to admit to any participation of this rich inheritance with them, are those of kindred land, whom they can receive as brothers.

Your committee believe (sic) that the only place in our State where the Chinese can be of permanent advantage to the country, would be in the reclamation of the Tule lands, but does any one for a moment suppose that they will ever settle in the Tules and work in the mud among the mosquitoes and frogs, so long as they are allowed the privilege of working our mines and breathing pure mountain air?²⁵

That some agricultural interests were thinking along approximately the same lines at this time is indicated by an editorial in the *California Farmer* of May 25, 1854, in which the following statement appears:

California is destined to become a large grower of Cotton, Rice, Tobacco, Sugar, Tea, and Coffee and where shall the laborers be found? Americans will not become the working men of our tule land, in our Rice fields and our Cotton plantations and other departments of the same kind of labor. At the South, this is the work of the slave, but slavery cannot exist here. California is a Free State—her citizens have spoken it—human progress has uttered it—God had said it. Then where shall the laborers be found? The Chinese! And everything tends to this—those great walls of China are to be broken down and that population, educated, schooled and drilled in the cultivation of these products, are (sic) to be to California what the African has been to the South. This is the decree of the Almighty, and man cannot stop it.²⁶

With more restraint, the *Farmer* the following year in commenting on a legislative report respecting the Chinese said:

The Chinese should not be driven away from California, rather, their labor power should be utilized in preparing the tule, swamp, and alluvial lands for cultivation. Their labor could be utilized in producing sugar and

24 Good accounts of the development of anti-Chinese feeling in the mines and of legislation against them after 1850 are to be found in Coolidge, op. cit., pp. 55-68, and in Eaves, op. cit., pp. 107-62.

25 Assembly Doc. 19, Session of 1855, p. 7.

26 *California Farmer* I (May 25, 1854), p. 164.

other commodities which we now import.^{27,28}

Dislike for Chinese was not limited to miners, even in the early years; organized labor particularly did not like their competition and charged that they were impressed coolie labor brought by fellow Chinese to California under conditions not far removed from slavery. However, a special committee appointed by the legislature to investigate the social and economic status of the Chinese population of California reported in 1862 that the Chinese were free laborers in all respects. This report went further to admonish against driving the Chinese away; rather than do this, the committee it would be a good idea to give them bounties to cultivate rice, tea, tobacco, and other such commodities. In these fields their labor would be of great productive value, without coming into competition with white labor. Sheep raising and wine production were other industries in which, it was said, the shortage and high price of white labor had not permitted development; these therefore were other endeavors at which the Chinese could work without hurting the economic position of whites.²⁹

Although farmers extended a welcome hand to them while miners and other organized groups sought to drive them out, the Chinese did not go immediately into agriculture, for there were other outlets for their energies. For one thing, the predominately male population gave rise to a great demand for household service, laundry work, cooking, and other tasks which in normal populations are usually performed by women. The versatile Chinese could fill these requirements with some aptitude; consequently these services absorbed a large number of those ousted from the mines. There were other menial tasks such as shoe repairing and cigar making into which the Chinese shifted as they were driven from the mines. The other and principal competitor for Chinese labor was the Central Pacific Railroad, which not only took all the resident Chinese available during the last few years of construction of the transcontinental line, but actively solicited and encouraged the immigration of more.³⁰ Upward of 10,000 Chinese laborers were employed on the railroad project, and upon its completion in 1869 the large number released temporarily flooded the labor market. Thereafter, the employment of Chinese in agriculture increased in both absolute and relative terms until their exclusion in 1882.

27 *California Farmer*, III (April 26, 1855), p. 131.

28 The Rev. William Speer, in *An Humble Plea Addressed to the Legislature of California in Behalf of the Immigrants from the Empire of China* (San Francisco, 1856), 40 pp., argued for the employment of the Chinese in agriculture: cotton raising was a particularly good prospect for their employment; intelligent and liberal legislation would prevent debasing the Chinese into a position of peonage or slavery; "Chinese immigration, indeed, extends a hope of the emancipation of the Negro." (p. 12).

29 California, Joint Select Committee Relative to the Chinese Population of the State of California, *Report* (1862), pp. 1-12.

30 Lewis, Oscar, *The Big Four* (New York, 1938), pp. 70-72, and M. R. Coolidge, *op. cit.*, p. 349.

A few Chinese entered agriculture before 1870. The 1870 census indicated that of 33,768 gainfully employed Chinese, only 2,694 were engaged in agriculture.³¹ Of 2,694 Chinese engaged in agriculture, 1,637 were laborers. Since the total of all farm laborers was 16,231, Chinese constituted approximately one tenth.³² The other 1,057 Chinese engaged in agriculture were small operators producing vegetables, fruits, peanuts, etc., on their own account.³³

As farm laborers, the Chinese worked in orchards, in hops, and in wheat; a few were hired for general ranch work, including managing teams. In the wheat fields they were employed to follow the reapers and bind grain stocks into sheaves. As early as 1868 they were said to be employed to such an extent as to "soon become indispensable to our wheat-growers We must have labor from some source; and if China can give us the men, the fields will never lie idle . . . poor John spreads a dirty tent in some corner of the field near water, sleeps on the ground, works by star-light, lives on rice of his own cooking . . ." ³⁴ Another observer of 1868 described them as calm and quiet workers in a bustling environment and noted instances in which harvesting crews were made up in the ratio of two Chinese to one other worker.³⁵ In the hop fields Chinese worked in gangs of 50 to 70, and it was generally conceded that the hop industry would not have been able to exist without them. They also served as cooks and did other domestic work about the ranches.

Labor and Farm Enterprise after the Railroad, 1869-1990

In the two pre-railroad decades, 1850-1870, economic life was constrained by a degree of isolation. Nevertheless, an impressive agricultural development occurred. Farms tripled in number; improved farm land rose from 32,000 to 6.2 million acres; average size of farm fell to 466 acres (from 4,466); average value of farm land rose twelfefold to \$12.36 per acre; and irrigation achieved a modest beginning. Farmers and other entrepreneurs awaited completion of the new transcontinental railroad in great expectation. Their optimism did not fully pan out, however. The railroad proved to be a boon, but not as anticipated.

Employment and Unemployment after 1869

One of the first impacts of the railroad to be noted was the arrival of penniless people. In contrast to their predecessors, they were immediately in need of employment. This was as expected and hoped for by many entrepreneurs. But the railway was to be a carrier of goods as well as workers. Many local industries were immediately thrown into depression by competition from better established industries of the East. In January 1870 upward of one-fifth of the working population was

31 Ninth Census of the United States (1870), Vol. III, pp. 826-30.

32 Ninth Census of the United States (1870), Vol. I, p. 722.

33 "How Our Chinamen are Employed," *Overland Monthly*, II (March, 1869), pp. 231-40.

34 Davis, Horace, "Wheat in California," *Overland Monthly*, I (November 1868), p. 450.

35 Brace, C. L., *The New West* (New York, 1869), pp. 208, 231.

unemployed.³⁶ Out of this economic environment arose the anti-Chinese agitation that, within a few years, was to accumulate such strength as to become the State's leading political question.

Heretofore, the lament of agricultural interests had been shortage of labor; for several years after 1869 lament shifted to deficiencies in quality rather than quantity. It was said that the only laborers available were fortune-minded and had neither the temperament nor the experience required of good farm workers. As expressed by the *Pacific Rural Press*:

It is notorious fact that numbers of white men who claim to be competent farm hands, and hire themselves out for labor in the harvest fields and in the plowing season, are positively not as intelligent as regards the prosecution of ordinary farm labor as are the darker colored "heathen Chinese."³⁷

As noted previously, the role of Chinese workers in agriculture before 1870 was more a matter of conjecture and anticipation than of reality. So long as they could get it, the Chinese preferred other work. Their more prominent impending role in farming was to be based on racist bigotry. As unemployment became worse in the early post-railroad years, the "heathen Chinese" were forced out of nonfarm jobs. Their entrance into farm work was less resented.

Notwithstanding their adverse experiences, Chinese immigrants continued to come. From approximately 50,000 in California in 1870, the Chinese population grew by an average net immigration of some six to eight thousand per year through 1876.³⁸ Thereafter, due to vigorous anti-Chinese campaigning, net immigration dropped to relative insignificance until 1882. With exclusion imminent, upward of 30,000 rushed in during this last year of free immigration, bringing the total on the Pacific Coast to approximately 130,000, of which probably up to 100,000 were in California. The exclusion law applied only to laborers. Continued vigorous anti-Chinese labor agitation in 1883 through 1886 produced a small loss in population through net out-migration. After 1886, death was a more important factor of loss than out-migration, since the Chinese were mostly males and hence did not perpetuate themselves.

While nineteenth-century Chinese immigration and settlement was a primarily Californian experience, between 1860 and 1900 the percentage of all Chinese in the continental United States who were located in California declined each census period from 100 percent to 50 percent. The neighboring states of Oregon, Washington,

36 Cross, Ira B., "A History of the Labor Movement in California," University of California, *Publications in Economics*, (Berkeley, 1935), pp. 61-63.

37 Vol. VI (July 27, 1872), p. 57. Cf. John Hayes, "A New View of the Labor Question," *Overland Monthly*, 6 (February, 1871), pp. 140-41; Frank H. Norton, "Our Labor-System and the Chinese," *Scribners Monthly*, 2 (1871), pp. 61-62.

38 The data are assembled in M. R. Coolidge, *Chinese Immigration*, (New York, 1909). Except as otherwise noted, this source is used for the following discussion.

Nevada, and Montana were the others to share significantly in Chinese immigration and settlement.

No adequate data exist to indicate the relative importance of Chinese agricultural labor. The census of 1870 classified Chinese and Japanese into a single category, and at this time they accounted for 1,637 out of a total of 16,231 farm laborers.³⁹ Since there were practically no Japanese laborers in the United States at this date, this group must have been almost entirely Chinese. In the following censuses, 1880 and 1890, Chinese were not classified separately by occupation but were combined into a residual category, "all other countries." They must have constituted the major proportion of this category, for all other important groups are classified individually. In 1880 the total of "all other countries" within the agricultural labor category accounted for approximately one-fourth, and in 1890 for approximately one-fifth.

It is quite possible that the Chinese were never completely enumerated. Considerable service in agriculture may have been performed by Chinese casual laborers who did not report their occupation as farm workers. Of the estimates of proportional importance of Chinese, many are too high. The State Labor Commissioner, for instance, estimated that in 1886 seven out of eight agricultural laborers were Chinese.⁴⁰ Mears has estimated that in the late 1870's three-fourths of agricultural laborers were Chinese.⁴¹ In 1881 a correspondent to the *Pacific Rural Press* estimated that between one-third and one-fourth of all Chinese in California found employment during the summer months in vineyards and orchards.⁴² On the basis of the Chinese population in California in 1880, this would be some 20,000; the total of agricultural laborers reported in the census for this year was only 23,856. A State Bureau of Labor Statistics survey made in the spring of 1884 indicated that in fifteen rural counties where both Chinese and white laborers were reported, they were in approximately equal proportion.⁴³ Probably the maximum proportion between 1882 and 1884 did not exceed one-half. Before this time the number and proportion of Chinese workers had been increasing; subsequently they both declined. By 1910 Chinese participation in the aggregate farm labor supply declined to a position of relative insignificance. As early as 1900 the Chinese were exceeded in number in the beet fields by the Japanese and the Mexicans, although they were still the most important foreign group in fruit work.⁴⁴

The Chinese probably never constituted a large majority and were in fact

39 Ninth Census of the United States (1870), Vol. I, p. 722.

40 United States Immigration Commission, *Summary Report on Immigrants in the Pacific Coast and Rocky Mountain States* (Washington, D.C., 1911) p. 40.

41 Mears, E. G., *Resident Orientals of the American Pacific Coast* (Chicago, 1928), p. 238.

42 *Pacific Rural Press*, XXII (December 24, 1881), p. 418.

43 *Ibid.*, XXVII (April 19, 1884), p. 382.

44 California State Bureau of Labor Statistics, *Ninth Biennial Report* (1899-1900), p. 29.

throughout the period 1870 to 1900 much of the time a minority of total agricultural workers. Yet it is significant that they did supply a large proportion of the demand for casual and seasonal labor. No data permit a quantitative measurement of this assertion; it is, however, the consensus of numerous comments by employers, the agricultural press, and contemporary observers. Moreover, Chinese employment was restricted principally to the northern part of the state and to intensive crops—fruits, truck crops, hops, and, later, sugar beets.

Labor Supply Immediately Following Chinese Exclusion

Farmers did not individually or collectively taken any action to ensure the continued immigration of Chinese. Yet after the Exclusion Act of 1882 they soon concluded that aggressive action had to be taken to prevent the expulsion of those already here. Perspectives on the situation came from a wide range of sources. The *Pacific Rural Press* carried reports from several growers' associations in the fall of 1883. According to the editor's comment in September:

The (fruit) crop of the present year (1883), although deemed a short one, taxed the labor capacity of the State to the utmost to fit and prepare it for shipment to the world's market. If such was the situation this year, what will it be when the numerous young orchards now just coming into bearing will be producing full crops? The labor is not now in the country to handle such an increase in production. Will the demand for labor to meet and handle this increase of production be responded to when made? If so, where from? Not from China, for the Chinese are debarred from coming here. From the older States of the Union? The laborers of those older States are as well or better paid than similar laborers are paid here. . . . The only avenue for an unlimited supply of labor to the people of California, Congress at *their instance* (italics mine) has closed. Hence they must look to the natural increase of population for their labor supply. The orchardist and farmer cannot send to Europe or the East for laborers, with the hope of obtaining them at a reasonable hire, for the reason that he cannot employ them profitably to himself more than three or four months in the year—a condition of things entirely unsuited to the demands of the European laborer.⁴⁵

Reflecting how quickly the first absence of the annual increment of Chinese labor was noticed, labor was one of the prominent subjects for discussion at the September 1883 meeting of the State Horticultural Society. Fruit growers realized they were planting in excess of available labor and advised each other to go slower. Some members made suggestion that arrangements with school authorities might obtain city boys to help in the fruit harvest. City boys would be satisfactory workers, they said, if given comfortable quarters and treated "as fellow creatures who are capable of being our own equals—capable of some day filling the positions we now occupy—not as slaves but as freemen."⁴⁶ Others responded that their experiences with boys as harvest help had been unsatisfactory and that nothing was to be expected from this source. Still others commented that sufficient labor could be had if employers would endeavor to make workers more comfortable and their tasks

45 From an editorial in the *Pacific Rural Press*, XXVI (September 8, 1883), p. 29.

46 *Ibid.*, (October 6, 1883), p. 290.

less onerous. One member suggested that cottages and a few acres of ground ought to be allotted to a few laborers for each ranch to ensure a minimum labor nucleus. Another thought was the only real solution was to reduce sizes of farms and increase diversification.⁴⁷

In the October meeting of the State Horticultural Society, labor supply again dominated discussion. "The apparent lack of suitable help has given me more uneasiness in relation to the solution of the fruit problem than any of all other obstacles combined," said the opening speaker.⁴⁸ Participants reviewed the possible sources of labor, among them the state of Sonora, Mexico. Several members stated that no adequate solution of the labor problem would be found short of a thorough reorganization of agriculture that would offer more constant labor opportunities. "But once assure the outsiders that they can get steady employment, and they will come as fast as we need them."⁴⁹ The general opinion appeared to support a relaxation of monopolistic control of land as well as introduction of more diversified enterprise: land ownership should be more widely distributed, so that homes would be built and the fruit industry supported by family labor.

The Santa Clara County Viticultural Society, reporting its concerns, commented on local labor scarcity; Chinese were particularly hard to obtain. Members discussed a proposition to import Portuguese laborers, and another proposition to encourage Italian family immigration (since Italians were too poor to become operators, proponents reasoned that they would remain laborers). If no other source opened up, concluded one respondent, within ten years the people would be only too glad to remove restrictions upon the Chinese.⁵⁰

The anxieties of 1883 proved to be unnecessary. Beginning thereafter and extending through 1886, industrial depression again prevailed, with considerable unemployment, especially in the East.⁵¹ Apparently the agricultural labor supply was thus augmented during these years, for pessimistic anticipations of labor shortage seem not to have materialized. References to labor supply during 1884-1886 indicate it was less scarce than expected.⁵² The situation for these years was complicated, however, by events that shifted the attention of farm employers from questions of future sources to an active program of protecting their current supply of Chinese.

47 Ibid., pp. 281, 290, 294.

48 Ibid., (November 3, 1883), pp. 378-79.

49 Ibid., p. 379.

50 Ibid., p. 381.

51 Cross, op. cit., p. 151.

52 *Pacific Rural Press*, XXVIII (July 26, 1884), p. 65; XXIX (April 11, 1885), p. 355, XXXI (February 13, 1886), p. 152. One prominent grower, William C. Blackwood, maintained that labor was not abundant, however: "Chinese wages have advanced from eighty cents to one dollar and twenty-five cents per day, and they cannot be had by sufficient numbers at any price" (May, 1884). "A Consideration of the Labor Problem," *Overland Monthly*, III (2d., Ser.), pp. 449-60.

Anti-Chinese elements in the California population were not satisfied with preventing further immigration of Chinese, but were determined as well to be rid of those already here. Proposals to drive them away by excluding them from employment had played a prominent part in the constitutional convention of 1878. A measure to exclude Chinese from all employment was seriously considered,⁵³ and measures to exclude them from employment by corporations and on public works, except in the punishment of crime, were approved.⁵⁴ In 1880 the unemployed of San Francisco, knowing that the clause prohibiting Chinese employment by corporations was not being enforced, undertook action toward its enforcement. Threats of physical destruction became more effective than the long-standing use of the boycott and succeeded in displacing many Chinese. Outside of San Francisco, as early as 1877 farmers were reported to have received anonymous notices that they must not employ Chinese labor.⁵⁵ But it appears that no concerted action against Chinese employment in agriculture occurred until nearly ten years later.

Sporadic instances of violence against the Chinese had occurred in rural areas during the whole period. By the spring of 1886 such activities drew the attention of growers' associations. Vacaville Fruit Growers in February 1886 reported that an organization haranguing against the Chinese was trying to encourage continued acts of violence against them. The Vacaville meeting concluded with a call upon "brother fruit-growers, the directors of the Fruit Union, San Francisco newspapers and every good citizen of California to help prevent the Chinese from being driven away."⁵⁶ Five days later the trustees of the California Fruit Union passed a resolution endorsing the stand of Vacaville Growers and agreeing that hasty and violent expulsion of the Chinese would inflict great injury upon the fruit industry.⁵⁷

A series of resolutions by various growers' organizations followed the lead of Vacaville Fruit Growers. The State Horticultural Society resolved in addition that "each member of this association will at all times give preference to white men as laborers, when he can do so without material injury to our interests."⁵⁸ Mendocino Hop Growers Association, the fruit growers of Newcastle and vicinity, the strawberry growers of Santa Clara, and the fruit growers of Santa Cruz expressed opposition to the driving out of Chinese.⁵⁹

In March 1886 a convention took place at Sacramento in which the "State Non-Partisan Anti-Chinese Organization" was formed, with a resolution to promote the

53 Eaves, op. cit., pp. 153-55.

54 Constitution of California, Article XIX, Sections 2 and 3. Section 3 prohibiting the employment of Chinese by corporations was subsequently held to be in conflict with the United State Constitution, and therefore void. (In *re Parrott*, I Fed. 481.

55 *Pacific Rural Press*, XIII (June 30, 1877), p. 408.

56 *Ibid.*, XXXI (February 27, 1886), pp. 197, 209.

57 *Ibid.*, (March 6, 1886), p. 230.

58 *Ibid.*

59 *Ibid.*, (March 13, 1886), p. 244; (March 20, 1886), p. 278.

absolute prohibition of Chinese immigration and their early removal.⁶⁰ After this, growers' resistance strengthened. The Santa Clara Horticultural Association declared that "organization must meet organization," and that growers would have to prepare for self-protection; a committee to devise ways and means was appointed. A month later the "Fruit Growers' and Citizens' Defensive Association of Santa Clara County" was organized by this committee with the purpose of preventing interference and resisting boycott.⁶¹ The Mendocino Hop Growers Association assumed a more aggressive posture, unanimously resolving: "That what is here we own and we have a perfect right to use it as we think best, and while we deplore the presence of Chinese in our midst and that they have come into competition with white labor, still our necessities, owing to losses in the hop business in previous years, compel us to use any and all honorable means to retrieve these losses."⁶²

The eradication campaign now included threats and violence upon the Chinese and boycotts against growers who employed them.⁶³ It is reported that Eastern visitors to California during the summer of 1886 found the state in a condition of social eruption and rebellion.⁶⁴ But excitement did not continue beyond 1886. In the latter part of the year industry began to revive, and many erstwhile anti-Chinese campaigners were able to go back to their former employment. Once restored into more attractive and better paid jobs, they lost interest in farm work and in asserting the dreadful consequences of Chinese employment in that industry. The expulsion campaigns had not been without their effect, however. Departures of Chinese from San Francisco in 1885 and 1886 were almost 50 percent greater than in prior years.

The harvest season of 1887 was apparently without particular event, although the labor supply appears not to have been over-abundant. "Last year Chinese, school children, tramps, and all were unable to prevent hundreds of thousands of dollars worth of fruit from wasting," wrote one correspondent describing the situation later.⁶⁵

Reorganize Agriculture or Import New Labor Supplies?

Commissioner John S. Enos of the State Bureau of Labor Statistics, in the bureau's first biennial report (1883-1884), expressed the alternatives that lay before California agriculture after the exclusion of Chinese:

Hitherto the one great objection to an increase of the unskilled white labor population in California has been, that necessary as it was to have more help during the summer and harvest, the manner of husbandry in this state was such as to assure those who labor for others, work only for three, or at the highest, five or six months during the year. It was admitted to be an unnatural condition of affairs, and one which should be remedied, but

60 Ibid., (March 20, 1886), p. 278.

61 Ibid., (March 27, 1886), p. 292; (April 24, 1886), p. 412.

62 Ibid., (April 10, 1886), p. 358.

63 Ibid., (March 27, 1886), p. 289; (April 24, 1886), p. 412; (May 15, 1886), p. 486.

64 California State Agricultural Society, *Transactions* (1886), pp. 200-01.

65 Letter to the editor, *Pacific Rural Press*, XXXV (April 21, 1888), p. 354.

which, under prevailing circumstances, could not be changed, especially as long as Chinamen in sufficient numbers could be hired during the busiest seasons of the year The coming of Chinamen was tolerated and encouraged for many years. As a natural consequence they made for themselves a place in the industrial economy of the State, preventing thereby the natural increase and provision for a white laboring population. Employers could not expect white laborers to spring out of the ground when the Chinese influx ceased; nor can they now expect to remedy the evil, which a short-sighted policy, preferring a homeless wandering heathen to a settled American with a family, brought upon them, without suffering the consequences. But the great danger is that they are unwilling to suffer these consequences and rather than undergo the annoyance of a settlement which would, once for all, put the questions of labor upon a right basis, they will look to the immediate future and continue to encourage or begin again to encourage Chinese immigration If the size of their landed estates and the mode of cultivating them preclude the employment of civilized labor under civilized conditions, it is better that such estates lay waste, than that they be made the means of perpetuating the coolie system.⁶⁶

After the Chinese eradication campaign of 1884-1886 the editor of the *Pacific Rural Press* anticipated that:

The departure of these people (Chinese) will imply a new domestic policy for many of the farmers and fruit-raisers of this State. They have depended mainly on the Chinese, who readily move, like armies, come when called for, and depart when their mission is accomplished Diversified industry that will give some employment all the year round is the solution. The married man cannot be a mover. He must have his cottage and garden, and a reasonable employment within a few miles This is the normal condition of American life. The Chinaman had denied it to California, but the boom and the exodus will bring it to us in spite of ourselves. The change should not be viewed as a calamity. It may be inconvenient at first, but after a few years no doubt the places now held by the Chinese will be filled by a more desirable laboring population.⁶⁷

Such were undoubtedly the hopes of many Californians in the 1880s. Community-conscious citizens had been dissatisfied with wheat specialization because it produced wheat but not rural homes or communities. They had been equally or even more disappointed with early beginnings in fruit specialization. Since the availability of Chinese labor had been commonly regarded as a reason for excessive specialization and for large farms, it was thought that their exclusion and repatriation would bring a change. Farm operators would be forced to adjust their operations into conformity with a domestic labor supply, which would not submit to conditions tolerated by Chinese.

Farm employers were not to find the process of adjustment to a non-Chinese labor supply easy. Their production had been based on use of labor available for short-period employment, and the value of their land was capitalized on the basis of relatively high returns from this specialized type of production because of the low wages paid to Chinese. Some declared that land valued at from \$200 and \$500

66 California State Bureau of Labor Statistics, *First Biennial Report* (1883-1884), pp. 10-11.

67 From an editorial, *Pacific Rural Press* (February 11, 1888), p. 116.

per acres would be worth but from \$25 to \$50 if it had to be used for anything but fruit production.^{68,69} Consequently, farm operators were greatly concerned with the possibility that the exclusion of the Chinese would force an alteration in their established system of cultivation, and thus the loss of capital values. The imminent possibility of such an occurrence was recognized, for it was admitted that "as a class of laborers, the Chinese in California have heretofore occupied precisely the same position in the body politic that the peasantry of Europe do at home."⁷⁰ If this was the limit of economic opportunity awaiting the successors of the Chinese, it was useless to suppose that Europeans would stand the cost of immigration to attain, in the end, nothing better than they had at home. In America the economic options were such that domestic labor need not be forced to accept employment at the level of European peasants. To perpetuate the California system, laborers willing to perform "peasant labor" were required; since the Chinese were still the most feasible employees, farm employers began to openly advocate the removal of the exclusion law.⁷¹

Other alternatives were, however, under consideration: the Santa Clara County Viticultural Society early in 1888 discussed the possibility of bringing negroes from the South. And plans were being laid to try out negroes in grapes at Fresno during the approaching harvest season.^{72,73} Two railroads participated as principals in forming an agency to bring negroes to California as successors to the excluded and

68 Blackwood, W. C., "A Consideration of the Labor Problem," op. cit., p. 455. The *California Fruit Grower*, I (June 2, 1888), p. 9, made a particularly graphic statement of the strategic position of labor supply: "Whatever abounding fertility of land inviting to plant, whatever perfect condition of tree and vine proceeding from years of intelligent study, experimentation, expenditure and toil, whatever certainty of profit if those wants can be supplied; all these elements of success and prosperity are now, more than ever in the history of the business in this State, depending upon a supply of labor to pick and prepare the fruit for market."

69 An anomalous situation developed during the 1880s the grain and hay producer paid \$2 and \$3 per day for laborers while the fruit producer paid only \$1 and \$1.25 (*California Fruit Grower*, IV (July 6, 1889), p. 3, and *Report of the Joint Special Committee to Investigate Chinese Immigration*, op. cit., p. 83). The less advantaged industry therefore paid higher wages than the more advantaged. The basis behind this odd development lay in the fact that Chinese labor was employed principally in the fruit industry and hardly at all in grain and hay.

70 Blackwood, op. cit., p. 455.

71 Ibid., *California Fruit Grower*, I (June 2, 1888), p. 7.

72 *Pacific Rural Press*, XXXV (April 28, 1888), p. 376.

73 An earlier society for encouraging negro migration had been organized by negroes at Stockton in 1883. *Pacific Rural Press*, XXV (May 19, 1883), p. 449.

departing Chinese.⁷⁴ Later in the season the Southern Pacific Railroad announced it would bring any number of negroes to California employers who would advance the fare (not to exceed \$60.). Contracts would be made between railroad and worker, whereby one-third of his wages would be withheld until the employer had been repaid his advance of fare; and the employer was to take responsibility for the advance.⁷⁵

The experiment with negroes appears not to have been remarkably successful, although some of the growers who imported them were at times enthusiastic. One grower employed 100 in his vineyard and claimed them to be more satisfactory than the Chinese.⁷⁶ The total importation of negroes probably did not exceed a few hundred. Some of the employers' enthusiasm may be accounted for by the fact that negroes were hired for \$15 per month with board, when the common wage rate was approximately twice that; the same fact undoubtedly accounts for some negroes having taken "French leave" without having repaid their advanced fare.⁷⁷

The season of 1888 was one of relatively extreme labor shortage. Chinese exclusion, expansion in fruit production,⁷⁸ and industrial prosperity were all contributing causes. To get through the season, several new things were done. Indians were employed on a greater scale than was customary. The school vacation was started earlier at San Jose.⁷⁹ The State Board of Trade worked out a plan with the Southern Pacific to transport boys and girls for agricultural employment at half fare, and upon presentation of a certificate from their employer at the end of the season they were returned at no cost.⁸⁰ At Vacaville, growers advertised their need of help, and families from as far away as 300 miles came in wagons with camping equipment to help in the fruit harvest; many of the families were potential fruit growers whose trees had not yet come into bearing.⁸¹ In the vicinity of Winters, Japanese appeared and were employed by several growers and found to be satisfactory. When the State

74 *Pacific Rural Press*, XXXV (April 28, 1888), p. 376. Evidently the editor had but little strength of conviction in his opinion quoted earlier that the departure of the Chinese would not bring calamity but a much desired alteration in California farming, for his comment on the plan to bring out negroes was: "As we have said, there is much of an experimental nature in this undertaking, but it is worth attention, because most certainly we need a good supply of reasonably priced labor in this State to make our great fruit industry profitable." (italics mine)

75 *California Fruit Grower*, I (July 21, 1888), p. 7.

76 *Ibid.*, I (June 30, 1888), p. 6; (July 7, 1888), p.7, and *Pacific Rural Press*, XXXV (May 19, 1888), p. 446; (May 26, 1888), p. 468.

77 *California Fruit Grower*, I (June 23, 1888), p.7.

78 Canning, experimented with during the late seventies, became commercially practical and was expanded to a significant scale during the eighties. California State Agricultural Society., *Transactions* (1881), p. 193.

79 *Pacific Rural Press*, XXXV (April 28, 1888), p. 376.

80 *Ibid.*, XXXVI (July 21, 1888), p. 48, and *California Fruit Grower*, I (August 11, 1888), p. 3.

81 *Pacific Rural Press*, XXXV (June 9, 1888), p. 508; XXXVI (August 4, 1888), p. 92.

Horticultural Society met in May, the possibility of obtaining a considerable number of Japanese was one of the principal topics for discussion.⁸²

The measures taken to secure juvenile workers for the fruit harvest succeeded in recruiting quite a number,⁸³ but employers were not fully satisfied with them. For one thing, they did not like the disciplinary problems involved; for another, boys required attention as to food and housing which employers, on the basis of their experience with Chinese labor, were unaccustomed to giving and unprepared to offer.⁸⁴

Labor Abundance Without Significant Immigration, 1889-1902

An equivalent of the 1888 anxiety over labor shortage was not experienced again for more than a decade. During 1889 the labor unions of San Francisco commenced a series of strikes and boycotts to enforce demands for higher wages, shorter hours, and closed shop. But this program was undertaken just as economic activity was beginning to decline again. Employers fought back, and when the economic crisis of 1893 hit California, unemployment had already been general for several years. Recovery was delayed until the turn of the century, when it was assisted by the Spanish-American War, and by discovery of gold in Alaska.⁸⁵

This long period of labor strife and depression was to be the principal factor in providing agriculture with a fairly constant and abundant labor supply, with the result that specialization and intensity of cultivation were not only perpetuated but also expanded. With the commencement of labor troubles in 1889, the farm labor situation of the previous season was immediately relaxed. The editor of the *Pacific Rural Press* in February declared that the current press discussion of farm labor reflected not an economic problem but only an effort to stir up daily press sensa-

82 Ibid., XXXV (May 19, 1888), p. 466; (June 2, 1888), p. 493. The Japanese consul at San Francisco offered the opinion that he was certain that his government would sanction the immigration of Japanese to California. *California Fruit Grower*, I (June 9, 1888), p. 6.

83 *Pacific Rural Press* (August 11, 1888), p. 113, and *California Fruit Grower*, I (August 17, 1888), p.9.

84 *Pacific Rural Press*, XXXVI (August 25, 1888), p. 145, and *California Fruit Grower*, IX (July 11, 1891), p. 17. The latter journal was outspoken about certain employers' attitudes about employing boys: "One of the objections to white boys, and to girls also, was that they required too much attention. They want quarters in which they can preserve the decencies of life, want meals cooked for them and want opportunity to pass their resting hours as become civilized people. This does not suit some fruit growers, who consider only the fruit and the immediate profit. The moral condition of their employees is nothing to them. The degrading influence of reducing white laborers to the level of barbarians is not considered. If all were like a few who spoke at the State Horticultural Society's meeting on Saturday, the boys of California would have no opportunity to become anything but hoodlums."

85 Cross, op. cit., pp. 209-28.

tions.⁸⁶ Shortly thereafter, the State Board of Trade announced that there was a sufficient labor supply for the season.⁸⁷ During 1889 and the following seasons there were scattered reports concerning labor supply, indicating a few instances of local shortage but on the whole an abundance or superabundance of labor. A survey of California farm labor by the United States Department of Agriculture in 1892 indicated no instance of real shortage, and in most localities supply exceeded demand.⁸⁸ Subsequent industrial depression increased the availability of labor, and farm employers did not again experience shortages until after 1900.⁸⁹ Further augmentation of the farm labor supply during this period resulted from Japanese immigration to California, which began in the late 1880s and continued throughout the '90s on a small but steady scale. The next epoch in California farm labor history was to be that of the Japanese.

86 Vol. XXXVI (January 19, 1889), p. 57. Cf. *California Fruit Grower*, III (February 2, 1889), p. 3.

87 *Pacific Rural Press*, XXXVII (February 23, 1889), p. 185.

88 United States Department of Agriculture, Division of Statistics, *Miscellaneous Series Report* No. 4 (Washington, 1892), pp. 53-54.

89 They did, however, experience inconvenience through anti-Chinese activities and other labor conflicts occasioned by scarcity of work, but these activities were not on a scale comparable with the previous decade.

Chapter 2

ANXIETIES AND UNCERTAINTIES, 1900-1920

Under present agricultural conditions we seem to need a certain number of Japanese, as we apparently cannot get an equal number of Chinese, which would be vastly preferred. We seem to need enough Japanese to keep some lines of our agriculture going; it is hard to see how a ruinous slump could be avoided without them. But we do not wish too many, nor do we wish them to buy up and lease up all the good things of the State and paint the future for Americans on this coast dark brown. We need those who will work for fair wages and fly away with them . . . ¹

By the turn of the century, the beginnings of a system of large-scale, labor-intensive farming dependent on an abundant supply of casual laborers were clearly laid out. Yet it was not a system preordained by law—natural, economic, or political. On the contrary, the system's genesis was largely accidental, and its continuance was unassured. Entrepreneurs within the system and others with an economic interest in it had anxieties that the pattern might not be able to endure. Some of them, together with substantial numbers of community leaders, had doubts that it should be allowed to endure. Broadly, there were misgivings that labor arrangements regarded as only transitional should so long persist. But the system survived; and so did the doubts about its values. In the first two decades of the twentieth century, a continuing series of historical accidents (or incidents) provided foundations for persistence of both system and doubt.

Japanese Immigration to California, 1890-1920

Emigration of Japanese laborers was not legalized by their government until 1885. Three years later Japanese were being employed as agricultural laborers in California.² Farm employers made them welcome, and they would probably have come to California in large numbers during the years immediately following had not depression created a labor surplus and reduced employment opportunities. Even so, throughout the depressed nineties their immigration the U.S. continued on a small scale. With economic recovery after the turn of the century, conditions were favorable to an increase in their immigration.

Before 1902 most of the Japanese came directly from their home shores; thereafter a large proportion re-migrated from Hawaii. Earlier arrivals to Hawaii had been employed on sugar plantations and came to the mainland to improve their economic position.³ Later, when the Japanese government discouraged direct emigration to the United States, many Japanese emigrated to Hawaii as a stepping-stone to the Pacific Coast.

1 *Pacific Rural Press*, LXXVII (February 13, 1909), p. 122.

2 *Ibid.*, XXXV (May 19, 1888), p. 446.

3 The number of Japanese laborers in the Hawaiian sugar plantations was 15 in 1882, 13,019 in 1892, 31,029 in 1902, 26,462 in 1912, 17,883 in 1922, and 9,395 in 1932. See W. H. Taylor, *The Hawaiian Sugar Industry* (Berkeley, 1935), p. 92.

Three-fourths of the Japanese who migrated to the United States were under thirty years of age. Up to 1909, nine-tenths of them were males.⁴ Of those who arrived between 1901 and 1909, approximately two-thirds were laborers and farmers, and within this group more than half were farm laborers.

The Japanese stayed principally in California. The proportion of all Japanese in the continental United States who were in California increased from 42 percent in 1900 to 57 percent in 1910 and 65 percent in 1920. In contrast, the Chinese at first lived and worked exclusively in California but later scattered to other regions.

The same charges were made against the Japanese as had been earlier made against the Chinese: they were coolie labor brought into the United States for exploitation under contract conditions. The State Bureau of Labor Statistics in 1896 made an investigation of the conditions under which the Japanese were immigrating. Although the inclination of investigators was to find the situation unfavorable, they discovered no evidence that Japanese were being imported under specific contract.⁵ Japanese migration was being assisted by fellow countrymen, particularly those established in hotels and boarding houses who dispensed information concerning employment and possibly also worked with Japanese "bosses" in providing financial assistance. The United States Immigration Commission in 1909 found substantially the same results. Cooperative arrangements among Japanese countrymen made migration easy and assured immediate employment on arrival, but again there was no evidence that any had come under specific contract.⁶

The Japanese as Successors to the Chinese

It is commonly said that the exclusion of the Chinese left a labor vacuum into which the Japanese were drawn. John P. Irish declared before the House Committee on Immigration and Naturalization in 1920 that in the years immediately following the exclusion of Chinese laborers, 568,943 acres of farm land in California were taken out of cultivation; from Bakersfield to Redding, banks held mortgages on farm lands that could not be made productive because Chinese labor had been driven out. This, claimed Mr. Irish, was the situation that created the demand for the Japanese.⁷

The vacuum, such as it was, did not develop immediately. In fact, the labor supply during the nineties was such that the newly-arriving Japanese were forced to resort to wage cutting in order to obtain employment. Not until 1902, two decades after Chinese exclusion, did anything like a vacuum draw upon the Japanese. For the

4 U.S. Immigration Commission, *Reports*, pp. 7, 21.

5 California State Bureau of Labor Statistics, *Seventh Biennial Report* (1895-1896), pp. 109-10.

6 U.S. Immigration Commission, *Immigrants in Industries Reports*, Vol. 24 (Washington, D.C., 1911), pp. 11-13.

7 U.S. Congress. House Committee on Immigration and Naturalizations, Hearings on Japanese Immigration, 66th Congress 2nd Session (Washington, 1921), pp. 43-44.

intervening years, Mr. Irish's claim of agricultural stagnation is the exact opposite of truth.⁸

The Japanese, like the Chinese before them, followed the practice of organizing themselves into gangs or associations under the direction of a "boss." They also were willing to provide their own food and housing, and to live apart from the employer and his society. In all respects they were as convenient as their Chinese predecessors had been. They were at first employed principally in grapes and sugar beets. These two branches of agriculture were rapidly expanding at the same time that Chinese labor was diminishing. Competition and displacement were thus minimized. When recovery had removed the general labor superabundance of the nineties, Japanese employment could be expanded into deciduous fruits and hops without disadvantage to the Chinese.⁹

An investigation by the California State Bureau of Labor Statistics indicated that just before 1900 Japanese in sugar beet work exceeded Chinese.¹⁰

	<u>Number</u>	<u>Percent</u>
Whites	1,500	38.2
Chinese	575	14.6
Japanese	1,000	25.7
Mexicans	850	21.5
<hr/>		
Total	3,925	100.0

On the whole, the relation of the Japanese to the Chinese was one of replacement rather than displacement. With regard to other labor groups, the relationship was more competitive. This was especially true in the southern citrus area where Chinese had not penetrated and where employment of Mexicans had not yet become common.¹¹ Here both whites and Mexicans resented the encroachment of the

8 Actually, according to census data, between 1880 and 1890 total acreage in farms increased by six million acres, improved acreage by two million, and the value of land per acre more than doubled. The decade 1890-1900 experienced further increase in the total acreage in farms although not in improved acreage. Value of land declined, but because of a generally declining price level.

9 Compare H. A. Millis, "Some Economic Aspects of Japanese Immigration," *American Economic Review* (December, 1915), pp. 790-91.

10 California State Bureau of Labor Statistics, *Ninth Biennial Report* (1899-1900), p. 29.

11 U.S. Immigration Commission, *Reports*, 24, p. 26.

Japanese, and there were outbursts of labor conflict.¹²

The stopping of Japanese immigration after 1908 prevented further outside additions to the Japanese population, and the development of strong anti-Japanese agitation in the rural areas after 1909 tended to scatter those already here. In succeeding years, the remaining Japanese laborers transferred from white-operated farms to the rapidly expanding Japanese-operated farms. When the California State Board of Control made an extensive investigation into the occupational status of Orientals in 1920, it was found that they were of no appreciable importance as laborers to the American farmer. The Oriental laboring class, it said, was valuable principally to land speculators who developed lands for lease to Orientals. "As a matter of fact there are probably more white laborers working for Oriental farmers than there are Oriental laborers working for American farmers."¹³

The few Japanese in California before 1890 probably received about the same wages as the Chinese. When jobs became scarce during the nineties, the Japanese took the initiative in wage competition. In 1894 a gang of Japanese was working in Santa Clara Country for 50 cents per day and boarding themselves,¹⁴ the common rate at the same time for Chinese being around \$1 and the rate for whites \$1.25 to \$1.75. During 1896 the Japanese entered into competition with the Chinese for sugar beet work in Pajaro Valley, reducing the contract price from \$1.20 to 70 cents per ton. Having established themselves, their price for the following year rose to \$1 per ton.¹⁵ Fruit growers of Monte Rio agreed for the season of 1897 to pay Chinese 90 cents and Japanese 75 cents per day, both without board.¹⁶

Throughout the latter half of the decade following 1900, Chinese were preferred over Japanese, and when both were employed on the time basis, the Chinese often received a slight premium. The Japanese preferred to work on a contract or piece rate basis, and their attitude reportedly made it much less expensive to hire them this way. Therefore they were not paid time rates whenever it could be avoided. By 1909 their wage rates had become approximately equal to the Chinese. The Immigration Commission in 1909 found average wages for whites, Chinese, and Japanese to compare as follows.¹⁷

12 *California Fruit Grower* XXVIII (March 28, 1903), p.14, and XXXIII (March 3, 1906, p. 4. In the spring of 1906 a letter was written by H. Shera of Uplands to the Chicago Federation of Labor suggesting that lemons and oranges picked and packed by Japanese should be boycotted by organized labor.

13 California State Board of Control, *California and the Oriental* (Sacramento, 1920), p. 101.

14 *Pacific Rural Press*, XLVII (April 7, 1894), pp. 264-65.

15 *Ibid.*, LIII (April 10, 1897), p. 228; (May 1, 1897), p. 228; (May 1, 1897), p. 275. See also U.S. Immigration Committee, *Reports*, 24, p. 27, and California State Bureau of Labor Statistics, *Seventh Biennial Report* (1895-1896), pp. 124-25.

16 *Pacific Rural Press*, XLVIX (May 22, 1896), p. 324.

17 U.S. Immigration Commission, *Reports*, 24, pp. 35-38.

	<u>Per Day</u>		
	<u>Chinese</u>	<u>Japanese</u>	<u>Whites</u>
<u>Regularly Employed:</u>			
Without board	\$1.56	\$1.62	\$1.89
With board	1.41	1.40	1.31
<u>Temporarily employed:</u>			
Without board	1.74	1.62	1.86
With board	1.45	1.42	1.29

Japanese and Chinese were receiving approximately equal wages; where no board was furnished, regularly employed Orientals received approximately 30 cents less than regularly employed whites, and temporarily employed Orientals approximately 20 cents less than temporarily employed whites. Judging from the difference in wage rates with and without board, it appears that the costs of Chinese and Japanese board were approximately equal, both being less than 30 cents, and less than half the cost of board for whites.

Where Japanese worked on a piece rate basis, their earnings frequently exceeded those of other nationality groups. This was found to be true during the 1909 season in sugar beets, hops, citrus, and raisin grapes.¹⁸

The differential between wages of whites and Orientals gradually disappeared in the years following 1910. As Japanese farm operators employed Japanese workers, they may have paid them lower wages than white operators paid whites. However, in 1919 it was reported that where Japanese farm operators employed both whites and Japanese, the latter were paid slightly higher average wages.¹⁹ In 1929, a sample of sixty-six white farm operators employing both whites and Japanese were paying averages of \$3.70 and \$3.76, respectively, without board; thirteen farms employing both whites and Chinese were paying \$3.56 and \$3.43 respectively, and twelve farms hiring both Chinese and Japanese were paying \$3.44 and \$3.50 respectively, per day.²⁰

18 Ibid., pp. 40-41, 102, 161, 219.

19 U.S. Congress. House Committee on Immigration and Naturalization, Hearings on Japanese Immigration, 66th Cong. 2d Sess. (Washington, D.C., 1921), pp. 693-94.

20 California State Department of Industrial Relations, Department of Social Welfare, and Department of Agriculture, *Mexicans in California*, Report of Governor C.C. Young's Fact-Finding Committee (San Francisco, 1930), p. 169.

It is thus apparent that the Japanese at first worked for lower wages than either whites or Chinese, that during the decade 1900-1910 Japanese rates rose until approximately equal to the Chinese, and that after 1910 both Chinese and Japanese rates were approximately the same as whites. Hence through the two decades 1890-1910, the Japanese were a cheap labor supplement and successor to the Chinese.

Between 1900 and 1910 Japanese employment was in many respects parallel to the Chinese employment of the eighties. General prosperity and expansion in agricultural production removed most aspects of competition. At most, Japanese employment between 1900 and 1910 may have retarded the rise of wages from the low levels of the nineties.²¹

Attitude of Employers Toward the Japanese

Employers welcomed the Japanese at first, because they were expected to be competitors and substitutes for the Chinese. By 1900 the remaining Chinese were becoming old and less active, and, in contrast, the young Japanese were vigorous. The earliest Japanese arrivals strove to be pleasant and accommodating, which, in addition to their willingness to accept low wages, made them popular. It was not long, however, until the Japanese revealed that they were not to be wholly satisfactory substitutes for the Chinese. It was reported that they could hardly wait until becoming established in an area before they showed themselves to be less docile and accommodating and inclined to take advantage of every opportunity. While the Chinese had not passed up all bargaining opportunities,²² they had been scrupulous about keeping their contracts. The Japanese were less satisfactory in this respect; they were said to be particularly given to choosing times when trees were laden with rapidly ripening fruit as their idea of a strategic bargaining opportunity, even when agreements had been previously entered into.

As early as 1891 the Japanese began to employ strike strategy,²³ but labor abundance through the nineties prevented much bargaining. The season of 1903 put the Japanese in a strategic position because of lessening competition and increase in their own numbers. They struck in Sutter County for increases from \$1.25 per day to \$1.40. Since they had the growers in a corner, their demands were promptly met.²⁴ Also in the vineyards at Fresno they had now come into a dominating position and were demanding pay increases.²⁵ The Japanese also became more particular about working conditions, and before 1903 ended, employers were very dissatisfied with

21 Compare Millis, "Some Economic Aspects of Japanese Immigration," op. cit., pp. 790-91.

22 Employers resented the bargaining attempts of Chinese after their numbers were limited by exclusion, and they were frequently changed with having a "monopoly" of certain types of labor.

23 *California Fruit Grower*, VII (June 13, 1891), p. 378.

24 *Pacific Rural Press*, LXVI (August 15, 1903), p. 103.

25 *California Fruit Grower*, XXVII, (April 18, 1903), p. 4.

the "saucy, debonair Jap, who would like to do all his work in a white, starched shirt with cuffs and collar accompaniments."²⁶

The strike was not the only Japanese bargaining tactic. Once established by working very rapidly on a low time wage, their pace began to slow up. In order to get a satisfactory amount of work done, employers had to put them on piece rates, whereupon their activity was said to undergo an astounding transformation. They would now work much more rapidly, and in addition their gang bosses would undertake contracts for more work than they could perform, in both ways giving little satisfaction in terms of work quality.²⁷ After being put on piece rates, the next step frequently was for the Japanese to attempt to contract with the grower to handle the whole detail of harvesting his crop on a share basis. As a bargaining argument the Japanese could assure the producer that he would get none of their countrymen the following season if their demands were not met.

The seasons of 1904 and 1905 were less eventful. Lower crop yields and continued migration of Japanese relaxed the labor scarcity of the two previous seasons. The early popularity of the Japanese lost ground, and the Chinese regained preference. The idea was beginning to spread that if California had to have Orientals, they had as well be Chinese, who were better liked.

If the Japanese had proved better laborers than they have, the California farmers would be more interested in having plenty of them. At present the general agricultural view is that, if we are to have plenty of Asiatics here, the Chinamen would be better for farm hands—and some are quite strongly urging that a turn about would be fair play, and that to put the Exclusion Act upon the Japanese and the free entry upon the Chinamen for a while would be a good move.²⁸

Programs to encourage migration of farming population from the eastern states, which had been initiated by the fruit growers in 1902, had not been particularly successful. With a slower rate of Japanese immigration in the preceding two years, and a normal crop yield, the season of 1906 again brought the problem of labor supply. Several instances of shortage were noted,²⁹ and apprehension was increased by unionization activities among farm workers.³⁰ At the fruit growers' convention that year it was asserted that, while growers were sincere in preferring Caucasian laborers, it had been demonstrated that such laborers were not to be had, hence Asiatics were the only solution. Accordingly, the following resolution was adopted:

Whereas, farm labor is becoming increasingly difficult to obtain, and in California especially the great fruit and wine industries are threatened with disaster unless some remedy be found to get more labor: therefore be it

Resolved, that the fruit growers of California, in convention assembled, favor such modification of the Chinese exclusion act as will permit

26 Ibid. (August 15, 1903), p. 3.

27 Ibid., (April 18, 1903), p. 4.

28 *Pacific Rural Press*, LXIX (June 3, 1905), p. 338.

29 Ibid., LXXII (August 4, 1906), p. 66; (October 6, 1906), p. 220.

30 Ibid., (July 21, 1906), p. 34; (December 22, 1906), p. 386.

the enactment of laws making possible restricted immigration of laborers irrespective of nationality.³¹

Anti-Japanese agitation in San Francisco³² became so vigorous in later 1906 and early 1907 as to threaten continuance of free Japanese immigration. The relative attitudes of rural and urban areas toward continued Japanese immigration are demonstrated by the following editorial comment in the *Pacific Rural Press*:

If the Japanese had only had sense enough to go quietly into farming, for which they are now manifesting a great passion, and had not collected in cities and gone into city activities so sweepingly and aggressively, the present issue would not have arisen for a decade, possibly for a generation. But, as the situation now is, it seems to be a menace to our agricultural production which it will be very difficult to avert.³³

During spring 1907 it was reported that leading fruit growers and cannery men of southern California were quietly organizing to combat total exclusion of Japanese. These interests did not favor an unlimited immigration, but suggested that a state immigration bureau ascertain exact shortages and regulate immigration to correspond to the needs of employers.³⁴ Later in the year, a Grand Island farm operator was in Washington, D.C. as representative of the "International Equality League of California," endeavoring to present President Roosevelt and immigration officials with a petition demanding admission of Asiatic labor to California "under no other restrictions than are imposed upon the admission of European labor and enterprise to the Atlantic seaboard." The petition concluded with the statement: "... to save California from the decadence of her industries with reference to the soil, we demand the admission to our state of Japanese labor."³⁵

The harvest of 1907 was again one of great anxiety over labor supply.³⁶ Japanese grape pickers took advantage of the situation in the northern San Joaquin Valley and demanded an increase from \$1.75 per day to \$2.50 per day. Growers resisted and held a mass meeting but were forced to meet the demand. Excitement of the season, together with discouraging results of the program to encourage migration from the East, were sufficient to put fruit growers in a more aggressive mood at their annual convention in December. Papers on the labor question were read by

31 *Ibid.*, (December 15, 1906), p. 370.

32 Anti-Japanese agitation was largely of labor union genesis. See John P. Young, "The Support of the Anti-Oriental Movement," *The Annual of the American Academy of Political and Social Science*, XXXIV, (1909), pp. 231-38. Paul Scharrenberg, "The Attitude of Organized Labor Towards the Japanese," *Ibid.*, XCIII (January, 1921), pp. 34-38; Raymond Leslie Buell, "Anti-Japanese Agitation in the United States," *Political Science Quarterly*, 37, (December 1922).

33 LXXIII (February 23, 1907), p. 114.

34 *California Fruit Grower*, XXXV (May 4, 1907), p. 1.

35 *Ibid.*, XXXVI (August 10, 1907), p. 1.

36 *Ibid.*, XXXV (May 25, 1907), p. 2; XXXVI (August 23, 1907), p. 4; (August 31, 1907), p. 1.

John P. Irish³⁷ and G. H. Hecke.³⁸

Both emphasized the great dependence of fruit growers upon Asiatic laborers to perform primary tasks that white labor refused to do. Mr. Irish (long a pro-Oriental sympathizer) in a whirlwind of oratory asked why fruit growers should be dictated to "by people who live in these cities which your enterprise has created." Why should farming interests not stand up independently and say, "We require, in the primary processes of our production, which lie at the foundation of California's prosperity, this form of labor, and, by the Eternal, that form of labor we will have!"? Mr. Irish was received with much enthusiasm, and at the end of his speech he read a memorial to Congress, which he had prepared, asking that a limited but sufficient number of Chinese and equal number of Japanese immigrants be admitted under the same conditions as Europeans.³⁹ A member of the convention then proposed that the memorial be endorsed by the convention and the motion carried, with only one dissenting vote. The memorial was forwarded to Washington, but no action was ever taken on it.⁴⁰

For the season of 1908, a slowing down of industrial activity and the large Japanese immigration of the preceding year again relieved anxiety.⁴¹ In 1909 the California State Legislature appropriated \$10,000 for an investigation of Japanese in relation to agriculture, to be made under the direction of the State Labor commissioner. Apparently the intent of the legislature was that the report should be anti-Japanese, for when a pro-Japanese report was submitted in May, 1910, the Senate disapproved it unanimously:

Whereas, The State Labor Commissioner has in his report concerning Japanese laborers, expressed his opinion of the necessity for such laborers in this state, and thus without authority misrepresented the wishes of the people of this commonwealth, therefore, be it Resolved, that the opinion of such Labor Commissioner is hereby disapproved by this Senate.⁴²

37 "Labor in the Rural Industries of California," Thirty-Third Fruit-Growers' Convention (December 1907), *Official Report*, pp. 54-66.

38 "The Pacific Coast Labor Question from the Standpoint of a Horticulturist," *Ibid.*, pp. 67-72.

39 Mr. Irish's proposed memorial was a bit more sedate than his remarks but did contain some flamboyance: "We reject the theory of assimilation, holding that non-assimilating labor to engage in this non-competitive work relieves us of the strain upon our racial and national standards which threatens their subversion in the task of assimilating the millions of European immigrants."

40 U.S. Immigration Commission, *Reports Abstracts*, Vol. 1, p. 692.

41 Or as more graphically stated by the editor of the *Pacific Rural Press*: "There is one piece of good luck which often comes to California farmers, and that is that whenever they become much concerned lest their labor supply be short for some coming crop, time brings a solution of the difficulty; either the crop is so short that few men are needed, or some other line of business slacks up and sends a lot of labor afloat and it blows itself into the rural districts," Vol. LXXVI (July 4, 1908), p. 2.

42 California Senate Journal, (1910), p. 39.

Part of this investigation was published in the 1909-1910 biennial report of the State Bureau of Labor Statistics⁴³ and the summary was released to the press.

It is surprising that Senate disapproval of an official report supporting recent demands of farm employers should not provoke a reaction from them. Evidently it did not, however. Chester H. Rowell, editor of the Republican in Fresno (a center of Japanese employment), released a blasting editorial, denouncing both the report and the Labor Commissioner who prepared it.⁴⁴ When several instances of successful employment of white family labor during the harvest of 1910 were reported, the *Pacific Rural Press* observed that this proved the fallacy of the State Labor Commissioner's Report.⁴⁵

The failure of farm employers to react against the Senate's disapproval of the Labor Commissioner's report is not to be accounted for alone in the current abundance of labor. There was another factor. As had been true of the Chinese, the opponents of the Japanese were not content with excluding future immigration. Anti-Japanese activities against those already here continued through 1907-1909. The result of these activities was to drive more Japanese out of city industries into agriculture. Those driven out possessed more capital and enterprise ability than had Japanese previously employed in agriculture. They were therefore not content to be laborers but established themselves as operators, in the meantime absorbing Japanese labor for their own operations. These activities were already beginning to attract the attention and disapproval of rural people by 1909 and 1910, and undoubtedly account for the coolness in attitude toward the Japanese at this time. Subsequently Japanese farming expanded and so did the reaction against them. The Alien Land Law of 1913⁴⁶ was the result of this provocation. General anti-Japanese feeling in rural districts dates from years subsequent to 1910, and not before as some writers have supposed. Subsequently, when farm employers were agitating for importation of labor during the war, the Japanese were not suggested, although their exclusion was legislatively less formal than that of Chinese. At a Congressional investigation of Japanese immigration in California in 1920, there were few enthusiastic supporters of Japanese. A few witnesses were agreeable to their immigration if it could be assured that they would remain laborers rather than become operators.⁴⁷ Owners of delta lands claimed that they were the only people who could be found to operate that land.⁴⁸ The San Joaquin County Farm Bureau

43 *Fourteenth Biennial Report*, pp. 265-74.

44 Mears, E. G., *Resident Orientals on the American Pacific Coast* (Chicago, 1928), pp. 446-48.

45 LXXX (September 17, 1910), p. 235.

46 This law and its subsequent alterations are not discussed here. An account is given by Raymond Leslie Buell, "Anti-Japanese Agitation in the United States," *Political Science Quarterly* XXXVIII (March, 1923), pp. 57-81.

47 U.S. Congress, House Committee on Immigration and Naturalization, Hearings on Japanese Immigration, 66th Cong., 2d Sess. (Washington, D.C., 1921), pp. 451, 466, 942.

48 *Ibid.*, pp. 43-44, 388, 435-66.

reported that in a referendum which it had held, only 25 out of 250 favored the use of Orientals as laborers, and only one was in favor of Japanese immigration.⁴⁹ The Los Angeles Country Farm Bureau, after investigation, had decided that it favored Oriental laborers only under the condition that they were brought in under bond. A resolution to this effect was adopted by the State Farm Bureau Federation.⁵⁰

Alternative Groups in Agricultural Labor

Efforts to Encourage Migration of Farm Population from Eastern States

The proposal of Mr. Stabler to the 1902 fruit growers convention (mentioned previously), that a committee be appointed to encourage migration of farm laborers from eastern states, had been acted upon immediately. An organization called the "California Employment Committee" was set up with Stabler as chairman and B.N. Rowley, editor of the *California Fruit Grower*, as secretary.⁵¹ This committee was soon merged with the California Promotion Committee, an already established booster organization. Mr. Rowley, through the *California Fruit Grower*, attempted to make local preparation before the committee should plunge actively into a program of encouraging migration from the East.

Rowley asked prospective employers to send in answers to the following questions:

1. How many single men or men with families will be given employment for three months at one dollar per day and board?
2. When will employment begin?
3. What accommodations will be provided?
4. Would you not consider it good to provide better sleeping quarters in order to secure laborers from the East?

And his questionnaire added further: "If you do really intend to cooperate with the Committee, let us suggest that you put away for all time the old idea that any sort of a shake-down and that any sort of a 'feed' or grub will do for the man who in future is expected to help you in the orchard, among the trees and about the trays."⁵²

Evidently Rowley got no response; at least he had not within a week of the departure of four representatives to the East, on February 4, 1903. They were not armed with answers to Rowley's fundamental questions but with "the most approved, up-to-date lanterns" and hundreds of stereopticon views "comprising industrial as well as scenic views with which to interest their Eastern audiences the

49 Ibid., p. 480.

50 Ibid., pp. 940-42.

51 *California Fruit Grower*, XXVII (December 27, 1902), p. 2; *Pacific Rural Press*, (December 27, 1902), p. 405.

52 *California Fruit Grower*, XXVIII (January 17, 1903), p. 2; (January 31, 1903), p. 2

better to make known the extent of the varied resources and possibilities of this great state,"⁵³ and with an ample supply of a pamphlet, *Grasp This, Your Opportunity*.⁵⁴ The four representatives held illustrated lectures in Nebraska, Missouri, Illinois, and Michigan, and the meetings were reported to have been well attended. After thirty-five days in the field, the first representatives returned and were replaced by two new ones who spent forty-five days in Ohio small towns. In April two more representatives started for towns through the Atlantic seaboard and the South.

To facilitate recruitment, low railroad fares were offered. The results of the program to May 1903, as reported by the secretary of the Committee, are not specific: "Great numbers have arrived, are arriving, and will continue to arrive until the close of the low railroad fares which will be June 15th next."⁵⁵

According to the chairman's report in December 1903, during the summer two more representatives labored in New York, Ohio, and Michigan. Altogether, 100,000 copies of *Grasp This, Your Opportunity* had been "judiciously distributed," with the application blanks. The reports of the ten recruiters reflected the conclusion that agricultural help was just as scarce in eastern states as in California. The very limited success of the program is shown by the fact that only 917 people had been placed in orchards, vineyards, and fruit-canning factories, according to the committee records, but it was supposed that others had been induced to come to California and had gone to work without having gone through the committee office. Part of the 917 had already returned to their eastern homes.^{56,57}

In part, the failure of this program may have been due to counter propaganda sent out by California labor organizations. A circular titled "Don't go to California" was broadcast throughout the East advising working people not to be deceived by California propaganda, because the state was already overrun with people unable to find employment except at starvation wages.⁵⁸

Farm employing interest were now generally convinced that something more must be offered if they expected to get a labor supply from the eastern states, and the notion that had been frequently suggested during the eighties—that laborers

53 *Pacific Rural Press*, LXV (February 14, 1903), p. 100.

54 Twenty-Eighth Fruit-Growers' Convention (May 1903), *Official Report*, pp. 217-21.

55 *Ibid.*, p. 92.

56 Twenty-Ninth Fruit-Growers' Convention (December 1903), *Official Report*, pp. 217-21.

57 Private fruit growing and canning concerns in the spring of 1903 worked out arrangements with eastern representatives to attend details of soliciting and transporting 1,500 boys and girls to work in the fruit for the season only. The success of this plan was not reported. See *California Fruit Grower*, XXVIII (February 28, 1903), pp. 3, 8.

58 *California Fruit Grower*, XXVIII (July 25, 1903), p. 2.

be stabilized on small holdings—was again revived.⁵⁹ The initiative was taken by the California Promotion Committee. Circular letters were sent out to farmers suggesting the advisability of leasing or selling five-, ten-, or fifteen-acre plots of land on easy terms to men with families who would agree to assist in the harvest. Replies to the circular letters were favorable, and 26,614 acres were offered for settlement by December.⁶⁰ The Sacramento Valley Development Association cooperated in the plan, and a few instances of settlement occurred in 1904. But the seasons of 1904 and 1905 were not troublesome with respect to labor supply, and projects to induce laborers from the East were abandoned. When demand for labor from external sources subsequently revived, attention was again directed toward the Orient.

Hindustanis as a Minor Labor Group During the Japanese Period

Another Oriental labor group whose arrival into California was welcomed by farm employers was the Hindustanis. They began to appear in the seasons of 1906 and 1907⁶¹ when resumed labor scarcity and imminent Japanese exclusion opened a favorable opportunity for them. The first arrivals came to British Columbia, then moved down the coast.⁶² Their first employment upon arrival was principally on the railroads, which they left as soon as opportunity of work in agriculture appeared.⁶³ When the first migrants from the north found the climate and employment conditions in California to be relatively congenial, this information was conveyed back to their countrymen, and direct migration commenced. The numbers of Hindustani immigrants admitted and departed, 1908 to 1912, were as follows:⁶⁴

	<u>Admitted</u>	<u>Departed</u>
1908	1,710	124
1909	337	48
1910	1,782	80
1911	517	75
1912	165	164

The Asiatic Exclusion League so vigorous against the Japanese was still intact

59 Ibid., (August 8, 1903), p. 2; (August 15, 1903), p. 2. *Pacific Rural Press*, LXVII (February 13, 1904), p. 103. Twenty-Ninth Fruit-Growers' Convention, op. cit., pp. 219-20.

60 Twenty-Ninth Convention, op. cit., p. 220.

61 *Pacific Rural Press*, LXXII (December 8, 1906), pp. 354, 356. *California Fruit Grower*, XXXV (May 25, 1907), p. 2.

62 Das, Rajani Kanta, *Hindustani Workers on the Pacific Coast* (Berlin and Leipzig, 1923), p. 15; Immigration Comm., *Reports*, 23, p. 28.

63 Das, p. 22.

64 Ibid., p. 10-11.

and ready to deal with the Hindustanis. Since the latter were a less physically perfect and educated group than the Chinese or Japanese, it was possible for the immigration officials to find administrative means of securing a satisfactory *de facto* exclusion.⁶⁵ This they did, on demand of the Asiatic Exclusion League, beginning in 1911; the arrivals thereafter were no longer from the laboring classes and were more than offset by departures. Total Hindustani population of the United States in 1910 was 5,424, of whom 2,742 were in California. Probably less than half of them were agricultural laborers.

Although some employers welcomed the Hindustanis, in general they were not enthusiastic about them because of alleged less desirable appearance and habits, language inability, and low productivity.⁶⁶ Nevertheless, Hindustanis were substituted for Japanese when wage demands of the latter became too high,⁶⁷ and they were usually paid 25 to 50 cents less per day than the Japanese.⁶⁸ It was reported that immediately following exclusion of Japanese, and at the same time that Mexicans were being considered, a scheme was on foot to import hordes of Hindustanis into the United States. It was presumed that they would come as British subjects and hence escape the bar against Asiatics.⁶⁹

Editorial comment in the *Pacific Rural Press* upon the pro-Japanese report of the State Commissioner of Labor Statistics in 1909 (referred to above) concluded that the only alternative to Japanese would appear to be Hindustanis, but their employment had proved so unsatisfactory that "viewed from the ground on which the employer stands, the preservation of specialized farming by the labor of the Hindu would be practically impossible."⁷⁰

Significance of Japanese Labor to the California Farming System

It is commonly accepted that the Japanese were direct successors of Chinese as laborers in California agriculture. But they were successors to depression-opportunity whites as well. The Chinese labor population had been declining since 1883. Meanwhile, agricultural production had been expanding. Except for a few seasons in the eighties, farm employers had not been greatly concerned over the adequacy of the labor supply until after 1900. This is to be accounted for, as we have seen previously, by unemployment in nonagricultural industries. Professor Wickson believed the proportion of white labor to be greater in 1900 than at any previous time. His report to the United States Industrial Commission, after considerable inquiry conducted through the *Pacific Rural Press*, contains several observations on the labor outlook that are to be contrasted with what subsequently occurred.

65 Ibid., pp. 15-16.

66 U.S. Immigration Commission, *Reports*, 24, pp. 28-29.

67 *Pacific Rural Press*, LXXVIII (July 3, 1909), p. 2.

68 Immigration Commission, *op. cit.*, p. 29.

69 *California Fruit Grower*, XXXVI (August 24, 1907), p. 4.

70 *Pacific Rural Press*, LXXIX (June 11, 1910), p. 468.

The proportion of white labor now employed in California agriculture is greater than ever before in the history of the State. The available supply of Chinese has been greatly reduced by the exclusion acts, and the number now employed in field labor is so small as to be inconspicuous. Meantime the numbers of Japanese have increased, and in some localities they have become a main reliance in some kinds of work, but their distribution has never attained anything like the breadth which the Chinese at one time commanded. At present, Asiatic help of both kinds serves a very good purpose for temporary uses, but it is too restricted in volume to menace the white population or to maintain the antagonisms which once existed Unquestionably our white labor is advancing in motive, in spirit, and in efficiency, and each year onward there will be less opportunity for competition by other races.

As to the term during which farm laborers are employed, it is unquestionably lengthening. Though still the extra demands at harvesting all sorts of crops exists, and in the nature of things always will exist, probably there is a better opportunity than ever for long term employment. The increase of the dairy interest in regions formerly almost wholly given to grain has of itself opened the way for steady employment which formerly did not exist. The development of fruit areas had had a similar tendency. The disposition to provide better quarters for laborers on agricultural properties is very marked, and so far as we have heard and seen, such investments on the part of employers have been found profitable in the greater loyalty and efficiency of the laborers secured But it is one of the most pleasant facts of recent years that our great fruit products can be so largely handled by white labor from towns as it is now. Twenty years ago it was thought impracticable, and growers were in much anxiety as to whence their fruit-harvest help should come. Today there is no concern whatever about it, for, though there is now and then a little pinch, the demand as a whole seems to be provided for.⁷¹

Within the next seven years the proportion of Japanese came to equal or possibly exceed the earlier proportion of Chinese. In the interval between plentiful Chinese and voluminous entry of Japanese, the farming structure had been maintained by depression-opportunity whites. The Japanese came at a critical interlude in general economic conditions and carried the system through until recurring depression again gave it security. What might have happened had not the Japanese appeared at this strategic time? For one thing, employers would have had materially to improve the terms of employment, especially in regard to housing. We have seen that their attempts of 1903 to induce migration from the eastern states without making any alteration in prevailing employment terms were a fiasco. The decision of employers in 1904 to improve terms of employment by providing small holdings and better living accommodation had no need to be carried through, for the pressure of labor shortage was relaxed during the next two seasons.

In the recrudescence of interest in and demand for Chinese in 1906 and 1907 we see the full extent of the non-fulfillment of Professor Wickson's anticipation at the beginning of the decade—that white people would soon, to the pleasure of the community, be the principal farm labor for California agriculture. Once more, however, there was no immediate necessity of following through on demands for Oriental labor. Economic inactivity again, from 1908 until 1917, brought relief from labor anxieties.

71 United States Industrial Commission, *Reports*, XI (1901), pp. 108-10.

Reaction Against Orientals, and Expectation of European Immigration

"The trouble with the idea of importing any class of laborers into the United States as 'cheap labor' and keeping them here any length of time, working them under the conditions obtaining here where there is an atmosphere of freedom and independence of labor however menial it may be," said the editor of the *California Fruit Grower* in August 1907, "is that it is not conducive to servility, and it has been proven by experience that laboring men whether white, black, or yellow are soon inoculated with this spirit of independence."⁷² Whatever enthusiasm for Oriental labor survived until 1910 rapidly disappeared thereafter, as the Japanese changed from a convenient labor force to independent producers and formidable competitors. It is not surprising that out of this experience there should arise a greater interest in utilizing local labor supplies, as well as the expected immigration from Europe through the Panama Canal.

Many Californians early in the decade 1910-1920 anticipated that the Panama Canal would bring relief to the half-century-old complaint that this state did not share in immigration from Europe.⁷³ The question was whether the new European immigrants would come on to California for the \$7.50 to \$10 additional cost over the fare to New York, and if so, would they include the poorer classes of Italy and Portugal. There was hope they would come and replace the Japanese. Concurrently, optimistic community-conscious citizens anticipated that at last European immigration would do for Pacific Coast agriculture what it had long done for the Atlantic, where immigrant laborers had advanced to independent farm operators. Such a population influx into California, it was thought, would introduce a tendency toward thrifty cultivation of small diversified farms and away from large specialized ones. A member of the California Development Board expected to see "the San Joaquin Valley from Redding to Bakersfield and from the Sierra Nevadas to the Coast Range filled with a population of 5 and 10 acre farms, and there will be no need for the squat labor of the Orient."⁷⁴ John P. McLaughlin, Commissioner of the State Bureau of Labor Statistics, held a similar view: "The industrious immigrant once placed in the fields, the question would solve itself. The industrious immigrant could acquire a small farm in a few years under the proper schemes of colonization, which are now under way, dividing up the large land holdings of our State. These people would in turn develop an agricultural community, which in time would solve the farm labor problem, with the adoption of a scheme of varied crops within certain localities and the gradual doing away with high specialization."⁷⁵ The United States Immigration Commission also expected that a large volume of European im-

72 XXXVI, (August 24, 1907), p. 4.

73 Commonwealth Club of California, "Immigration," *Transactions*, VIII (May, 1913), pp. 155-79.

74 California Development Board, *Sixteenth Semi-Annual Counties Committee Meeting* (January 1912), p. 40.

75 California State Bureau of Labor Statistics, *Fifteenth Biennial Report* (1911-1912), pp. 48-49.

migration would follow completion of the Panama Canal, and this would contribute to a resolution of the Oriental labor issue.⁷⁶ In anticipation of immigration, conferences of social agencies were held at Tacoma in 1912 and at San Francisco in 1913, to consider means of receiving, distributing, and assimilating the expected immigrants.⁷⁷ Several members thought that immigrants should be directed principally into agriculture; Dean Hunt of the University of California College of Agriculture went so far as to propose that they be received at the Davis Farm rather than at San Francisco.⁷⁸

The expected great influx of European immigrants was never to materialize. Immigrants entering San Francisco increased from approximately 3,500 per year during the six years preceding 1913 to approximately twice that annually for the years 1913-1918.⁷⁹ War in Europe and economic depression in the United States undoubtedly retarded the inflow before 1917. With U.S. entry into the conflict and restrictions upon immigration during and after the war, European immigration was further obstructed.

Agricultural Labor Abundance through Economic Depression

An indication of the extent of industrial inactivity and abundance of labor in the 1910s appears which is stated in the January 1912 report of the California Development Board (normally disposed to favor an abundant labor supply) which stated that no shortage of labor existed. "This showing should bring disappointment to all because it indicates a condition of industrial quiescence California is less able than the East to absorb a sudden influx of laborers"⁸⁰

During the 1913 harvest season there occurred the first serious friction on a large scale between employers and workers in California agricultural history. This was the riot that broke out among hop pickers in Wheatland. A large hop producer, evidently devoid of social responsibility, had permitted and even encouraged the congregation of a heterogeneous mass of 2,800 laborers and their families on his ranch. The drying capacity of his kiln, however, would permit employment of not more than 1,500. Provisions for housing, camping, and sanitation were wholly inadequate. The combination of misery and employer deception with a few trained members of the Industrial Workers of the World was sufficient to bring an explosion which resulted in death, injury, and a large amount of court action.⁸¹ "The prob-

76 *Abstracts of Reports*, Vol. 1, p. 694.

77 Blanpied, Charles W., *A Humanitarian Study of the Coming Immigration Problem on the Pacific Coast* (San Francisco, 1913), 63 pp.

78 *Ibid.*, pp. 13, 44-47, 62-63.

79 United States Department of Commerce, Bureau of Foreign and Domestic Commerce, *Statistical Abstract of the United States* (1918), p. 109.

80 California Development Board, *op. cit.*, pp. 26-28.

81 Parker, Carleton H., *The Casual Laborer and Other Essays* (New York, 1920), pp. 171-99. U.S. Commission on Industrial Relations, *The Seasonal Labor Problem in Agriculture*, 64th Cong., 1st Sess. Senate Doc. 415, (Washington, D.C., 1916), pp. 4911-5026.

lem of vagrancy; that of the unemployed and the unemployable; the vexing conflict between the right of free speech and the law relating to criminal conspiracy; the housing and wages of agricultural laborers; the efficiency and sense of responsibility found in a posse of country deputies; the temper of the country people faced with the confusion and rioting of a labor outbreak; all these problems have found a starting point for their new and vigorous analysis in the Wheatland Riot.⁸² These were characteristics of the affair as seen by Carleton H. Parker, who investigated the occurrence as the official representative of the California Commission on Immigration and Housing. Parker's report stressed the deplorable living conditions and strongly recommended their improvement. However, while bad living conditions may have been an immediate precipitating factor, the fact is that these were substantially the same living conditions, except for unusual overcrowding, which had existed for casual labor throughout California history. Living and working conditions had not suddenly become worse; neither had those normally employed as casual laborers suddenly become aware of their unsatisfactory state, but industrial unemployment was driving a class of people into casual farm labor who were unaccustomed to its traditional conditions. The economic environment was similar to that which had existed during the middle 1890s and was again to exist during the 1930s.

In fall 1914 the U.S. Commission on Industrial Relations conducted an investigation of the seasonal employment problem in agriculture, principally in California.⁸³ The testimony gathered by this commission indicated that, among other problems, general superabundance of labor was serious.⁸⁴ The "hobo" was the predominating constituent of the itinerant labor supply. Growers had formerly advertised for labor but found it no longer necessary to do so. For sentimental reasons, they said, employers preferred to give work to whites, particularly as against Japanese, although whites were less reliable.⁸⁵ The Commission was also told that some growers were

82 Parker, op. cit., p. 172.

83 U.S. Commission on Industrial Relations, op. cit.

84 Ibid., pp. 4924, 4930, 4931, 4955, 4961, 4966. G. H. Hecke attributed the surplus of labor to the Underwood tariff permitting large amounts of imports (pp. 4930-31). One witness, James Mills, testified as to labor scarcity with respect to the fruit industry south of the Tehachapi. Not in ten years had he enough men to do his work, and this experience was said to be general throughout the south. Ibid., pp. 4957, 4959.

85 The witness on this point was G. H. Hecke: "... now, most of the thinking farmers of California have come to the conclusion that it must be absolutely necessary to keep California for the white men." (p. 4955). This stand presents a contrast to that taken by Mr. Hecke seven years before at the Fruit-Growers' Convention of 1907. "The Pacific Coast Labor Question from the Standpoint of a Horticulturist," *Proceedings*, of the Thirty-Third Fruit-Growers' Convention (1907), pp. 67-72. In both instances Mr. Hecke asserted the undesirability of the aggressive Japanese. But in 1907, "it would be unreasonable to expect them (white men) to be satisfied to carry their blankets in the wake of the harvesting as it moves from one district to another with the ripening crop," whereas in 1914 white transient workers had come to be considered an almost permanent part of the rural scene.

attempting to make their labor demand more constant by diversifying individual crops and also the varieties of particular types of crops. But there was no organized effort being made along that line, and to accomplish anything significant by that method would be economically disadvantageous to growers. An American Federation of Labor organizer testified that the union had begun four years previously (1910) to try to organize agricultural laborers into the United Laborers of America. Some 5,000 members had been enrolled and several locals had been formed, but the point of collective bargaining had not been reached. An Industrial Worker of the World organizer also testified on the difficulties of organizing agricultural labor.

The same level of labor abundance continued through 1914 and 1915 and did not change until the beginning of war prosperity in 1916. Governor Hiram W. Johnson in 1914 requested the State Commission on Immigration and Housing to make an investigation of unemployment. Its report did not offer quantitative measures of unemployment, but stated the problem was serious, particularly during the winter months.⁸⁶ Additional aggravation was being experienced by migration of unemployed from other states, for the byword among migratory workers was said to be: "You cannot freeze to death in California; you cannot starve to death in California."⁸⁷ Of 222 casual workers from whom case histories were taken, almost one-fourth had had their last regular job somewhere outside in California.⁸⁸ Moreover, the report cautioned that relief authorities must be careful about the publicity given their temporary relief plans or else it "would bring hordes of applicants for charity from all the western states, eager to spend a winter in our mild climate, and many who are not in genuine need would be tempted to try their luck at enjoying our munificence."⁸⁹ The Commission on Immigration and Housing was later assigned a relief campaign in behalf of the unemployed. To prevent the burden being increased by an influx from eastern and central states, a vigorous press campaign was waged. The migratory population of these areas was "determinedly informed" that California offered no special inducements, either of relief or of employment. The Commission estimated that this action protected the state from additional relief burden.⁹⁰

Development of Interest in Sponsored State-Land Settlement

California has always had antagonists opposed to "land monopolies." The prolonged depression of the 1890s brought on a large volume of literature dealing with the evil effects upon employment and community welfare of concentrated land control, but its origins were considered mainly "socialistic" or "radical", and principally

86 Commission on Immigration and Housing of California, *Report on Unemployment* (Sacramento, December, 1914), 73 pp.

87 *Ibid.*, p. 8.

88 *Ibid.*, pp. 47, 49. This may not have been wholly an unusual circumstance but a function of a regional migratory pattern.

89 *Ibid.*, p. 68.

90 Commission on Immigration and Housing of California, *Report on Relief of Destitute Unemployed* (Sacramento, June, 1915), p. 8.

inspired by the longstanding arguments of Henry George.⁹¹ During the period 1910-1914 some additional factors other than general unemployment gave impetus and significance to interest in land control. One of these was the expectation of alteration when European immigrants should commence to come to California by way of the Panama Canal. Another was disgust with the known abuses that prospective settlers had suffered in attempting to purchase land, varying all the way from misrepresentation to fraud. Yet another was the general fear that arose when the aggressive Japanese began to expand their control over thousands of acres by various methods—the same fear that resulted in the Alien Land Law of 1913.

The combination of these circumstances created an economic environment that made the 1910-1920 recrudescence of interest in land control less “radical” than that of the nineties. To caution the less informed “back to the landers,” the College of Agriculture in October 1914 issued a circular, “Some Things the Prospective Settler Should Know.”⁹² This circular gave information on crop yields, land values, and other such practical information for the settler. A few months later, in its Reports on Unemployment,⁹³ the Commission on Immigration and Housing carried the idea further, and believing that regulation of employment was closely related to the size of land holdings, recommended that a permanent land bureau be created. “To supply at cost to prospective purchasers the needed information regarding the best economic uses of land, its value, approaches to the market, and the like” was to be the function of such a bureau. In addition, a comprehensive land law to prevent fraud and misrepresentation in the sale of lands was suggested.

This line of interest led to the creation of a Commission on Land Colonization and Rural Credits by the legislature in 1915. The report of this commission in 1916⁹⁴ was vigorous and assertive. California was said to be suffering from arrested rural development. High land prices, high interest rates, and short terms of payment for contracts were seen as the principal immediate causes of settler difficulties. Four million acres of land suited to intensive cultivation and capable of supporting a dense population were under the control of just 310 landed proprietors. “The evils of such ownership are every year becoming more apparent. We have at one end of the social scale a few rich men who as a rule do not live on their estates, and at the other end either a body of shifting farm laborers or a farm tenantry made up largely of aliens, who take small interest in the progress of the community. Political stability, the best results in agriculture, and satisfactory social conditions require that this

91 Several of these writings have been assembled in *Pamphlets by California Authors* (Economics), Vol. 5, and are in the University of California Library, Berkeley.

92 Hunt, T. F., University of California College of Agriculture, Agr. Exp. Sta. *Circular 121* (Berkeley, 1914).

93 op. cit., p. 20-22.

94 Commission on Land Colonization and Rural Credits, *Report* (Sacramento, November, 1916), 120 pp. Cf. also “Land Settlement in California,” Commonwealth Club of California, *Transactions*, XI (December, 1916), pp. 369-465.

inheritance from a Mexican land system and former land laws of the United States be abolished.”⁹⁵ Since it would be impractical for the state to attempt to control all settlement, the commission proposed that demonstration projects be undertaken “for the purpose of showing how superior carefully thought out development is to that where only local or immediate benefits are considered.”⁹⁶ Subsequently this proposal was carried through, and two demonstration colonies were attempted.⁹⁷ Among other objectives, the farm laborer was to be given a home, and his social and economic status improved.⁹⁸

Still more vigorous proposals for breaking down large land holdings were offered by the Commission on Immigration and Housing in 1919.⁹⁹ After making a survey of concentrated holdings in southern California, this agency arrived at the conclusion that a graduated tax on unimproved land value would be the most practical method by which a more desirable type of land occupancy could be obtained.¹⁰⁰ The time was considered unusually opportune because of the imperative obligation to newly returning veterans. But vigorous interest in land reform was not long-lived. War prosperity gave employment to many agricultural casuals. Immediate and discouraging problems in the state land colonies soon brought pessimism for such undertakings, and more immediately pressing postwar problems distracted public interest.

War Emergency and Agricultural Labor Supply

The economic boom associated with the European war dispelled the superabundance of agricultural labor. Subsequently, labor shortage emerged as a strategic problem. There was no complaint of scarcity during 1916, but 1917 farm operators saw their operations considerably hampered by lack of labor, even to the extent of losing some crops. Immediately upon entrance of United States into the war, Professor R. L. Adams was appointed to the office of State Farm Labor Agent, to represent the University of California College of Agriculture, the United States Department of Agriculture, and the State Council of Defense, this office being created solely to facilitate the use of labor in production of food, feed, and fiber necessary to the war.¹⁰¹ Various attempts were made to utilize the potential domestic labor

95 Ibid., pp. 7-8.

96 Ibid., p. 85.

97 Smith, R. J., *An Economic Analysis of the California State Land Settlements at Durham and Delhi* (unpublished Ph.D. thesis, University of California, 1937), 424 numbered leaves.

98 Ibid., p. 9.

99 California Commission on Immigration and Housing, *A Report on Large land holdings in Southern California*, (Sacramento, 1919), 43 pp.

100 Ibid., pp. 36-43.

101 Adams, R. L. and T. R. Kelley, “A Study of Farm Labor in California,” University of California College of Agriculture, Agr. Exp. Sta. *Circular* No. 193 (Berkeley, 1918), 79 pp. Cf. also Commonwealth Club of California, *Transactions*, XIII (May 1918), pp. 73-122.

force for the harvest of 1917: for example, boys from the Preston School of Industry at Ione were taken to help in the berry harvest at Sebastopol.¹⁰² At Turlock growers and merchants cooperated in improving housing conditions for farm labor and setting up an employment exchange. "With California farmers depending this year on city folks, high school students, and others accustomed to sleeping in beds, it behooves everyone to provide something as cheap and sanitary as possible."¹⁰³ Employers resorted also to considerable advertising for help during 1917.¹⁰⁴ In addition to recruiting all local workers, sugar beet growers imported 1,700 men, and several hundred Texas and Oklahoma families were imported by private subscription into the Imperial Valley.¹⁰⁵

Nevertheless, wage rates for 1917 rose 40 percent above 1916. Whatever degree of shortage existed affected large operators more than small. Farmers' spokesmen estimated their losses as greater than did the public agencies concerned with farm labor supply.¹⁰⁶ Exceptional weather conditions during spring plantings and fall harvest helped to minimize losses by reducing yields in sugar beets, cotton, citrus, and walnuts; and labor needs in certain fruits were reduced by shortage of boxes and shipping facilities.¹⁰⁷

For 1918, the outlook was not hopeful. Of the six most frequently recommended solutions for labor scarcity offered by farmers, importation of foreign labor stood first, with the remainder in this order:¹⁰⁸

- Close saloons (a close second to importation).
- Exempt farm labor from military draft.
- Develop potential supplies of home labor, i.e., children, women, city dwellers.
- Bring about better distribution and utilization of present labor supplies.
- Promote anti-vagrancy laws.
- Conscript labor.

102 *Pacific Rural Press*, XCIII (June 9, 1917), p. 700.

103 *Ibid.*, (June 2, 1917), pp. 673, 681.

104 Adams, p. 16.

105 Adams, p. 4.

106 Lively, D. O., "Agricultural Labor Problems During the Past Season," State Commission of Horticulture, *Monthly Bulletin*, VII (January, 1918), pp. 70-73 and M. F. Tarpey, "Some Possibilities of the Development of New Labor During the War," *Ibid.*, pp. 74-79. In the course of the discussion following the presentation of these papers (at the 50th Fruit Grower's Convention) one of the members said as follows: "I remember hearing in this very hall the statement from our State Board of Defense that all our crops had been garnered and that there was no appreciable lack of labor. I don't know where they got the information, they certainly didn't get it from any farmer, they didn't get it from anyone who is trying to win this war by making the State of California produce all that it is capable of producing." *Ibid.*, p. 87.

107 Adams, *op. cit.*, p. 3.

108 Adams, *op. cit.*, p. 10.

In contrast to the recommendations of farmers, State Farm Labor Agent Adams wrote, first, that every effort should be made to utilize all available home supplies to best advantage, and that this would mean more attention by employers to wages, housing, food, hours, and supervision.¹⁰⁹

Familiarity with agricultural employer attitudes throughout the Chinese post-exclusion period makes it easy to guess which foreign workers were thought of first. Moreover, it appears that Chinese authorities would have been favorable, even to permitting their citizens to come to this country temporarily and under contract rather than as immigrants.¹¹⁰ Realizing the legal complications involved, as well as the strength of union labor resistance, many farm leaders gave up the idea as hopeless and turned their attention elsewhere. They did, however, find considerable difficulty in appreciating the attitude of organized labor and of rationalizing governmental sympathy for it, for farmers were being constantly spurred on to greater efforts by the motto "Food will win the war."¹¹¹ Alternative sources of labor considered were the Philippine Islands, Hawaiian Islands, Puerto Rico and other islands of the Caribbean, as well as Mexico. The United States Department of Labor in May 1917 issued an order suspending the head tax, literacy test, and restrictions against contract labor for Mexicans, expressly authorizing farm operators to bring them into the United States, where they were to engage exclusively in agricultural labor or be arrested and deported.¹¹² Even with this way made clear, California employers were not generally enthusiastic about Mexican workers. Some favored Puerto Ricans, though there was some question about supply and also about their becoming public charges because of the impossibility of deportation. Caribbeans were favorably regarded because of beliefs they could stand the hot climate of the interior valleys and would flock well together, like the Chinese.¹¹³

As things turned out, the season of 1918 went by without serious loss or curtailment of production, and with importation only of a relatively small number of Mexicans.¹¹⁴ Scarcity of labor prevented production of as large a volume of intensive crops as might have otherwise occurred, but the investigation made by Professor

109 Adams, op. cit., pp. 9-12.

110 See Tarpey, op. cit., p. 77, and U.S. Congress, House. Committee on Immigration and Naturalization, *Japanese Immigration*, 66th Cong., 2d sess. (July, 1920), pp. 812-16.

111 Lively, op. cit., p. 70. Also, discussion, *ibid.*, p. 87. One grower explained his attitude towards bringing in Chinese as follows: "Twenty-five years ago at the end of a period of excitement and agitation, I, with fifty or a hundred other men carried shotguns all one night to protect those fellows from being driven out of town and out of the country by a band of hoodlums who were reported to be headed our way. I don't want to have to do it again." *Ibid.*, p. 88.

112 Details of Mexican immigration will be found in the following chapter.

113 Lively, op. cit.

114 Adams, R.L., "The Farm Labor Problem," reprint from the University of California *Chronicle*, Vol. XXII, No. 2, 19 pp. Paul S. Taylor, "Mexican Labor in the United State Imperial Valley," University of California *Publications in Economics*, Vol. 6, No. 1 (Berkeley, 1928), p. 17.

Adams through the Farm Bureau suggested that losses because of lack of labor were relatively insignificant. Labor supply was augmented, in addition to the importation of Mexicans, by several things: construction work and nonessential industries were curtailed; labor-saving machinery was used. But most important of all was the more effective utilization of all potential domestic labor supplies, including that of women through the Women's Land Army. R. L. Adams concluded his report on the 1918 season by observing:

A growing realization arising from various studies and investigations is that the state has a great potential labor power in women, school children, and city dwellers, many of whom are farm reared or farm trained, and a large majority of whom can be drawn upon to aid in any real emergency; but at the same time great reliance should, emphatically, not be placed upon such classes of labor to meet the constant demands of California's specialized agriculture for a kind of labor able to meet the requirements of hard, stoop, hand labor, and to work under the sometimes less advantageous conditions of heat, sun, dust, winds, and isolation. Either sufficient capable labor must soon be available to do the work or else the character and methods of many important California agricultural enterprises must undergo a substantial and far-reaching readjustment. The amount of labor available of this class has a very definite bearing upon the character and extent of farming operations in the sugar beet industries, in the industries of the Imperial Valley, and of the San Joaquin and Stockton deltas, and to some extent, in the fruit industry.¹¹⁵

According to the *Pacific Rural Press*, 1919 and 1920 were not years of farm labor scarcity.¹¹⁶ Once again, it was the slackening in non-farm industries that postponed the confrontation expected by Professor Adams.

115 *Ibid.*, p. 19.

116 *Pacific Rural Press*, XCVIII (August 9, 1919), p. 161; (October 11, 1919), p. 478; (July 31, 1920), p. 143.

Chapter 3

INHERITORS AND GUARANTORS OF THE SYSTEM, 1920-1964

We, gentlemen, are just as anxious as you are not to build the civilization of California or any other western district upon a Mexican foundation. We take him because there is nothing else available. We have gone east, west, north, and south and he is the only man-power available to us. * * * I want to go on record as saying that California believes that it can meet and handle the social problem and develop agriculture at the same time.¹

The above statement was made by a then-prominent California farm leader in 1926. It was part of his testimony to oppose legislation that would have restricted Mexican immigration into the United States, which was now offering a new means of meeting farm labor needs.

Mexican Labor for U.S. Farms after 1910

Although Mexican laborers had immigrated to the United States in significant numbers during the two decades preceding 1910, it was later that their employment in agriculture became important. As irrigation and intensive cultivation expanded in the southwest, Mexican workers were drawn away from mines and railroads. This expansion in employment opportunity occurred in combination with the hardships of the Villa revolution, thus offering substantial encouragement to immigration. Immigration of Mexicans increased after 1910 and continued steadily throughout the pre-war period.² On the basis of wartime emergency during the years 1917-1920, the United States allowed special exemptions to permit Mexicans temporarily to come into the country to engage in agricultural labor and certain other specified occupations. The movement into this country under these special conditions was not large, however. Much greater Mexican immigration took place during the decade 1920-1930. Beginning with 1930 and for several years thereafter, the number of Mexicans returning to Mexico was greater than the number entering the United States.

The Mexican worker population differed from the Chinese, Japanese, and, later on, the Filipino in being not so highly centered in California. In 1900, two-thirds of the Mexican-born then in the United States were counted in Texas as compared with less than one-eighth in California. By 1930, the Texas proportion had fallen to one-half and the California proportion had risen to one-fourth. In 1930, these two states plus Arizona and New Mexico accounted for 86 percent of "all persons born

1 Statement by S.P. Frisselle of Kearney Park before the House Committee on Immigration and Naturalization. *Seasonal Agricultural Laborers from Mexico*, Hearings on H. R. 6741, H.R. 7559, H.R. 9036, (Washington, D.C., January and February, 1926), p. 7.

2 Handman, M. S., "Economic Reasons for the Coming of the Mexican Immigrant," *American Journal of Sociology* 35 (January 1930), pp. 601-11. Victor S. Clark, "Mexican Labor in the United State," *Bureau of Labor Statistics Bul.*, No. 78 (Washington, D.C., 1908), pp. 466-522.

in Mexico, or having parents born in Mexico, who are not definitely white, Negro, Indian, Chinese or Japanese" (census definition). The 1930 totals of persons so described were 1.4 million in the United States, 1.2 million in the four southwestern states, and 368,000 in California.³ To be emphasized is the fact that, in contrast with other farm laborers who were their predecessors or competitors until the great depression of the 1930s, the Mexicans came as families rather than as single males. California's rising numbers and proportion of Mexican population reflected migration from other states as well as additional direct arrivals from Mexico.

Notwithstanding their considerable numbers and the fact that these numbers were more than doubling each decade, farm employer interests were to propound and proclaim that the Mexican was a "homer"—that he came only when needed and went back home (with family) when not needed.

Mexican Immigration not Included in the Quota Restriction Law

Because of the great influx of immigrants from Europe immediately following World War I, the idea of permanent restriction upon all immigration became popular. While legislation to this effect was under consideration in 1921, representatives of agricultural employers of the southwest, exclusive of California, were on hand to resist restriction and present their case for dependence upon Mexican labor.⁴ California employers, however, were not represented. Again in 1924, when the immigration law of 1921 was being amended and given more permanent standing, California farm employers were still unrepresented.

The volume of Mexican immigration into the U.S. during the years 1923-1926 was larger than had been expected. This large immigration gave rise to a demand that the 1924 quota restrictions be extended to Mexico. The first of a series of bills to accomplish this was prepared in 1926.⁵ The effect of applying the quota would have been to reduce the volume of Mexican immigration to approximately 2,000 per year, as contrasted with 32,000 to 87,000 in 1923-25. Unconstrained, immigration continued at approximately these levels through 1929. Correspondingly, non-farm pressures grew to restrict it. Restrictive legislation was proposed in 1928 and again in 1930.

From 1926 onward, the attitudes of California farmers changed from impassivity to aggressive opposition to restriction. In 1926 two representatives were sent to Washington; the delegation increased to five in 1928 and to seven in 1930.

3 Bloch, Louis, "Facts About Mexican Immigration Before and Since the Quota Restriction Laws," *Journal of the American Statistical Association* 24 (March 1929), pp. 57-58. United States Department of Commerce, Bureau of the Census, Fourteenth and Fifteenth Census, 1920-1930.

4 U.S. Congress. Senate Committee on Immigration, Hearings on H.R. 14461 and Hearings on S. 4304, 66th Cong. 3d Sess. (Washington, D.C., 1921).

5 U.S. Congress. House Committee on Immigration and Naturalization, Hearings on H.R. 6741, H.R. 7559, and H.R. 9036, 69th Cong. 1st Sess. (Washington D.C., January and February, 1926).

Within California, the Grange, the Farm Bureau Federation, the Farmers' Union, and numerous producers' associations through the Agricultural Legislative Committee, the California Development Association, and the state and local Chambers of Commerce all vigorously opposed quota restriction of Mexicans. California argument were similar to those from other southwestern states. Outside of agriculture the principal opponents of quota restriction were the railroads and mines. Nationally, these employer interests were backed by the Chamber of Commerce of the United States, the American Farm Bureau Federation, and the National Grange.⁶

None of bills to extend the provisions of the general quota of 1924 to Mexico and other countries of the western hemisphere ever became law. The opposition of employer interests in California and the southwest is only one, and possibly the least important, reason. To have applied the quota to Mexico and not to other western hemisphere countries would have involved a discrimination which was not in the best interest of the United States to make. For diplomatic reasons, also, it was considered undesirable to set up quota restriction against all the countries of the western hemisphere in order to restrict the immigration of Mexicans. In lieu, a policy of administrative restriction on individual applicants was adopted in March 1929, and this reduced the volume of immigration materially.⁷ The Mexican government had no objection to this method, since it involved no categorical discrimination and since that country wanted to keep her nationals at home anyway.

The depression beginning in the fall of 1929 greatly reduced employment opportunities for Mexicans in the United States and discouraged further immigration. When the burden of unemployed Mexicans in the United States began to be very heavy, social welfare agencies brought pressure upon them to return to their home country. To a limited extent, financial assistance was provided to help them back over the border.⁸ Mexico itself contributed to a relatively more favorable economic environment in that country by undertaking land reforms, which included opportunities for repatriados. Repatriation reached a peak in 1931 and 1932. Whereas Mexican data indicate the net south-bound movement for the years 1930-1933 to have been more than 200,000, American data indicate it to have been some 65,000.⁹

6 Hearings on H.R. 6465 and S. 1296, 70th Cong. 1st Sess. 1928; National Grange, Patrons of Husbandry, *Journal of Proceedings*, Sixty-first Annual Sessions (1927), p. 144.

7 Taylor, Paul S., "More Bars Against Mexicans?", *The Survey* LXIV (April 1930), pp. 26-27. R. N. McLean, "Tightening the Mexican Border," *The Survey*, LXIV (April 1930), pp. 28-29, 54-56.

8 Los Angeles is said to have spent \$155,000 to return 9,000 Mexicans to the border. See Emory S. Bogardus, "The Mexican in the United States," University of Southern California, *Social Science Series*, No. 8, (Los Angeles, 1934), p. 95.

9 Taylor, Paul S., "Mexican Labor in the United States: Migration Statistics, IV," University of California, *Publications in Economics*, Vol. 12, No. 3 (Berkeley 1934), pp. 24-25.

Actually, the south-bound movement through 1930-1933 was hardly 50 percent greater than throughout the latter twenties.¹⁰ The significant feature is that after 1929 the north-bound movement virtually ceased. After 1933 the repatriation movement was slower.

Social Problems

The Chinese, Japanese, Hindus, and Filipinos had all come to California almost entirely as mature males, without families or dependents. The Mexican was the only one of these groups to bring his family—and a large family it was. In contrast with others, Mexicans were claimed to bring indigence, petty law-breaking, and social and sanitary ignorance and incompetence. These beliefs were collectively termed “the social problem.” Because indifference and resistance on the part of the community frustrated efforts of all of these groups to become integrated, their possible cultural contribution was never tested.

Details relating to the “Mexican social problem” need not be recounted here. They constituted a sharp contrast to the understatement made by farm employer interests while at Washington.¹¹ On one hand, employer interests maintained that the winter-time “homing pigeon” propensities of Mexicans prevented their becoming permanent social problems. On the other, employer interests stated they would cooperate in the solution of whatever problems arose. Actually, the asserted annual homing propensity was largely a myth, and employers’ cooperation with social agencies consisted principally of criticism.¹²

A 1929 survey reported on 1,021 Mexicans located in twelve communities from San Antonio to Los Angeles. Of this sample, 833 had been in the United States five years or more; not one habitually spent the winter in Mexico, and 982 planned to remain permanently in the United States.¹³

Farm employer underestimation of social problems associated with Mexicans apparently reflected their observations in rural districts. But it was really in towns and cities that Mexicans accumulated during slack seasons, in lieu of returning to Mexico. Thus far removed, Mexicans were of no greater concern to farm employers than if they actually had returned to Mexico. Following is part of the summary from a state investigation of Mexicans in 1928-1930:

10 Ibid., p. 25.

11 For information on the Mexican social problem, see Hearings on H.R. 6741, etc., op. cit., pp. 14-16; Paul S. Taylor, “Mexican Labor in the United States Imperial Valley,” University of California, *Publications in Economics*, Vol. 6, No. 1 (Berkeley 1928), pp. 55-58, 75-94; M. S. Handman, “The Mexican Immigrant in Texas,” National Conference of Social Work, *Proceedings* (1926), pp. 332-39; J. B. Gwin, “Social Problems of Our Mexican Population,” *ibid.*, pp. (1929), pp. 531-38; California State Department of Industrial Relations, *Mexicans in California*, Report of Governor C.C. Young’s Mexican Fact-Finding Committee (San Francisco, 1930), pp. 175-214.

12 For instance, see Hearings on H. R. 6465, etc. op. cit., p. 305.

13 McLean, op. cit., p. 335.

The social welfare problems of the Mexicans in California are defined largely by the fact that the Mexicans constitute the largest group of unskilled, low wage labor in the state, added to the background conditions which make them willing and desirous to come into the state to occupy that economic level. In the background are the handicaps of little or no schooling in Mexico and lack of familiarity with English; physically, in Mexico they have lived on a meager diet with little attention to sanitation and hygiene, which manifests itself in a high infant mortality rate and high rate for tuberculosis and other communicable diseases; and their relation to authority has been feudal, making difficult their adjustment to American traditions. Added to these handicaps is the fact that racial prejudice exists, particularly against those of non-European stock whose color, customs, and habits of life differ from the American standard.¹⁴

The Economics of Dependence on Mexican Labor

Mexicans had been retained since pre-American times as majordomos and vaqueros in cattle ranching.¹⁵ Their employment other than on cattle ranches was concentrated in the south, where they provided a supplementary labor supply for building the citrus industry. After 1900 the Mexicans in the citrus industry competed with the Japanese, and employment of the latter in this industry was greatly in excess of the Mexicans by 1909.¹⁶

Employers in northern California who had had little or no experience with Mexicans thought of them as possible substitutes for both Chinese and Japanese. Chinese exclusion was little more than one year old when, in 1883, the possibility of bringing in Mexicans was considered by fruit growers.¹⁷ Again, when partial exclusion of the Japanese was secured in 1907, plans were laid to import Mexicans who "are plentiful, generally peaceable, and are satisfied with very low social conditions."¹⁸ In both instances, however, the pressure to import Mexicans was relieved by the recurrence of economic depression, which reduced the employment opportunities of the domestic population. When eventually Mexicans in significant numbers did become available for employment in California agriculture, it was of their own volition and not the result of recruitment by farm employers.

The increase in employment of Mexicans as agricultural laborers during the first half of the decade 1920-30 apparently attracted little attention. Conception of dependence on Mexican labor first began to become generalized among farm employers during the spring of 1926. The articulation of a concerted demand for additional Mexicans appears to have arisen with the California Development Association. Although no record has been found of labor shortage during the season

14 *Mexicans in California*, op. cit., p. 205.

15 U.S. Department of the Interior, Census Office, *Report on the Productions of Agriculture* (1880), p. 1033.

16 U.S. Immigration Commission, *Reports* 24, pp. 22, 30-31.

17 Proposed by William C. Blackwood at the October 1883 meeting of the State Horticultural Society, *Pacific Rural Press* XXVI (November 1883), p. 379.

18 *California Fruit Grower*, XXXVI (August 24, 1907), p. 4.

of 1925, all indications in fact being to the contrary, this association arrived at the conclusion in January 1926 that "there appears sufficient evidence pointing to an insufficiency in farm labor supply for the harvesting of cotton, fruits, and grapes in season of 1925 and evidence further points to greater shortage of labor for the season of 1926."¹⁹ The possibility of immediate quota restriction on Mexicans appears not to have been then known to the members of this association. Their demand, as expressed in the resolution including the above quotation, was that a plan be provided to permit a still larger number of Mexicans to cross the border temporarily for employment during the harvest season. This resolution was carried to Washington by S. P. Frisselle, who represented both the California Development Association and the California Farm Bureau Federation.²⁰ In his remarks before the House Committee on Immigration and Naturalization, Mr. Frisselle maintained that the immigration law of 1924 had resulted in an unjustified hardship on farm employers by limiting the number of Mexicans to cross the border through the charging of both a head tax and the visa fee.

In March 1926, a regional conference for the "formulation of a sound agricultural program applicable to California and adjacent territory" was held at Fresno under the sponsorship of the Chamber of Commerce of the United States. Discussion at this conference with reference to farm labor dealt almost exclusively with the necessity of Mexican labor.²¹ Members of the conference were urged to oppose quota restriction on Mexican immigration and to support a labor-procuring organization for farmers named the San Joaquin Labor Bureau.

With this action by the California Development Association, the appearance of Mr. Frisselle in Washington, and the action of the Chamber of Commerce, the foundation was laid for a program of concerted resistance to quota restriction. Since no legislative action was taken on the proposals of 1926, the issue in California momentarily subsided. But this program of resistance was ready for action immediately when the restriction issue was brought up in 1927 and again in 1928.

Two lines of defence were used by California farm employer interests through the years 1926-1930 to argue that Mexican labor should not be curtailed. One of these was affirmative in behalf of the Mexican, and the other was a threat that if denied further Mexicans, employers would be forced to import or encourage migration of Filipinos, southern Negroes, or Puerto Ricans. Arguments in favor of the Mexicans can be roughly classified into three groups:

19 U.S. Congress. House. Committee on Immigration and Naturalization, *Seasonal Agricultural Laborers from Mexico*, Hearings on H.R. 6741, H.R. 7559, H. R. 9036, 69th Cong. 1st. Sess. (Washington, D.C., January and February, 1926), p. 4.

20 *Ibid.*, pp. 4-23.

21 Chamber of Commerce of the United States, *Proceedings of Agricultural Conference of Chambers and Associations of Commerce*, Fresno, March 26-27, 1926), pp. 39-46.

1. Employers were not able to obtain any other labor. The form of this argument varied. The extreme form of the position alleged an absolute scarcity of unskilled labor of all classes and races. The more moderate and more usual version, however, was that "white" labor refused to perform these unpleasant and menial tasks of agriculture which required working in uncomfortable positions and under rigorous conditions. U.S. citizens were being educated to seek "white collar jobs" and managerial work, they claimed.
2. If Mexicans were not available to perform menial tasks, agricultural production would stagnate and thus depress the general level of economic welfare. In its extreme form, this argument asserted that absolute stagnation and ruination of all agriculture was in prospect if Mexican immigration were greatly restricted; in its most mild form, that cutting off the Mexican labor supply would mean higher production costs and higher consumer prices for farm products. The most usual argument lay between these two extremes.
3. Mexicans were ideal farm laborers and an important economic asset to the community. One popular version of this argument was that the Mexican was a "homer" who shunted back and forth across the border as his services were required. Thus he did not become an immigrant and did not become a permanent social or racial problem. Those who did not take this fallacious line maintained that Mexicans constituted a desirable addition to the population, because they were a class of people who would always be content with performing menial tasks, thus leaving other people free to engage in higher orders of enterprise.

That labor costs had considerably more to do with the issue than employer interests usually cared to admit was revealed by Dr. George P. Clements at the agricultural conference of the Chamber of Commerce in 1926:

The old fashioned hired man is a thing of the past. He has left the farm. There is no place for him, and the farmer who does not wake up to the realization that there is a caste in labor on the farm, is sharing too much of his dollar with labor. California requires a fluid labor. We are not husbandmen. We are not farmers. We are producing a product to sell and in most cases we go out of our industry to take care of our livelihood.²²

The extreme claims that shutting out additional Mexicans would mean stagnation and ruination for California agriculture were made principally in Washington and not within California.²³ The more realistic positions were that investments and

²² Chamber of Commerce of the United States, *Proceedings of Agricultural Conference*, op. cit., p. 39.

²³ These extreme positions are illustrated by that taken by Frank J. Palmares, manger of the Agricultural Labor Bureau of San Joaquin Valley. Asked by the chairman of the House Committee on Immigration and Naturalization what would be the effect on California if economic conditions in Mexico were favorable enough to prevent Mexican immigration, Mr. Palmares responded: "We could not exist." (Hearings on H.R. 8523, etc., op. cit., p. 153.)

capitalized values, rather than production per se, were in jeopardy, and also that cost of production would rise. Mr. R.H. Taylor summarized his view of the probable immediate effects of Mexican labor restrictions as follows:²⁴

- (a) Competitive bidding for labor not only in the west but in eastern industrial centers, with consequent increase in the prices of growers' commodities.
- (b) Reaction felt by the banks through inability of the small man to engage successfully in this labor competition.
- (c) Increased freight rates due to higher maintenance costs on the part of carriers.
- (d) Rise in prices of all agricultural commodities to consumers.

Both Fred J. Hart and Ralph H. Taylor, in Washington in 1930, sought to impugn the actions of the California Senate and Assembly in sending resolutions to Congress asking for enactment of the proposed quota legislation. Hart asserted that the California legislature did not represent the best interests of the people and that it was not a "business" government.²⁵ Taylor charged that the resolution was approved by the Assembly on a trading basis and that the Senate voted it through in a last-minute rush without knowing what it was doing.²⁶ Taylor also declared a report on Mexican immigration prepared for the House Committee on Immigration and Naturalization by Roy L. Garis to be "faulty and inadequate research" which, if accepted as a true picture, would put in serious jeopardy the fate of inhabitants of one-third of this country.²⁷ (The emphasis of the Garis report was that there was already a more than sufficient Mexican population to handle itinerant labor needs and that accumulation of this population in the cities was resulting in serious social problems.)²⁸

Alternatives and the Entrenchment of the System

Filipino Labor in California Farming

Although citizens of the Philippine Islands were free to move without immigration restriction into the United States, the laboring class did not do so in significant numbers until 1923. Between 1923 and 1929 some 30,000 Filipinos arrived. Their immediate employment in California was predominantly in agricultural labor.²⁹ The

24 Hearings on H.R. 6465, etc., op. cit., p. 324. Compare Charles C. Teague, "A Statement on Mexican Immigration," *Saturday Evening Post* 200 (March 10, 1928), pp. 169-70.

25 U.S. Congress. House Committee on Immigration and Naturalization, Hearings on H.R. 8523, 71st Cong., 2nd Sess., pp. 200-201.

26 *Ibid.*, pp. 212-13.

27 *Ibid.*, p. 217.

28 *Ibid.*, pp. 424-25.

29 U.S. Department of Commerce, Bureau of the Census, Fifteenth Census of the United States, *Population*, Vol. III, Part 1.

earliest arrivals were principally remigrants from Hawaii, to which they had been recruited by the Hawaiian Sugar Planters' Association, but proportion coming directly from Manila increased after 1923.³⁰ Reports from earlier arrivals of more favorable experiences in California than in Hawaii and traffic recruitment by the steamship lines were influential.³¹

The Filipino experience in California had much in common with that of the Chinese and Japanese. They were mainly males, and three-fourths were under 30 when they arrived. Most of them had worked as farm laborers in similar conditions either in Hawaii or at home and were thus prepared for the type of work California had to offer. Like the Chinese and Japanese they herded well and worked in gang formation, with all negotiations handled through a gang boss. Established living standards were acceptable to them.

Given these characteristics, it seems strange that the Filipino was not enthusiastically welcomed by California agriculturalists. But he was not generally well received—the principal exception being in the San Joaquin delta region among its asparagus producers.³² The *Pacific Rural Press* condemned them as a health and racial menace.³³ California spokesmen at the Washington hearings on Mexican immigration stated disinterest and used the prospect of Filipinos as a threat if denied unrestricted access to Mexicans.³⁴ Only with the real possibility of Mexican limitation did employer attitudes toward the Filipino become more affirmative. In 1930 efforts were made to rush numbers of Filipinos into this country.³⁵

Organized labor was more vigorously opposed to Filipinos than to Mexicans. The California State Federation of Labor adopted resolutions in favor of their exclusion at each annual convention, 1927 through 1931.³⁶ A Filipino restriction bill was introduced in Congress with the support of the American Federation of Labor.³⁷ The California Assembly sent a memorial of support for restriction. No legislative action was taken, however, and by 1931 the demand was dampened by a reversal of the migration tide. Repatriation of Filipinos was encouraged with free passage

30 California State Department of Industrial Relations, *Facts About Filipino Immigration into California* (San Francisco, 1930), pp. 24-31; Bruno Lasker, *Filipino Immigration* (Chicago, 1931), pp. 201-11; William H. Taylor, *The Hawaiian Sugar Industry* (Berkeley, 1935), p. 92.

31 Lasker, op. cit., pp. 211-17.

32 Chamber of Commerce of the United States, op. cit.

33 CXVII (January 19, 1929), p. 72; (April 13, 1929), pp. 476-77; CXIX (February 15, 1930), p. 209.

34 Hearings on S. 1296, etc., op. cit., pp. 26, 66.

35 *Pacific Rural Press* CXIC (March 8, 1930), p. 300.

36 California State Federation of Labor, *Proceedings of Conventions* (1927), p. 63; (1928), pp. 28, 51, 67, 87; (1929), pp. 30, 77, 87; (1930), pp. 29, 58, 79; (1931), pp. 27, 85.

37 Scharrenberg, Paul, "California Labor and the Filipinos," Commonwealth Club of California, *Transactions XXIV* (November 5, 1929), pp. 349-53; American Federation of Labor, *Report of Proceedings* (1928), pp. 124, 217, 218; (1929), pp. 79, 139-140, 306.

offered for the return trip.³⁸ Upon being given provisional independence in 1934, the Philippine Islands were allowed an immigration quota of just fifty per year.

Outside the asparagus area the Filipino worker was charged with low productivity, a charge that subsequent history fails to validate. Charges of being a health and racial menace apparently reflected common disapproval of the Filipino's alleged propensity to associate with white women. But opinions were not unanimous, and doctors from the State Board of Health and the United States Public Health Service testified to the Commonwealth Club in 1929 that there was no evidence of Filipinos being a special health menace.³⁹ Filipino laborers continued to play a minor yet significant role in the perpetuation of the California farming system.

Significance of Mexican Labor to California's System of Farming

The labor situation in the spring of 1920, as seen by Professor R.L. Adams, was this:

* * * If California is to go on with her agriculture as now organized she must continue to constantly recruit a supply of labor able and willing to do the hand work necessary to the harvest of many fruits, the growing and harvesting of many field crops as rice, cotton, sugar beets, and beans, the production of truck crops in the delta, and the growing of cantaloupes and lettuce in Imperial Valley. Either the supply must be kept up or else a reorganization in our scheme of production is bound to be necessary. Such a readjustment, as matters now stand, may ultimately be best from the community viewpoint, but it certainly cannot be accomplished without heavy financial losses to certain industries which have build up with reliance on classes of labor that thus far have been to a considerable extent available. Reliance upon labor as now available without future augmentation, greater use of machinery, or similar recommendations, will result in a change from many specialized crops of high acreage value to general crops of low acreage values, if no other relief is forthcoming. * * * In conclusion may I add there still exists in my mind a question as to what the remedy should be. Are we not better off to reorganize on the basis of what we have and to quit fostering industries whose existence depends upon the constant recruiting of such peoples as Mexicans, Japanese, Chinese, Hindus, or will the economic advantages of a continuation of this sort of thing more than offset the rather evident social disadvantages? It is an important question and upon its correct answering depends the future of our agriculture in many of its important phases.⁴⁰

The question was answered by Mexican and Filipino augmentation to the labor supply rather than by reorganization. Considering the continued abundance of labor throughout the decade and the changes in production which took place, the relationship in general was evidently this: The labor supply without additional Mexicans

38 U.S. Congress. House Committee on Immigration and Naturalization, Hearings on Res. 549 and Res. 577, 72nd Cong. 2d Sess. (Washington, D.C., January 1933), pp. 16-46.

39 Commonwealth Club of California, *Transactions* XXIV (November 5, 1929), pp. 356-64.

40 Letter from Professor R. L. Adams to F. L. Lathrop, California State Board of Control. In California State Board of Control, *California and the Oriental* (Sacramento, 1920), pp. 125-27.

would probably have been adequate not to cause any difficulties in field crops and livestock, for these two lines of production remained relatively constant throughout the decade and moreover were not heavily dependent upon foreign sources of labor. The principal exceptions were sugar beets and cotton. Sugar beet production was greatly diminished throughout the twenties by pest problems and by higher prices in alternative lines of production. The great expansion of cotton, on the other hand, was in association with considerable Mexican labor. Fruit and nut production in the aggregate expanded about 30 percent during the decade. Had not competition developed elsewhere within agriculture for the domestic labor supply, this expansion could probably have been accomplished without additional Mexicans and without substantial alteration in farm organization. Fruit producers possibly would have had to pay higher wages and to follow through on their plans to improve housing and other conditions of employment. Truck crop production more than doubled during the decade; a convenient labor supply undoubtedly played an important part in determining the advance. Truck crop producers had the competitive ability to attract workers from other fields of agriculture, for they said in 1929 that they could pay 50 percent more in wages and still make a profit.⁴¹ Of the established industries, the fruit growers stood to be hardest hit if active competition for labor developed.

As it turned out, the 1920s were a period of such labor sufficiency that, even without additional Mexicans, both truck crop and fruit production could most likely have expanded on a large scale, specialized basis. Higher wages would likely have encouraged migration of domestic labor from elsewhere in the United States. The demand for labor in all fields would have been offset to some extent by more rapid development of labor-saving machinery and techniques.

That there was an association between the Mexican labor supply and the survival of California's tentatively established farming system is apparent. Workers from Mexico had a prominent role between World War I and the great depression in the continuation of labor practices that got started with Chinese and Japanese. No less significantly, they were the main labor resource for the expansion of both truck crops and cotton in the twenties.

When the great depression came and with it the Okies and Arkies from the dust bowl, California's system of labor relations was deeply entrenched. The new influx crowded into the farm labor market brought two impacts: forced repatriation of Mexicans; and strikes and violence. It was the latter that brought the LaFollette Committee to California to conduct its famous investigation into "violations of free speech and rights of labor" immediately preceding World War II. Had not the war relieved tensions and frictions by providing new job opportunities, the system could have collapsed—from revolution rather than labor shortage.

41 *California Citrograph*, XV (November, 1929), p. 29.

After 1940: The Further Role of Mexican Labor in an Entrenched System

Laborers from Mexico were to have prominent roles in subsequent farming history. The World War II farm labor "emergency" came quickly, and no solution but convenient access to Mexican workers was politically acceptable. Accordingly, under intergovernmental agreement, the War Food Administration became a direct contractor-supplier of Mexican farm laborers from 1943 to 1947.⁴² After the war, the years for adjusting to "normalcy," i.e., neither depression nor war, were brief. The Korean conflict again brought perceived "emergency," and again there seemed to be no answer but more Mexicans. In 1951 Congress enacted and President Truman reluctantly signed the Bracero Law, P.L. 78. It was initiated as a temporary emergency measure, but a series of extensions carried it through 1964.⁴³ This program was the closest that California farm employers ever came to realization of the labor supply dream they cherished; it was an even better arrangement than slave owners of the South had. Without their families, Mexican workers could be imported on the date needed and deported when not needed, under federal authority but with little intervention by government into the terms and conditions of employment. While minimum requirements were stipulated by both the Mexican and the U.S. governments, very little enforcement machinery was provided. Since the worker was instantly deportable if found to be unsatisfactory, there were obvious constraints against complaints by individual workers.

Farm employers broadly predicted disaster if the Bracero program were not renewed. But when the end of the Bracero epoch came in 1964, the predicted disaster did not follow. In part, this was attributable to a larger-than-usual inflow of non-contract Mexican workers, both illegal "wetbacks" and legal immigrants, and in part it was due to acceleration in mechanization, especially the tomato harvester. But even without these fortuitous events, the high level of nonfarm unemployment after the Korean settlement was probably sufficient assurance of a plentiful labor supply. The governmentally authorized arrangements for Mexican contract workers from 1951 to 1965 simply guaranteed the survival of the system.

42 The full account of Mexican and other alien labor contracting during World War II is given by Wayne D. Rasmussen, *A History of the Emergency Farm Labor Supply Program, 1943-47*, Agriculture Monograph No. 13, U.S. Department of Agriculture, 1951.

43 Hawley, Ellis E., "The Politics of the Mexican Labor Issue, 1950-1965," *Agricultural History* (July 1966), pp. 157-76.

Chapter 4

LABOR RELATIONS IN AGRICULTURE, 1955

Only a small part of the agricultural work done by hired farm laborers offers individual, identifiable jobs in the usual sense as found in factories, offices, or stores. Especially in fruit and vegetable harvests and in cotton and sugar beets, individuals work in a gang or crew, and each person is paid in piece rates for the quantity of work he does. Generally speaking, there is no stability in this employment relationship; employer and worker alike feel little obligation to each other. In consequence, the employer may take on as many workers as are readily at hand even if it means putting 50 pickers into a field where 25 could do the work. Reciprocally, laborers frequently shop around for favorable work situations since they have little feeling of obligation to their employer of the previous day or week. Many of the harvests last only a few weeks, and, moreover, the day-to-day work within the period may be irregular and uncertain because of weather interruptions or other variations. Much of the work to be done is physically arduous, involving repetitive motions and often working in a stooped position, on a ladder, and in damp, cold, or hot weather. Sanitary facilities in the field may be no more than improvised affairs, if not indeed completely lacking. Housing in the areas of intense seasonal labor demand is often deficient in quantity or quality, if not in both.

Given the conditions and characteristics so widely associated with this type of farm employment, it is not surprising that the industry has difficulties in obtaining a reliable and adequate labor supply. From the standpoint of attracting labor, the most favorable situation is found on livestock and diversified types of farms where employment is comparatively stable, the tasks are usually more varied, much of the work is mechanized, housing and living conditions are more favorable, and the prospects of earning an acceptable annual income are much better. In such situations each worker usually has an identified and individual job, and the employment relationship is similar to that of industrial plants; indeed, it may not only have equal stability but also closer personal relations between employer and worker.

Meeting seasonal hand labor needs on family enterprises that produce such commodities as fruits, vegetables, cotton, or sugar beets may not be a difficult problem if the farming of the locality is diversified to several crops and thus avoids the concentrating of intensive seasonal activities in the same short time period. In these instances, farmers and family members may work on other farms; students, housewives, and other short-term workers also may be obtained from neighboring towns and villages.

But in circumstances other than those described above, the labor supply situation often becomes difficult. This may occur either because farms specializing in hand labor crops are large and need many laborers or because most or all of the family enterprises in an area specialize in the same crop and thereby multiply labor needs. The problem of an adequate supply of potato pickers for Aroostook County,

Maine derives not from the fact that any one potato farmer needs many workers but from the fact that there are many potato farmers, all of whom need a few. In contrast, the labor supply problems of lettuce growers in the Salinas Valley, California are more in consequence of numerous large farms than of area specialization.

In varying degrees and proportions these two types of situations are found in numerous and widely scattered points throughout the United States. Whether the intense need of seasonal hand labor originates from area crop specialization or from a concentration of large farms or from a combination of both, the basic labor supply problem is much the same but the manner of seeking its solution may be quite different. Although there are exceptions that will be noted later, it is mainly with respect to these types of employment situations that labor relations in agriculture have acquired any of the formalism of concerted action by either employers or workers.

Wages, working conditions, and terms of employment for farm workers, unlike those of other major occupations in the United States, are not determined or significantly influenced either by collective bargaining or by legislative action. Unionization of farm workers is fragmentary and exceptional. Organizations of farm employers, although considerably more extensive, are by no means general or nationwide. Government agencies have no important role in agricultural employment, for there is very little federal or state statutory authority or obligation to act. Farm workers are excluded from all important labor legislation such as the Fair Labor Standards Act, the Labor-Management Relations Act, and the federal-state unemployment system.

In the absence of the governmental role and with virtually no collective bargaining, it inevitably follows that the content of "labor relations" in agriculture is extremely meager. Yet, this does not mean that wages, conditions, and terms of employment for all farm workers are determined entirely through individual bargaining between employer and employee within an environment governed dominantly by free labor market forces. Individual arrangements between employer and employee do prevail almost entirely in diversified general farming, livestock enterprises, and where, as in the Northern Great Plains wheat belt and the Midwest corn belt, mechanization has virtually eliminated the need of hand labor. But where temporarily employed hand labor in large quantities is required, organizations of employers, and to a lesser extent also of workers, have endeavored by concerted action to influence the economic environment of employment.

Concerted actions of this kind have taken place in two principal directions:(1) The stating and urging of policy positions with regard to proposed legislation or to the administration of government programs—principally, the labor procurement and placement operations of the federal and state employment services. This includes also intergovernmental negotiation and administration of foreign farm labor importation programs. (2) Attempts by either or both employers and workers to "structure" the labor market by adopting and trying to enforce unilateral positions

on wages or other conditions of employment.

These unilateral, noncollective bargaining activities of organized groups on both sides are far greater in magnitude and consequence than either the limited amount of collective bargaining or the restricted role of government. Unilateral activities are, therefore, the major portion of the meager content of labor relations in agriculture.

Organizations for the exercise of concerted power have been initiated, promoted, and assisted by interests reaching into agriculture from the outside; they have also developed as self-initiated movements from within groups of farm workers. As a general proposition, the organizations that were heavily supported and influenced from outside of agriculture were the longer lived and the more potent. Outside influences that at various times and places have entered the arena of farm employee organization have included principally the Communist party and two national labor organizations. In the arena of farm employer organization, chambers of commerce, public utilities, financial institutions, associations of nonfarm employers, and agricultural processing interests have played prominent roles. These roles by agencies and interests extending into agriculture from the outside have definitely been more than responses to appeals for help emanating from within the particular group; from external sources have come important contributions in initiative, leadership, and policy making, in addition to financial support.

For many years, California was outstanding in its widespread use of seasonal hand labor crews, composed mainly of migratory workers and minority nationality groups. California farming, more than that of any other state, combines large-scale operations and area specialization in labor-intensive crops. Accordingly, it is perhaps apparent why California farm employers pioneered organizations and activities to assure the availability of a labor supply. Reciprocally, it is equally apparent why farm workers in California should be motivated to counterpart organization and activities. The uncertainty of obtaining enough employment to earn a living are reciprocal hazards upon which the respective parties may be impelled to seek group action.

Out of these years of experience, unilateral concerted approaches to agricultural labor relations were pioneered. And, except for minor parallel developments in immediately neighboring states, this approach remained for many years largely a California phenomenon. However, scarcity of farm labor during World War II and succeeding years, and the foreign labor programs devised to relieve this scarcity, supplied the basis for expanding some of the characteristics of the California pattern to other parts of the United States.

A few details of the economic characteristics of California agriculture may help in understanding the discussion of labor relations that follows. For the past several decades, there have been approximately 100 thousand farm units in California that had sufficient acreage and produced enough output for sale to be regarded as commercial farms. Yet, in 1949 only 14 thousand of these were large enough to have products worth \$25,000 or more.

But the output of these 14 thousand farms accounted for almost 70 per cent of the state total. These same farms also paid 70 per cent of the state total expenditure for hired labor. Labor expenditures for these farms were equal to 22 per cent of the total value of their products. The significance of wage outlays on these farms is further indicated by the fact that in 1949 their labor costs were approximately seven times their outlays on gasoline and other petroleum products.

Notwithstanding the fact that the bulk of the total farm employment is concentrated on a proportionally small number of large farms, this does not mean that small farmers have no significant role as employers. Actually, the 86 thousand farms which produced outputs of \$250 to \$25,000 in 1949 also used hired labor in almost as high a proportion to the value of their production as did the 14 thousand farms producing more than \$25,000 worth of products. For example, the 5-acre peach grower is likely to have just about as large a proportion of this crop picked by hired labor as is the 150-acre peach grower. The significance of these facts for labor relations in agriculture is this: There is large-scale management sufficient to provide leadership on labor problems; the more numerous small-scale operators also have significant interests as employers and, hence, are generally willing to accept the labor policies and programs that seemingly reflect their interests as well. Thus, a position that initially reflects the demand of only a very few farmers can successfully be represented to legislative and administrative bodies as that of "agriculture."

The California hired farm labor force at the peak of the harvest season is currently estimated to include at least 350 thousand persons. Of these, approximately 75 thousand are working in year-round jobs and some 100 thousand are seasonal and intermittent workers whose principal occupation is agricultural employment. The remaining 175 thousand or more are students, housewives, and others not regularly in the labor market for the full year or not regularly seeking farm employment, plus Mexican nationals under contract (some 50 thousand currently) and a large but unestimated number of illegally entered aliens (wetbacks) from Mexico. This category of casual and incidental workers supplements the more regular labor force mainly during the busy months, May through October. They, therefore, take the main brunt of seasonal variation in employment. But seasonality also cuts deeply into the earning capacity of the 100 thousand who depend upon seasonal and temporary work but are seeking work during the full year, for they are fortunate to find as much as 150 days of work per year.

Before World War II, California's peak seasonal labor requirements were supplied largely by interstate migratory workers; in recent years, the number of interstate migrants has declined sharply. Erstwhile migratory workers who have become settled, supplemented by contract workers and illegal aliens from Mexico, now provide the principal sources of supplemental seasonal help.

Other areas of the United States into which the California pattern of labor relations has expanded in recent years have some or all of the economic characteristics of California farming. Most of such areas do not have as much large-scale farming

as does California. The significant and basic characteristics for the development of such a pattern of labor relations appear to be: (1) perishable crops having urgent seasonal hand labor needs in excess of the labor supplies normally available within the immediate community, and (2) high labor costs in relation to value of product.

Present-day labor relations in agriculture, for California particularly, are darkened by the shadows of long-past conditions and events. An understanding of attitudes, perspectives, and practices, therefore, requires knowing something of the past. The sections that follow outline the essential linkage with the past without pretending to be a full historical coverage.

Unionization of Farm Workers

Contemporary efforts to organize farm workers, still largely unsuccessful, are linked environmentally with major conflicts of twenty years ago. The confusion and despair of depression in the thirties and the erosive consequences of unemployment made a fertile field for the Communist party. Of some 275 farm labor strikes between 1930 and 1939, over half were in California. In this wave of California strikes, the Communist party played a major role. By means of its "dual" revolutionary federation called the Trade Union Unity League, the party launched a vigorous program in California in 1930 in which it undertook to promote strikes and to assume control of spontaneous strike situations. Numerous embryonic and short-lived unions were gathered into the TUUL federation. The Communist influence reached its peak in 1933 and thereafter began to decline. Only one of the TUUL unions—the Cannery and Agricultural Workers Industrial Union—achieved any prominence. Under heavy attacks from employers, it became defunct in 1934, and the TUUL was formally dissolved the following year.

After the party's direct and sponsored organizations were dissolved and suppressed in the mid-thirties and non-Communist unions had actively entered the field, the imprint of attitudes that had been left by the earlier years of strife and bloodshed made it difficult for those immediately concerned, and for the public at large, to distinguish between legitimate trade-unionism and subversive agitation. Continued efforts by the Communist party during the late thirties to maintain labor leadership by infiltration of non-Communist labor organizations sustained and aggravated the confusion. The effort of the AFL and CIO to organize later in the decade met with obstacles that were compounded out of the confusion and resistance left in the wake of the earlier Communist programs and the continued dilution of the farm labor force by large numbers of unemployed.

Summarizing his comprehensive national study, *Labor Unionism in American Agriculture*, Stuart Jamison appraised the failure of "literally hundreds of organizations that were sporadic, scattered, and short-lived" as follows:

The conditions which made it different for seasonal farm workers to organize were the same conditions that made them vulnerable to agitation and strikes. The hardships which they suffered made them a problem group of great public concern, the true "forgotten men" of the thirties. Their extreme mobility, the high seasonality of their work and the low

wage rates all combined to make unionization among them costly, and, at the same time, created chronic problems for the communities in which they lived. The social status of seasonal farm workers was that of a lower caste suffering poverty, depending upon relief, and lacking adequate facilities for education, housing, sanitation, and medical attention. They were, on the whole politically impotent and, in many states, disfranchised. Public opinion in the communities in which they worked usually sided with employers and sanctioned the use of stern legal and extralegal measures for suppressing collective bargaining. The public held tenaciously to the traditional view of the family farm that agricultural laborers as compared with industrial workers had more security and benefitted from the personal solicitude of their employers. The labor contract continued to be regarded as a personal bargain between equals, even when the employer was an absentee bank or land corporation bound by the rules of a trade association. Most protective labor legislation enforced by Federal and State governments still does not cover agricultural workers. A further reason for their hardships was the continuous competition of marginal labor groups—newly arrived immigrants, women, children, and unemployed from other industries. Surplus workers during the thirties forced farm wages down to levels far below the minima established in other industries.¹

Yet, a significant point of exception needs to be noted. In the early thirties, little distinction was drawn between agricultural field-workers and the workers in the packing sheds and food processing plants. The same general labor supply served both, and there was a great deal of mobility and interchange from field to packing shed and to processing plant within the season and from year to year. Early organizational programs blanketed these inter-related employments. But the unfolding events in labor relations brought a cleavage that separated field-workers from the others. Canneries, milk plants, and sugar refineries became almost completely unionized, and packing sheds, dried fruit handlers, and other processors became unionized to a substantial extent while field laborers remained largely unorganized.

Out of the extensive efforts to organize farm labor from 1930 until World War II, only two isolated and exceptional instances of unionization and collective bargaining survived. These are the AFL milkers' unions (affiliated with the International Brotherhood of Teamsters) in the Los Angeles and San Francisco milksheds which organized and attained collective bargaining recognition in the mid-thirties.² These two unions have succeeded in maintaining their status even though parallel organization has failed to expand into other dairy areas of California.

Many students and observers of agricultural labor relations expected that the greatly altered full-employment conditions of the World War II decade would bring renewed, more vigorous, and better equipped drives to unionize farm workers. Several reasons were suggested for such an expectation, of which these were the most emphasized:

1 *Labor Unionism in American Agriculture*, U.S. Bureau of Labor Statistics, Bulletin No. 836 (Washington: 1945), pp. 406-7.

2 For a full account of these milkers' unions, see Ernest Feder, "The Milkmen, Unions of the San Francisco and Los Angeles Milksheds," *Journal of Farm Economics*, XXXII, (August, 1950), 458-77.

1. Many prewar farm workers would return to agriculture after having had industrial experience under wages and conditions of unions and collective bargaining, and upon returning would be dissatisfied with the employment standards of agriculture.
2. Wartime expansion of industrial and agricultural processing plants into rural and suburban areas and the concurrent expansion of trade-union membership to growing numbers of semiskilled and unskilled laborers would bring union organization and industrial employment standards nearer to agricultural wage earners.
3. The continued trend toward large-scale farming enterprise using more machinery and industrial techniques would tend to remove the real and apparent dissimilarities between agricultural and nonagricultural occupations.
4. Established trade-unions in the metropolitan centers would encourage and strongly support energetic drives to organize farm workers in the interest of protecting themselves from the threat to their security from nearby pools of unorganized farm laborers.

But notwithstanding some exceptions to the contrary, it is generally appropriate to say that the expected postwar unionization of farm laborers has not materialized. The reasons for this may be many; evidently, the unanticipated high level of postwar employment and the consequent failure of many prewar farm workers to return to agriculture is among the foremost. In their places have come substitute groups—mainly temporarily contracted Mexican nationals and wetbacks. For many reasons, these new entrants into the agricultural labor supply were not good prospects for normal trade-unionism. Yet, paradoxically, it has been in the importing of aliens under contract that farm employers, for the first time on any significant scale, have engaged in bargaining and in contractual obligations closely akin to collective bargaining.

The outstanding exception of postwar unionization and of collectively bargained wages and conditions in agriculture occurred in the Hawaiian sugar and pineapple industries. There, in 1945, the International Longshoremen and Warehousemen's Union, at that time a CIO affiliate and now independent, unionized the plantation workers. Industrywide collective bargaining contracts were in effect for both industries by the fall of 1946 and, with modifications and renewals, have been continued since.³ The introduction of collective bargaining has resulted in extensive changes in the labor relations of these industries.

In the late forties, the American Federation of Labor actively entered the farm labor field on the mainland through the chartering of the National Farm Labor Union (later called National Agricultural Workers' Union). The new union immediately encountered effectively organized employer resistance in California. The

³ *The Economy of Hawaii in 1947*, U.S. Bureau of Labor Statistics, Bulletin No. 926 (Washington: 1948), pp. 51-55, 83-86.

structure for such resistance has survived the dissolution of the prior attempts to unionize farm labor. The AFL national union, with only a handful of full-time personnel and with meager and spasmodic financial and organization assistance from the AFL, succeeded in gaining a limited membership, but failed to obtain any collective bargaining agreements.

Still more recently, in 1954, the United Packinghouse Workers (CIO), the recognized collective bargaining representative in many vegetable packing sheds, created a West Coast Organizational Department and through it has initiated a campaign to organize agricultural field-workers.

Elsewhere in the nation, with the notable exception of Hawaii, unionization and collective bargaining in agriculture have not developed. In its nationwide survey conducted in 1950, the President's Commission on Migratory Labor encountered only two other instances of farm labor collective bargaining—in both instances field-workers were grouped together with processing plant employees under the same contract. These were the Seabrook Farms in New Jersey, where the collective bargaining agent was the Meat and Cannery Workers (AFL), and the Fellesmere Sugar Producers' Association in Florida, where the collective bargaining agent was the United Packinghouse Workers (CIO).⁴

Although the foregoing description of the current status of agricultural labor unionization is brief and undetailed, it is perhaps sufficient to indicate the essential facts of the situation. Effective collective bargaining is so exceptional as scarcely to challenge the general proposition that it is nonexistent. The AFL national union now endeavoring to organize farm workers had limited success in obtaining members but no success in obtaining collective bargaining rights. Actually, the unions attempting to organize farm labor devote only part of their efforts and resources to recruiting membership; the other part is devoted to unilateral noncollective bargaining activities, that is, appearances before administrative and legislative agencies and other endeavors to make their policies and positions effective. In these activities the national AFL and CIO also share to a limited extent, particularly with respect to national farm labor legislation and administration in federal government agencies that have responsibilities in the farm labor field. In the substantial absence of collective bargaining, these types of activities constitute the major role of unions in the labor relations of agriculture.

Organizations of Farm Employers

Farmers' organizations having a role in the labor relations of agriculture are more numerous and extensive than are unions of farm wage earners. Many organizations of farmers that are general in purpose or are based on commodities or on geographic areas have labor relations as a secondary role. Other organizations

⁴ *Migratory Labor in American Agriculture*, Report of the President's Commission on Migratory Labor (Washington: 1951), pp. 114-17.

are created principally or solely to deal with farm labor problems. In this specialized type of organization, California has been distinctively in the forefront and remains so to the present day, although recent years have witnessed the emergence of similarly specialized labor relations organizations in many other states.

Even more than labor unions, the employer organizations of California that bear influentially on present-day labor relations affairs have their origins or antecedents mainly in the thirties.

Prior thereto, with one notable exception, concerted positions and actions were rather incidental and were usually taken through general purpose or commodity organizations. Perhaps the outstanding instance of this type occurred in the latter twenties when several California and Southwest vegetable and fruit growing and shipping interests concurred in opposing quota restriction of Mexican immigration.

The pre-1930 exception of a farm employer organization that specialized in labor relations matters was the Agricultural Labor Bureau of the San Joaquin Valley, Inc. This bureau was formed in 1926 for the principal purpose of procuring and distributing seasonal labor for cotton and fruits in the southern San Joaquin Valley. The Agricultural Labor Bureau has continued to the present with its structure and purpose substantially unchanged. In its conception, initiation, and continued financial support, individual farmers and the local Farm Bureau have been substantially aided and guided by interests economically allied to agriculture, including principally local chambers of commerce, land companies, oil companies, public utilities, banking and investment companies, and numerous firms interested in handling or processing sugar beets, fruits, and cotton.⁵

The response of farm employers to the Communist-dominated labor organizing and agitation of the early thirties and its consequent strikes and strife was to organize a new statewide agency for the specific purpose of combating it. This was the Associated Farmers of California, Inc., organized in 1934. Anti-Communist in the beginning, it later became openly and avowedly antiunion and still describes the preventing of unionization of agricultural labor as one of its primary objectives. Interests that were not strictly and directly agricultural also had a substantial, and at times dominating, hand in the conception, inception, and financial maintenance of the Associated Farmers. Upon a skeletal structure created principally by the State Chamber of Commerce, the flesh and blood of life were added by the financial contributions of numerous interests allied in one way or another to agriculture.⁶ For some—the Industrial Association of San Francisco, for example—the alliance could scarcely have been more than the mutual desire to resist rapidly expanding unionism.

5 *Hearings*, U.S. Senate Subcommittee of the Committee on Education and Labor, 74th Congress, Pursuant to Resolution 266 (hereafter referred to as La Follette Committee), Part 51, pp. 18822-23; *Reports*, La Follette Committee, Part IV, pp. 498-522.

6 *Reports*, La Follette Committee, Part IV, pp. 583-694.

In the later thirties, the efforts of the Associated Farmers to expand its structure of organization to other states enjoyed early success, but interest elsewhere was not sustained and the embryo organizations were short-lived.

A third California farm employers' organization specialized around another aspect of labor relations, the Agricultural Producers' Labor Committee, appeared in 1937. This organization has centered primarily in southern California and is constituted principally of interests concerned with growing, packing, and marketing citrus fruits and vegetables. Yet, because its legislative and lobbying activities are directed mainly to obtaining, maintaining, and expanding exclusions of farm labor generally from labor-protective statutes, the APLC has statewide and nationwide significance.

This trio of special purpose organizations has served and continues to serve as a nucleus for farm employer programs and policy making within California and has been influential nationally as well. By virtue of some overlapping of leadership and generally congenial perspectives on labor questions, these organizations operate without apparent conflict. The three agencies have an influence which extends with evident facility into the labor relations of numerous general, commodity, and area organizations.

Of the state's two general-purpose farm organizations, the Grange has largely refrained from taking concerted action or positions on labor matters, while the Farm Bureau after a period of direct activity in the thirties has lately confined its labor relations role mainly to general policy and legislative positions.⁷

The labor relations activities and programs of unions and employer organizations will be discussed in detail at a later point; yet, it may be useful now to comment briefly on interrelated roles and division of responsibilities of the multiple agencies on the employer side. The Agricultural Labor Bureau continues to be principally concerned with labor procurement, with emphasis presently on the obtaining of Mexican contract labor. Associated Farmers keeps a watchful eye on farm labor unionism and takes active positions on state labor legislation. The Agricultural Producers' Legislative Committee concerns itself mainly with national labor legislation and with administrative and judicial interpretation of statutes relating to field and packing house labor.

The scarcity of farm labor during World War II, which continued during the succeeding years of high-level employment, drew farm employers into unprecedented programs and activities for labor procurement and distribution. The urgency of labor supply questions provided a useful role that not only strengthened and assured the continuance of pre-existing California organizations but also evoked the growth of similar farm employers organization in other states. Early in the war emergency

⁷ Clarke A. Chambers, *California Farm Organizations* (Berkeley: University of California Press, 1952), pp. 64-69.

period, the United States Department of Agriculture sponsored and assisted in organizing "farm labor associations" (of employing farmers). The reason for this undertaking by the Department of Agriculture was that groups of farmers, in contrast to individuals, made more convenient and efficient contracting units for handling farm laborers who were imported by agencies of the United States Government under intergovernmental arrangements with Mexico, Canada, and the Caribbean countries. Later on, prisoners of war were utilized through the same organizational machinery.⁸

In the majority of instances, completely new associations were organized, but in others the labor supply function was absorbed by other-purpose organizations already existing. In general, the association approach to farm labor problems was found to have many advantages. However, except in California where it had long been practiced and in several Atlantic Coast areas having farm labor requirements similar to California, the farm labor association was usually regarded as only a temporary war emergency measure. Hence, when the government-operated labor program receded in 1946 and terminated in 1947, most of the new farm labor associations became inactive, and many were formally dissolved and liquidated. But when the comparatively abundant prewar farm labor supply failed to return, the dissolution was checked. In ensuing years—particularly after it was discovered that the federal government would permit the continued importation of foreign labor—the farm labor association structure was rebuilt and reactivated.

Several of the wartime associations in New Jersey, New York, and Pennsylvania, as they anticipated the probable termination of the government's West Indian labor program, began to contract for and arrange the transport of Puerto Rican farm laborers. Puerto Ricans are citizens and hence free to come and go as they please between the island and the mainland. However, on behalf of its citizens, the Puerto Rican government establishes farm labor standards and conditions through contract negotiations with farm employer associations. Although a few efforts were made to adapt the association approach to the recruitment and employment of domestic seasonal labor, the outstanding success has been with foreign contract labor and with Puerto Ricans. This is perhaps mainly attributable to the fact that these workers come in as single men whose housing requirements are thereby minimized and whose mobility is thereby maximized.

These postwar associations have gained in vitality and usefulness to their members; they not only offer a controlled and centralized labor supply, they also negotiate or influence the negotiation of the terms and conditions under which the supply is acquired. With respect to Jamaican and Bahamian nationals and Puerto Ricans,

⁸ For a full account see *A History of the Emergency Farm Labor Supply Program, 1943-47*, by Wayne D. Rasmussen, Agriculture Monograph No. 13, U.S. Department of Agriculture (Washington: September, 1951). Also see *Farm Labor Associations in New York, 1944-48*, A E 724 (Ithaca: Cornell University Press, May 1950).

the employing associations directly negotiate the contracts with the respective governments; with respect to Mexican nationals, the terms and conditions of employment are established by intergovernmental executive agreements between Mexico and the United States, but representatives of the contracting associations (and of labor unions as well) are permitted to advise and to urge their policies and positions upon the government negotiators and administrators.⁹

Still another type of employer group approach to labor supply and labor relations is that undertaken on behalf of farmers by handlers and processors. For decades, some of the beet sugar refining companies, on behalf of their growers, have recruited and made arrangements for employing field hands. At the minimum, this role is a nominal one of assisting growers to locate and recruit seasonal field labor; at the maximum, the processor undertakes all functions of recruiting, transporting, managing, and compensating employees, and then deducts labor costs from crop proceeds payable to the grower. This maximum form of participation by processors has expanded in recent years, particularly among canning companies and sugar refineries in the midwestern and Great Lakes states. Beyond arranging employment details and making most or all of the labor relations policy decisions that pertain thereto, the processing company spokesmen undertake active representation of farm employer interests on national policy questions concerning legislation and administration in Washington, D.C.

Labor Relations Policies and Practices

In the few and exceptional instances of collective bargaining in agriculture, labor relations have taken the same general form as in organized nonagricultural industries. Labor relations involving groups and their unilateral policies and programs, but not collective bargaining, are concerned mainly with a particular sector of agricultural employment—seasonal hand or “stoop” labor in such crops as fruits, vegetables, cotton, and sugar beets.

The primary issue involved in this sector of agricultural employment, germinated long ago in California and spread later to other states, is whether employers of this type of labor may have a labor market of their own that is insulated from the prevailing national occupational standards. The terms in which this position was phrased in 1930 by a spokesman of the Southwest vegetable industry are still appropriate to describe contemporary views:

The grower-shipper has his problems . . . labor is perhaps his greatest difficulty—securing an ample, fluid and unfailing supply of labor, for his crops must be harvested on the hour, not the day, the week or the month

The vegetable industry requires a class of stoop labor that is impossible to get without using either Mexican, Filipino or Japanese

9 For a detailed discussion of contracting foreign and Puerto Rican labor and the more limited association approach to employment of domestic labor, see Report of the President's Commission on Migratory Labor, chapters 3 and 6.

Federated Labor and other organizations who have asked the government to place restriction upon this common agricultural laborer, should look well to the continued prosperity of their own skilled laborers, who are dependent for their position upon the agricultural harvester who makes it possible for them to receive the high wages they now enjoy.¹⁰

Twenty years later, the same position was stated without reference to the above-named labor groups and less affirmatively but just as basically by a spokesman for the American Farm Bureau Federation:

... We believe that every American should have the ambition and the opportunity to settle in a community of his choice with a full-time job to provide the necessities for living and opportunities for his family. Those in the migratory labor force who are able to do so are likely to graduate into full-time employees in agriculture or in other occupations. A considerable portion of those left in the migratory farm labor forces are handicapped in one manner or another and least able to move themselves up on the economic ladder.

Much as we dislike the idea of migratory farm labor, if we are to look at the problem realistically, it will be recognized that if we are to meet domestic and foreign needs of many essential agricultural products, we will continue to have a migratory labor force. It follows that any program designed to settle migrants or to help them to expand their opportunity for improving their status will be of benefit to those aided by such efforts, but will not eliminate the migratory labor problem.¹¹

Thus do farm employer spokesmen assert their needs of a differentiated labor supply. Whether phrased in terms of dependence on aliens of less prosperous countries, or in terms of the declaration that (at least part of) the work of American agriculture must be done by people (citizens or not) who cannot hope to realize American occupational ambitions, the argument is much the same.

Through concerted action on several fronts, employer interests have taken the initiative in making their concept of an appropriate labor supply effective—they have demanded special treatment under the immigration laws and obtained it. They have succeeded in excluding farm labor from the Fair Labor Standards Act, from unemployment insurance, and from most of the social security programs (exclusion from old-age and survivors' insurance has recently been substantially but not completely removed). Farm labor is also excluded from compulsory coverage by workmen's compensation insurance, and from the National Labor Relations Act and its successor, the Labor-Management Relations Act.

Farm employers have used their organizations to reach agreements among themselves on wage rates they believed to be appropriate and then to manipulate labor supplies (enlisting therein the assistance of the federal and state employment services) to obtain sufficient numbers of workers at the prices they have set. Farm

10 C. B. Moore, "Why New Laws to Restrict Immigration?" *Western Grower and Shipper* (February, 1930), pp. 9, 24, and 26.

11 *Hearings on Migratory Labor*, U.S. Senate Subcommittee on Labor and Labor-Management Relations of the Committee on Labor and Public Welfare, 82nd Congress, 2nd Session, Part 1, p. 882.

employers have used their organizations to frustrate and obstruct the development of counterpart organizations of farm workers.

In general, the national labor organizations have not concurred in the proposition that farm labor should be insulated from prevailing national labor standards. Yet, when national unions and parent federations of AFL and CIO have occasionally taken an interest in farm labor problems, the nature and extent of their actions suggest they have been impelled more by sympathy than by deliberate and determined policy to bring farm workers within the orbit of prevailing national labor standards. Unquestionably, the expected expense and effort needed to achieve and maintain a self-perpetuating organization have been an effective restraint. In any event, resistance to employers' activities has characteristically been no more than nominal opposition that failed to get beyond the stage of passing resolutions. The strikes and unionization attempts that were prominent in California in the thirties were strident challenges to employer philosophy of a differentiated labor supply, but in the same years, extensive legislative exclusions of farm labor from statutory protection went through Congress with scarcely a murmur of protest from the organized labor movement.

Notwithstanding the failure to attain comprehensive union organization and collective bargaining status in agriculture, organized labor recently has begun more frequently to challenge farm employers. In the field, farm labor endeavors to develop a countervailing power structure by organizing farm labor unions; regularly, at the legislative and administrative levels of the nation and occasionally in the states as well, labor challenges the hitherto virtually exclusive influence and participation of employer interests. In the latter, the national AFL and CIO are joined occasionally by their national union affiliates.

Labor Procurement

In its initial (1926) statement of "aims and purposes," the Agricultural Labor Bureau of the San Joaquin Valley, Inc., outlined its prospective functions as including: "by advertisement and other means, to induce outside laborers to come into our district, when needed; to bring the man and the work together; and to properly distribute throughout the San Joaquin Valley the labor when and where needed . . . thus fulfilling the functions most essential to the welfare of the employer and the employee alike." Notably, restraints on this function were specified, though they were not always to be stated so carefully or to be rigorously observed: "it is both unwise and unnecessary to attempt to import cheap, undesirable labor"; "the high standard of living already set up here must be maintained"; the ALB, "working in full cooperation with the commission of sanitation and housing, will carry on a campaign of education, to the end that workers and their families may be properly housed and cared for in as economical a way as possible from the farmers' standpoint."¹²

¹² *Hearings*, La Follette Committee, Part 51, pp. 18818-21.

Yet, these announced restraints on labor recruitment notwithstanding, the market terms into which the objectives of ALB were translated by one of its incorporators, when speaking before an agricultural conference of the Chamber of Commerce of the United States, indicated a concept of differentiated farm labor market essentially the same as that described previously: "We are asking for labor only at certain times of the year, at the peak of our harvest, and the class of labor we want is the kind we can send home when we get through with them. It seems to me, therefore, that we must go into Mexico for the labor for the picking of the cotton, and the harvesting of our grapes, at least."¹³

By the end of its second year, ALB began a practice that has continued since, of issuing and distributing "approved" wage schedules for several classifications of farm work. Apart from the issue of whether such wage schedules are fair and equitable, it is obvious that one of the consequences of unilateral wage administration is largely to eliminate wage competition as a factor in labor procurement. Testimony given by the pioneer manager of ALB after more than a decade of experience with wage administration revealed that, although wages paid in other localities were reviewed and discussed at the wage meetings of ALB members, neither the amount of the wage decided upon nor subsequent changes therein, if any, were designed to be an inducement in labor procurement.¹⁴

The labor procurement programs of ALB were barely beginning to take form in the latter twenties when they were overtaken by the avalanche of the unemployed. Economic adversity which brought at once an abundant labor supply and a diminished ability to hire labor and pay wages introduced other frictions and issues which pushed labor procurement into the background. As the decade of labor abundance terminated with the drawing off of the unemployed into defense establishments and the armed forces, the "Food for Freedom" goals of the Department of Agriculture were countered with demands for renewed supplies of Mexican labor. Although government planning for farm labor in the emergency, with emphasis on using the domestic labor supply more effectively, was already well advanced, the demand of farm employer interests for foreign labor attained an early and well-maintained dominance in the nation's emergency farm labor program.

For California farm employers, the war emergency foreign labor program was a substantial fulfillment, under government auspices and with considerable tax subsidy, of cherished labor supply objectives that had been framed decades earlier. For many farm employers outside of California, the wartime use of Mexican, Bahamian, and Jamaican farm laborers was a new experience, which at the time seemed excessively burdensome in many unexpected ways. Yet, faced with the prospects of procuring labor from a full-employment labor market, these employers readily minimized the adverse aspects of the foreign labor experience, particularly in the postwar

¹³ *Reports*, La Follette Committee, Part IV, p. 499.

¹⁴ *Hearings*, La Follette Committee, Part 51, p. 18590. The practice of wage fixing will be discussed more extensively later in this chapter.

years when the high level of employment failed to restore an abundant supply of farm labor. When, moreover, it was realized that the federal government would permit postwar continuation of alien labor importation, reserving to itself only a nominal supervising role, the idea of importing contracted aliens quickly achieved widespread popularity in parts of the country where such a prospect had scarcely been thought of before, for example, in the Great Lakes and Corn Belt states. Even in such states as Arkansas and Mississippi, the contracted Mexican national—as a wage laborer—was brought in immediately behind the recently displaced sharecropper.

The degree of success achieved by farm employer organizations with respect to foreign labor procurement is indicated not only by the fact that this program of alien labor importation is virtually the only World War II emergency measure that was not discontinued immediately, but also by the fact that the volume of contract labor importation has in postwar years reached a level two to three times as high as when the nation was at war with 15,000,000 men under arms. Furthermore, the degree of success is even greater if the mounting traffic of illegal aliens across the Mexican border is also taken into account. The same farm employer interests that have succeeded in maintaining and increasing the importation of contract labor have also, through opposing appropriations and amendments to the law, succeeded in preventing full enforcement of the immigration law on the Mexican border. The traffic of illegal aliens (“wetbacks”) over the United States-Mexican border has augmented the national seasonal farm labor supply by 500,000 to 1,000,000.

In presenting their positions before the federal administrators and committees of Congress, farm employer interests rely mainly on threat of crop loss because of labor shortage if the requested foreign labor is not approved. In explanation of the alleged labor shortage, some declare their absolute dependence on foreign labor because citizens refuse to work at “stoop” labor or are unable to perform the work properly. The less extreme explanation declares that local labor is preferred and that “local jobs should go to local labor when that labor is available,”¹⁵ but that the demands of the “emergency” have temporarily depleted the local labor supply.

The organizational structure for presenting these arguments at all appropriate administrative and legislative levels of government has become highly systematic and closely integrated. Local associations of farm employers are federated into state associations that are both formal and informal, and these in turn are federated nationally into the National Labor Users Committee, and, under the sponsorship of the United States Employment Service, into the Special Farm Labor Committee. As was noted above, the local associations were promoted and sponsored during World War II as an emergency measure by the United States Department of Agriculture; their postwar national federation was sponsored by the United States Department

¹⁵ The latter has, for example, been the position of the Agricultural Labor Bureau of the San Joaquin Valley, *Transcript of Public Hearing*, Bakersfield, August 1, 1950, p. 2.

of Labor (parent body of the United States Employment Service) through the appointment of the Special Farm Labor Committee consisting of one farm employer delegate from each state. This latter step was taken by the Department of Labor, allegedly as an advisory aid, shortly after it was assigned the operating responsibility for farm labor placement, succeeding the Department of Agriculture in 1948. The National Labor Users Committee is essentially an offshoot of this government-sponsored committee and has become the apex of the local-state-federal pyramid of organized demand for the temporary importation of otherwise inadmissible alien contract labor. The degree of self-confidence achieved by the National Labor Users Committee is reflected in its request to the White House (October, 1951) that, with respect to the Mexican labor program, "all International Agreements, contracts, and matters of major and administrative policy shall be subject to prior deliberation with the Mexican Farm Labor Committee" (a subcommittee of the Special Farm Labor Committee).

The fact that the Department of Labor, with respect to questions of foreign labor, was being exclusively advised by a unilateral committee of farm employer spokesmen received relatively little attention until December, 1949. Then, the Federal Advisory Council (a tripartite group to advise the Secretary of Labor required by Section 11 (a) of the Wagner-Peyser Act of 1933) advised that importation of foreign labor was no longer necessary.

Since the Secretary decided to the contrary and in concurrence with his Special Farm Labor Committee, his decision evoked considerable interest leading to questions by the President's Commission on Migratory Labor and the Senate Subcommittee on Labor Management Relations as to the propriety of depending exclusively upon employer advice. Ultimately, the Secretary of Labor responded by appointing an eighteen-man Labor Committee on Farm Labor (nine CIO members, nine AFL) and reported further that: "In the establishment of this committee, serious consideration was given to the consolidation of this committee with our existing advisory group representing agricultural employers. We have decided that since agricultural labor is not organized in all States, the consolidation of these two groups would not be practicable."¹⁶

It hardly needs to be said that foreign contract labor is an issue on which employer and labor organizations occupy opposing positions; consequently, the Secretary of Labor has now to choose between two sets of unilaterally determined advisory recommendations that are almost totally divergent; the positions of these fiat committees must then also be resolved in light of any recommendations that may be forthcoming from the statutory tripartite Federal Advisory Council.

In their testimonies as to alleged fact and their recommendations on alien contract workers, labor and employer spokesmen find themselves in contradiction, virtually point by point. Labor spokesmen tend to deny both the necessity and the

16 *Hearings on Migratory Labor*, pp. 84-91.

wisdom of depending on foreign labor and argue that, if wages and employment conditions were less substandard, sufficient domestic labor would be available to do the work. Employers answer that their experiments with domestic labor have had negative results and that hence the shortage of farm labor is not to be overcome by offers of higher wages and better conditions. Employer and labor spokesmen both criticize the government's role, but for quite opposite reasons: employers' criticisms emphasize that the government's machinery is unwieldy, complicated, and ill-accommodated to meeting agricultural labor requirements; labor's view is that the government fails to protect the interests of citizen labor by not having adequate procedures for determining if labor shortages exist and for policing the performance of the alien labor contracts. Employers usually declare that they prefer legally contracted Mexican labor to wetbacks, but some employer spokesmen are not hesitant to say that, if Mexican labor is not legally obtainable on satisfactory terms, they will use wetbacks.¹⁷

At times, all interested groups indicate general or at least partial concurrence with the statement which President Truman made in July, 1951, when giving his approval to Public Law 78 of the 82nd Congress, authorizing the government's action in contracting and transporting Mexican farm labor:

If we are to begin to solve the basic problem we must do two things right away. First, we must put a stop to the employment of illegal immigrants. Second, we must improve the use of our domestic labor force. These steps will require more sanctions than our laws now provide and more administrative machinery and service than are now available.

Unilateral Wage Determination

Given organizational structures for assuming concerted unilateral positions on labor relations questions, it is perhaps inevitable that discussions of wage rates should come into consideration. Although such discussions may be publicly disavowed as "wage fixing," it is inevitable that they lead to more or less formal group positions. These prospects apply alike to employers' and workers' organizations. In industries in which there are collective bargaining tables at which respective wage objectives can be brought into juxtaposition, disparate positions are ultimately resolved. But in agriculture, where some organizational machinery exists for the assuming of unilateral wage positions but virtually none exists for resolving them, the result may be strife and contest as to which position shall prevail (as has happened occasionally) or may be simply uncontested acceptance of a one-sided determination (which is the more usual).

The Agricultural Labor Bureau of the San Joaquin Valley began in its infancy to adopt and to circulate printed wage schedules that had been approved by the

¹⁷ Report of the President's Commission on Migratory Labor, pp. 73-76.

parent organization”¹⁸ and has continued to do so since then. Yet the Agricultural Labor Bureau consistently denies that it fixes wages.¹⁹ Many other employer organizations approach the wage question less formally—wages may be discussed rather casually at a general meeting of a local unit of a commodity or area association or of a general farm organization. There may or may not be a recommendation, but a general consensus of opinion may well emerge and solidify into a “gentleman’s agreement,” which has a good chance of becoming the prevailing or at least the basic wage for the ensuing period.²⁰

In their efforts at unilateral wage determination, farm labor unions or ad hoc groups have not usually lacked forthrightness in stating their position and objective. But since they lack a comprehensive and well-disciplined membership structure and also lack employer recognition, the peaceful instrumentalities normally employed by unions to give effect to their wage positions are not available. Hence, the employee group, in trying to elicit worker support and at the same time to impress its position upon employers, resorts to tactics of “rabble rousing” or “labor agitation” that are not commonly found in more advanced labor relations. Moreover, since unilateral wage programs of worker groups have often been undertaken as counteractions to prior employer wage setting, the atmosphere is charged with friction, leading more often to open contest than to orderly solution.

Such was the atmosphere of the first all-out contest over an Agricultural Labor Bureau approved wage—the notorious cotton strike of 1933.²¹ Growers had decided

18 A “Schedule of Prices—Fresh Fruit Packers and Shippers Effective June 24, 1927,” which sets forth wage rates for 28 job classifications, and also a “Wage Schedule of Figs, Peaches and Grapes for the Season, 1927,” which sets forth picking rates for these fruits and also for day labor, tractor operator, and married ranch hands are deposited in the Giannini Foundation Library. Each schedule notes it is “Approved by the Agricultural Labor Bureau of the San Joaquin Valley, Inc.”

19 The position that the Bureau “has absolutely nothing to do with it” was explained to the La Follette Committee by then-manager Palomares, who stated that “. . . the members of the board of directors and the employees of the Bureau did not usually participate in the wage discussions but after discussion by members, the board merely approved their conclusion.” *Hearings*, Part 51, pp. 18952-95.

20 For example, the President of the New Mexican Farm and Livestock Bureau testified before the President’s Commission on Migratory Labor in 1950: “The prevailing wage is really set by the farmers for the various types of jobs on the farm, and will vary depending upon the type of work the man does . . . We have a meeting at the beginning of the season; the farmers have and they determine roughly, what they are going to pay. It doesn’t mean that they will hold to it; it will vary, as a matter of fact.” *Report*, 1951, p. 59. For a more detailed treatment of wage fixing by employers’ associations, see Lloyd H. Fisher, *The Harvest Labor Market in California* (Cambridge: Harvard University Press, 1953, pp. 91-116.

21 A comprehensive “Documentary History of the Strike of the Cotton Pickers in California, 1933” was prepared by Paul S. Taylor and Clark Kerr and was printed in *Hearings*, La Follette Committee, Part 54, pp. 19947-20036.

to pay pickers 60 cents per hundredweight. A union then active, the Cannery and Agricultural Workers Industrial Union, demanded \$1.00 per hundredweight. The disorderly and bloody strike that ensued had other consequences, as discussed in preceding sections hereof, so far-reaching as to overshadow completely the wage issue and its settlement in the particular instance. In subsequent years, Agricultural Labor Bureau wage schedules have been protested and contested but not as intensely as in 1933. Reports of the Agricultural Labor Bureau illustrate the nature of the recent labor protests:

Wage rates in the cotton harvest continue to hold at the \$3.00 per hundred recommended wage [1948]. Caravans of workers, evidently promoted by agitators, attempted to increase wage rates in the west side of Fresno County to 4 cents per pound last week. Some workers were reported pulled out of the fields because of intimidation by agitators This type of practice takes place each year at the beginning of the cotton harvest regardless of the wage rates being paid by growers. It seems to be a sort of jockeying process that plagues every harvest season.²²

At the grower meeting held on September 2 [1949] growers recommended a wage of \$2.50 a hundred. At that meeting representatives of the NFLU, AFL demanded a wage rate of \$3.50 a hundred. Following the meeting and with the start of the harvest, considerable agitation by workers, both organized and unorganized, took place throughout the cotton area. Growers generally held to the \$2.50 rate during the early part of the season when the cotton was still green and picking demands relatively light. When the crop began to mature the competitive practice of bidding for labor soon moved the wage rate up to \$3.00 per hundred, and the \$3.00 rate is now generally being paid throughout the Valley. There are some instances in which weedy fields have had to pay a higher rate than this in order to secure pickers. The NFLU, AFL has claimed a victory as a result of the increase in the wage rate. Growers are generally of the opinion that the increase in the wage rate was a normal move, particularly with the large crop. Competition for workers, when the cotton was ready to pick, naturally moved the wage rate up, which has been the case in recent years of either large crops or labor shortage.²³

When one compares the annual wage recommendations of the Agricultural Labor Bureau with the annual average rates actually paid as reported by the United States Department of Agriculture, it is evident that over the years the Agricultural Labor Bureau wage recommendation procedure has been highly effective. For 1948, the United State Department of Agriculture reported the average wage was \$3.00—the same as recommended by the Agricultural Labor Bureau. Hence, it appears that in 1948 the forms of protest noted above were ineffective. In view of the usual effectiveness of the Agricultural Labor Bureau promulgated schedules and the further fact that within-season increases over initial schedules had seldom previously occurred, it would appear that the difference between the 1949 recommendation (\$2.50) and the season average rate as reported by the United States Department of Agriculture (\$3.00) was not a “normal move,” as explained in the above quotation from the Agricultural Labor Bureau, but rather an instance of successful union opposition.

22 Agricultural Labor Bureau, *Newsletter*, October 27, 1948.

23 *Ibid.*, October 31, 1949.

The rapid spread of unilateral wage determination by employers into many states and areas in recent postwar years has been a by-product of foreign labor contracting. All foreign labor agreements specify the payment of either a stipulated minimum wage or the "prevailing wage," whichever is the higher. There being no governmental procedure for officially determining such wage rates for agricultural labor, the responsibility to report effective rates fell to farm employers. Then, since for contractual purposes the "prevailing wage" had to be known prior to the season and hence prior to the payment of any wages, the "prevailing wage" had to depend on prevailing preconceptions of the proper wage for the prospective employment. In consequence, the procedure that became typical was for an Employment Service agent to attend the farmers' meetings, listen to the wage discussion, and emerge therefrom with their consensus of opinion and, thereafter, to report the same to his administrative superiors as the "prevailing wage." Such rates then tend to become effective for domestic as well as for foreign contracted labor.

Obstructing Unionization of Agricultural Labor

When farm employers speak of farm labor union organizers, they often use the term "labor agitator" or "racketeer" or milder equivalents, as was illustrated in the previously quoted comments of the Agricultural Labor Bureau. Similarly, farm labor union members and their leaders often refer to their employers as "corporation farmers" or "Montgomery Street ranchers." These terms of reference suggest the fully reciprocated critical and caustic attitudes which each group holds for the other.

These respective attitudes derive not alone from basic conflict of interests and objectives. Additional friction is introduced by the fact that employers' organizations are used not only to countervail the concerted positions of organized farm labor groups but also to prevent such groups from coming into existence. Although this policy is not usually stated so forthrightly, it was put this way by H. L. Strobel speaking for the Associated Farmers in his February 1952 testimony before the Senate Subcommittee on Labor and Labor-Management Relations.²⁴

- Senator Humphrey: It was stated one of the purposes of this organization [Associated Farmers] was to prevent unionization of agricultural workers.
- Mr. Strobel: I do not know as that is in the charter, but it is one of our primary objectives.
- Senator Humphrey: It is one of your primary objectives?
- Mr. Strobel: That is right.
- Senator Humphrey: Do you feel that agricultural workers should be given the privileges of collective bargaining?
- Mr. Strobel: They have them.
- Senator Humphrey: Do you think they should be given the opportunity to participate under the terms of the National Labor Relations Act of 1947?
- Mr. Strobel: No; I do not.

24 *Hearings*, Part 1, p. 664.

The published statements of the Associated Farmers and the concurring positions of other farm employer organizations are usually phrased less directly and with more reserve. One of the most friendly statements of employer principles—but nevertheless an anti-union one—was that contained in the 1937 farm labor policies statement in the preparation and issuance of which the Associated Farmers, the State Chamber of Commerce, the Farm Bureau Federation, the Agricultural Council, and the California Farmers Union all joined.²⁵ The proposition as expounded in this statement that “agriculture, while not opposed to collective bargaining, must be kept free from the effect of the imposition of the ‘hiring hall’ and the ‘closed shop’” hardly seems a challenge to the existence of unions or even to an unobtrusive form of collective bargaining. But the same statement of farm labor policies also declared “that agricultural employers pledge all their resources to protect every agricultural worker in his right to work.” A later brochure of the Associated Farmers suggests how inclusive is this concept of the employer’s obligation to protect his employee:

For nearly 18 years, the Associated Farmers of California has been a bulwark in the protection of farmers and their employees in their constitutional right to live free from violence and threats of violence by union organizers. The Associated Farmers is dedicated to the principle that all farmers have the right to grow their crops, harvest their crops, and transport them to market without interference and without paying tribute.²⁶

This objective of an organized power structure to prevent the formation of an opposing one had its genesis most directly in the outburst of labor unrest that occurred in the early thirties and particularly in the 1933 cotton strike. Today’s labor relations in agriculture, in California particularly but elsewhere as well, derive their complexions from the long shadows of that eventful year. Ostensibly, the issue in the cotton strike was the difference between the wage positions of the cotton growers and the pickers—60 cents versus \$1.00 per hundredweight. That the wage conflict was but the center for crystallization of broader and more complex issues was clearly and concisely interpreted by Paul S. Taylor and Clark Kerr:

As the faulting of the earth exposes its strata and reveals its structure, so a social disturbance throws into bold relief the structure of society, the attitudes, reactions, and interests of its groups. In the San Joaquin Valley of California the alignment of groups, their opinions and behavior under stress of an unfamiliar situation were exposed by the cotton pickers’ strike of 1933, when thousands of agricultural workers, largely of alien race and under communist influence, clashed with conservative American growers. The significance of the event is far more than incidental. It exhibits in full detail the essential characteristics of numerous lesser conflicts in California agriculture both before and since, in which ardent organizers agitate and lead, incensed ‘vigilantes’ organize and act, growers, officials and laborers each overstep the law, and citizens finally cry to the State authorities for peace, if necessary at the hands of troops²⁷

25 Printed in *Reports*, La Follette Committee, Part IV, p. 661. Also discussed in Chambers, *op. cit.*, p. 66.

26 *Associated Farmers of California, Inc. Serves You!*, 1951.

27 Printed in *Hearings*, La Follette Committee, Part 54, p. 19947.

In their diagnosis of the conflict, farm employers identified Communist agitation as the sole malefactor. Their belief that the Communist influence must be dealt with aggressively was not diminished with the conclusion of the four-week strike. Agricultural spokesmen who were active in the State Chamber of Commerce initiated proposed lines of action in which assistance from outside of agriculture was solicited. The two principal proposals were the building of a statewide organization to cope with any similar future occurrence and the invocation of the State Criminal Syndicalism Act against "Communist agitators." Under the sponsorship of the State Chamber of Commerce, assisted by some of the officers of the California Farm Bureau Federation, a series of organizational meetings brought the proposed statewide organization into being in March, 1934. It was named the Associated Farmers of California, Inc.²⁸

Associated Farmers' first action against the strike leadership of 1933 was to secure criminal syndicalist indictments and to aid in the prosecution of the fifteen individuals who were brought to trial. When eight of the most militant leaders had been convicted and sent to prison, the backbone of the dominant union (Cannery and Agricultural Workers Industrial Union) was broken. Concurrently, the Associated Farmers also moved against the lower echelons of existing and potential leadership by promoting the enactment of local anti-picketing ordinances. This campaign was continued after the criminal syndicalist convictions, and by the end of the decade thirty-four county and nineteen municipal anti-picketing ordinances had been enacted, many of which have since been held to be in violation of the Fourteenth Amendment.²⁹

Although the leadership of Associated Farmers decided to interpret the strike situation as riotous and subversive, and to make Communist abatement the principal role of the association, this decision was not entirely free of a certain measure of soul-searching from within the membership. Whether, on the one hand, to proceed exclusively against agitators and strikers as such or, on the other hand, against the basic causes which made a fertile field for labor unrest, was an issue that was debated to some extent. There is evidence that some of the participants doubted the wisdom of the repressive line of action that was ultimately adopted. At various times, it was acknowledged "that the problem of suppressing radical agitation could not be met by shunting undesirable groups from one county to another" and the

28 The AF version of its origin runs as follows: "Following the riots which occurred in the Imperial and San Joaquin Valleys in 1933, the Associated Farmers of California was organized at the request of the State Department of Agriculture, the California Farm Bureau Federation, and the California State Chamber of Commerce. The new Association was set up to investigate the trouble which had been fomented by agitators who were more interested in the overthrow of our American system of government than in the welfare of the workers." (*Associated Farmers of California, Inc. Serves You!*, 1951.

29 For some of the details, see Chamber, op. cit., particularly chapters 4-9: and 12.

“agricultural labor troubles should be given serious thought, and, wherever possible, the causes be eliminated peacefully.”³⁰ Yet, perhaps more by default than by deliberate choice, a philosophy prevailed which had been expressed at the inception of the Associated Farmers. This philosophy was recorded in the minutes of the meeting that launched the Associated Farmers:

There was considerable discussion of wages and living conditions and it was continually emphasized that wages must be fair and living conditions reasonably good, and that the *organization assumes that the growers in each locality will handle these matters.* [Author's emphasis.]³¹

Thus, suppression of the manifestations of labor dissatisfaction and unrest became the program of concerted, organized action; amelioration or elimination of underlying causes was left to individuals and local groups.

The Associated Farmers' campaign, under the slogan, “From Apathy to Action,” though ostensibly directed at stamping out Communist agitation, became progressively less addressed to that specific purpose and more broadly aimed at all forms of collective organization and action by labor, agricultural or otherwise. A series of actions taken during the latter 1930s is evidence of this. In concert with the Farm Bureau Federation and other farm organizations of California, the Associated Farmers successfully opposed enactment of a state “little Wagner” act, of a wages and hours bill, a bill to outlaw the transporting of strikebreakers from one county to another, a bill to provide machinery for voluntary arbitration of disputes, and other similar measures, virtually all of which would have excluded agricultural labor even if enacted. Correlatively, the same interests obtained the exclusion of agricultural labor in the federal statutes and sought the broadest possible definition of excluded “agricultural labor.”

Organization Influence on Individual Employment Practices.

In their combined effect, these various employer policies and programs produce what Lloyd Fisher aptly called “organized non-competition for labor.”³² By agreeing to the wages to be paid, employers avoid wage competition among themselves; through exceptional access to labor supplies from economically disadvantaged foreign countries and through exclusion of labor from the benefits of government programs such as unemployment insurance, competition with nonagricultural employers is diminished if not wholly avoided; through obstructing the growth of farm labor unions, farm employers avoid the competition of an opposing group position. These are undeniably powerful forces in shaping the general attributes of agricultural employment and, in consequence, also of the employer-employee relationship in the individual instance.

30 *Reports*, La Follette Committee, Part IV, pp. 622-25. See also Chambers, *op. cit.*, pp. 46-47.

31 *Reports*, La Follette Committee, Part IV, p. 622.

32 Fisher, *op. cit.*, p.96.

Yet, with numerous and geographically scattered membership and with production conditions varying widely by type of farming and locality, the extent of organized group influence on the labor policies and practices of the individual farm employer is inevitably limited. Moreover, organizational restraints on individual employer practices are not fully consistent in direction. To be in good standing with his organization, a member must above all not pay wages in excess of the prevailing or agreed-upon rate. Also, he must not be tolerant of union organizers or any form of incipient unionism among farm workers. But, in contrast, he is quite free to provide better-than-average housing—indeed, he is encouraged to do so. Further, he is encouraged to carry workmen's compensation insurance; he is informed of, and is encouraged to observe, state and federal laws relating to farm employment. And, whether in response to the policies of his organizations or for other reasons, many an employer has supplied exceptional housing, decasualized employment, or done other similar things and thereby elevated the standards of his employment to a level closely approximating those found in industrial plants. But the equally significant fact is that employers at the other extreme, who do nothing to make their employment attractive, are also able to obtain labor—through the foreign labor program or from a labor contractor, if not otherwise. Moreover, an important point to note is that farm employer organizations neither criticize nor withhold their services from the employer who make no effort to offer attractive employment.

The greatest single effort of employer organizations to influence the labor relations policies of individual employers in a comprehensive manner occurred in 1937 when five organizations agreed to and promulgated a code of farm labor policies. While some quotations from this policy statement have appeared on preceding pages of this study, the statement warrants being quoted in full since it has much significance both in what it says and in what it does not say:

1. That agricultural employers continue to improve working conditions and condemn all unfair labor practice to their employees.
2. That agricultural employers pledge all of their resources to protect every agricultural worker in his right to work, and insist that all law enforcing agencies cooperate to the end that adequate and impartial protection of all persons and property be maintained at all times.
3. That we strongly condemn any policy of intimidation or coercion on the part of employers, employees, or racketeers.
4. That appropriate steps be taken through legislation, or in other proper ways, to bring about responsibility on the part of labor organizations corresponding with that imposed upon employers.
5. Because of the perishable nature of agricultural products and because of the many uncontrollable factors and elements in producing and marketing such products which might cause ruinous losses to producers, farm laborers, and consumers, agriculture, while not opposed to collective bargaining, must be kept free from the effects of the imposition of the "hiring hall" and the "closed shop."
6. We believe that every agricultural worker is entitled to the protection of the housing and sanitary requirements of the State law administrated by the Division of Immigration and Housing. Where

crops or combination of crops justify it, we believe that these facilities should be provided by owners on their own farms. We believe that where shifting crops, experimental crops or combination of crops do not justify construction by farmers, community camps under local administration and control should be established, either through farm cooperatives, camp districts or other agencies. Such community camps are also advocated in areas where migrants gather between crops. The influx of migrant laborers from distress areas is a national responsibility which should not be imposed upon agriculture as an additional burden.

7. Agriculture recognizes the need for continuous farm labor employment and recommends that known practices to attain this result immediately be instituted by individual farmers and that a program of study be undertaken by farmers and official agencies.
8. We favor the establishment and maintenance of agencies which effectively will determine and coordinate labor requirements and provide for distribution of workers as between crops and sections of the State.
9. We advocate that farm laborers be paid a maximum wage consistent with the farmer's ability to pay.
10. We endorse the present system of education of children of migratory workers and urge its extension where needs are not adequately being met.
11. That agricultural employers in the exercise of their responsibility of leadership freely avail themselves of every opportunity to educate the people as to the value of the American governmental and economic system and the general welfare.³³

The evidence assembled by the La Follette Committee relating to the initiation and consummation of this policy statement suggests that its principal purposes were to supply an ostensibly progressive answer to critical public comment on the conditions of farm employment and to improve labor relations in the hope of forestalling unionism.³⁴ Although some of the conditions of farm employment, housing in particular, have continuously improved since 1937, it is nevertheless true that the 1937 policy pronouncement did not initiate revolutionary changes. Section 7 of the policy statement, calling for the decasualizing of farm employment, has the tremendous significance of identifying and suggesting action on an urgent problem, but there is little evidence of progress by other than the highly unusual individual farmer except as mechanization has reduced seasonal labor requirements. "Official agencies" have done virtually nothing toward the program of study called for in this section of the policy statement. The intent of Section 9 calling for a "maximum wage consistent with the farmer's ability to pay" is far from clear—does it imply a ceiling wage or a high minimum? Notably, the organizations subscribing to the policy statement were evidently not fully agreed on their wage objectives, for the copy of

33 "Farm Labor Policies Unanimously Adopted by the Agricultural Conference of Representatives of the Following Organizations: California State Chamber of Commerce-Agricultural Department, Agricultural Council of California, California Farm Bureau Federation, Associated Farmers of California, Inc., Farmers Union-California Division." Two-page mimeographed statement dated May 1937, on file in Giannini Foundation Library.

34 *Reports*, La Follette Committee, Part IV. pp. 656-64.

the statement quoted by the La Follette Committee differs from that quoted above and speaks of a "uniform base wage consistent with the industry's ability to pay."³⁵ In any event, no wage-determining machinery was recommended, and the record of farm organizations has been to oppose all forms of wage intervention except the setting of wage ceilings.³⁶ Their opposition to government intervention in the wage field has actually extended to such government activity as formal procedures for the determination of "prevailing wages," which were proposed by the Secretary of Labor in connection with his obligations to the Mexican labor program, but which were condemned by California farm employers as a "wage fixing scheme."³⁷

Yet Associated Farmers declares one of its prime objectives "is to urge the best wages, working conditions, and housing that farmers can provide in keeping with economic conditions" and that members "are always willing to meet with their employees to discuss wages and working conditions and are anxious to find solutions to the many problems confronting the farmers and their workers."³⁸ Similarly, the Agricultural Labor Bureau urges its members to improve housing, to observe safety precautions, to carry industrial accident compensation insurance, and commends individual instances of stabilizing employment and of providing free medical care to employees.³⁹ All organizations advise their members of the provisions of federal and state labor laws and of their rights and obligations thereunder.

It is apparent that the appeals made by farm organizations to individual farm employers to accept self-discipline and to assume the initiative in the improvement of labor relations, if they are to be effective, must depend heavily upon the motivations of benevolence and humanitarianism. Whether an employer is in agriculture or some other industry, his first accommodation is to the forces of the labor market out of which he does his hiring. Beyond the minimum of wages and conditions required to procure a sufficient labor supply, an employer may offer additional conditions to his employees, either because he hopes to promote efficiency and thereby to reduce unit labor costs, or because he is humanitarian, or perhaps for both reasons.

Inasmuch as farm employers' organizations devote their own programs largely to attaining and maintaining a state of noncompetition for seasonal hand labor, the individual farm employer is substantially relieved of the pressure of labor market competition. Moreover, since seasonal hand labor is usually paid at piece rates per unit of work, there is usually no unit labor cost, other than the rate itself, to

35 Ibid. p. 661.

36 "... Associated Farmers has fought the establishment of minimum agricultural wages and working conditions—based on industrial standards—without due regard to farm needs or long established agricultural practices." *Associated Farmers of California, Inc. Serves You!*, 1951. For a description of agricultural wage ceilings, see Fisher, op. cit., chapter 5.

37 Agricultural Labor Bureau, *Newsletter*, issues of September through December, 1952.

38 From *Associated Farmers of California, Inc. Serves You!*, 1951.

39 Agricultural Labor Bureau, *Newsletter*, current issues, 1948 through 1952.

be minimized. Consequently, the employer has much less concern with individual worker efficiency than with assuring himself he has enough workers to get the job done as promptly as he desires. This means that motivation toward labor relations and management practices that would conserve labor and promote worker efficiency are largely absent.

The fact that a great deal of improvement in individual labor relations has occurred in the past decade, notwithstanding the substantial absence of these normally impelling forces for good labor relations, may be interpreted as a tribute to the fair-mindedness and humanitarianism of individual farm employers. It may also be interpreted as "good business" in the longer run sense of seeking to avoid protest and conflicts, either directly with workers or indirectly with the community at large.

Disputes and Dispute Settlement

A labor relations situation in which there are organizations for the assuming of unilateral positions on wages, working conditions, and related questions, but in which there is no bilateral bargaining mechanism for their settlement, is one that is obviously vulnerable to disputes. Less obvious and yet more important is the fact that such a situation also presents unusual obstinacies in the settling of disputes. A brief review of some of the problems encountered in conciliation experience will explain the latter point.

Conciliation machinery, mainly that supplied by the California State Department of Industrial Relations, was invoked in several of the numerous disputes that occurred in 1949 and 1950. Strike leaders, whether they were officers of the union or "wildcat" leaders, were eager to meet in conciliation, but employers were usually determined not to meet. This was not always because the employers, individually, denied the existence of grievances. Rather, the employers' opposition to a meeting and the union's eagerness for it were on the same grounds, that is, a meeting would constitute tacit recognition of the union. Moreover, not having achieved the status of cooperative responsibility to be found in a mature collective bargaining situation, strike leaders are prone on occasion to exploit a conflict situation by using it for the promotion of organizational strength.

With misgiving compounded out of these prospects and uncertainties, the tendency has been for farm employers to deny there is a "labor dispute," even when mass picketing and moving caravans are plain to be seen. If the conflict becomes quite disorderly, the same employers who deny the existence of a dispute may call upon civil authorities to quell the "riot." Confronted with such a paradox, the conciliator has little chance to be useful and may be condemned for unwanted and unwarranted interference. When conciliation is so obstructed, arbitration holds no promise whatever.

The prominence of extended and grievous farm labor disputes during the 1930s prompted the Commonwealth Club's Section on Agriculture in 1935-36 to put in two years of study on the question of whether there should be a farm labor disputes board. At the conclusion of its studies the following recommendations were

adopted, with a substantial majority of the members of the agriculture section voting affirmatively on each item:

1. That settlement of many farm labor disputes is delayed for the lack of adequate machinery to bring about agreement.
2. That many disputes can be amicably settled if machinery is available in *advance* of actual strife.
3. That the public is vitally affected by farm labor disputes because of possible disorder and increased prices, and the possible necessity of providing relief, and therefore has a vital interest in accomplishing settlement.
4. That a settlement board appointed when a strike is in progress is handicapped because it is difficult at times of high feeling to select members enjoying the confidence of both sides.
5. That therefore a permanent California Agricultural Relations Board, appointed in advance of and without reference to any individual dispute should be established.⁴⁰

This study and its recommendations failed to inspire action. Meanwhile, the state has had the good fortune of not having farm labor disputes of the scale and intensity of those that occurred during the thirties. Nevertheless, it seems doubtful that potential vulnerability to such disputes is any the less, notwithstanding the progress in labor relations that was noted previously. This is mainly because the seasonal labor force in becoming less migratory, and disputes involving workers who are local community residents cannot so readily be dealt within terms of riot procedures.

Appraisal and Prospect

The imbalance of organizational power, the absence of collective bargaining, and the substantial exclusions of government that have been characteristics of the labor relations of agriculture are more than a matter of the respective personalities and their interplay in the labor relations arena. Rather, these attributes of agricultural labor relations are embedded in well-established patterns of economic behavior, which in turn are derived from the nature and quantity of the labor supply available for agricultural employment and the respondent structure of labor demand built around those supplies.

Given the system of large-scale and intensive agriculture that has been dominant in California for the past three decades, there is patency in the claim that it needs an "ample, fluid, and unflinching supply of labor . . . to harvest the crops on the hour, not the day, not the week, or the month." To the present generation of California farm employers who have never known a labor situation essentially very different from this and whose farming operations are fashioned on the expectation of its continuance, this sort of labor demand undoubtedly appears as though rooted in the exacting requirements of soil and climate and the biology of husbandry.

40 Commonwealth Club of California, "A Farm Labor Disputes Board?" *The Commonwealth*, XXI (December 22, 1936), p. 234.

To have an ample and fluid supply of labor available for temporary seasonal employment has become much more than a custom that has evolved over the years. Customs, and farming practices as well, can be changed—some, such as field crops, rather readily, but others, such as orchards, not so readily. Ownership and tenancy patterns that are accommodated to an ample seasonal labor supply also possess considerably rigidity, but they can and do change, given the incentive or the necessity. However, the most rigid factor underlying the demand for an ample seasonal labor supply would appear to be the structure of land values. Land that is capable of producing profitable intensively cultivated crops which require much hand labor soon acquires capitalized value which reflects the relatively high returns from these crops. Once these returns have been commuted into sales prices or rents, the high value cannot be supported in a less profitable use; this is to say, for example, that land which is valued on the basis of raising peaches or cantaloupes would usually have to take a considerable depreciation (in either value or rent) before it could be profitably used to raise hay or cereals.

This relationship between high land values and intensively cultivated crops is the great obstacle that stands in the way of the oft-repeated recommendation that cropping practices including livestock should be diversified so as to remove sharp seasonal labor peaks and thereby to provide more stable employment.

Within the present structure of cultivation practices and tenure and ownership patterns, there are believed to be many possibilities of using laborers more efficiently, of stabilizing employment relationships, and otherwise of decasualizing employment. Not the least of these possibilities is the pooling of labor needs through associations as is done with imported foreign labor. But, given the experience and the practice of the past when sufficient labor was usually to be had without resort to these things, the motivation of farm employers to preserve the status quo is considerably stronger than is the motivation to experiment with possible alternatives. Thus, the demand for labor at an ample level is affirmative and positive.

On the supply side, the characteristics and motivations are quite different; whereas employers have been positive in wishing to retain the farming system which has come to exist and the employment practices associated with it, seasonal farm workers as a general proposition have been impassive. This is because the succession of nationality groups that have made up the seasonal labor supply have mostly looked upon agricultural employment as a means to another end or as a temporary means of existence rather than as an occupation. Whether it was the Chinese, the Japanese, the Hindustani, the Filipinos, the Mexicans, the Bahamians, the Jamaicans, the unemployed that had been cast out by industry, or the refugees of drought and of plantation mechanization—most have sought their future goals in other jobs and industries rather than in seasonal farm employment. Thus, while sporadic protests against certain specific situations have enlisted short-run support, long-run perspectives and interests have not had sufficient vitality to support unionization and to seek reforms. The desire to escape has predominated the desire to resist and to improve.

Labor impassiveness is no match for employer determination. And the imbalance of organizational power is a reflection of these respective qualities more than of anything else.

A significant and sustained change in the size and composition of the citizen seasonal labor supply, such as has prevailed during the past ten years of full employment, puts a great deal of pressure upon farming and employment practices and initiates accommodations such as the recent great acceleration in the mechanization of hand labor tasks. If the pressure of full employment had not been relieved by imported labor and illegal aliens, the accommodations would undoubtedly have been far greater.

Two types of changes are now under way that may bring alterations in employment practices and in the labor relations of agriculture: (1) the mechanization of hand labor tasks and (2) the settling down of migratory and itinerant workers.

Until very recently, the mechanizing of agriculture was largely concerned with substituting mechanical power for draft animals and was concentrated on land preparation and preharvest tasks, to the neglect of human hand labor tasks. Now hand labor tasks are the center of engineering interests. Mechanical equipment has almost eliminated hand labor in sugar beets and is well on the way to doing so in cotton. Although most fruits and vegetables must still be picked by hand, mechanical aids are being developed to reduce both the magnitude of the work and its tedium. The years ahead promise to bring great changes in hand labor methods and needs. Concurrent with the decrease in hand labor there is an increase in more attractive and more skilled jobs in the operating and maintenance of the new equipment.

Seasonal farm laborers who in the past have been largely migratory are tending to settle down in rural communities and to make a livelihood out of the seasonal employment available within the commuting or "day haul" periphery of their homes. As this occurs, the workers begin to have more of an interest in and an identification with the employment of the area. The fact that demand for preferential rights over out-of-state and foreign labor was an issue in the 1949-50 strikes is clear evidence of this identification, at least under the reduced alternatives in nonagriculture which then prevailed.

An investigation by the California legislature in 1949 on "the recruitment of farm laborers and their appropriate placement to meet in full the labor supply requirements of California agriculture" brought forth some conclusions that apparently concur with the prospects suggested above:

Many growers are beginning to realize that the California farm workers of today have a broader outlook on life than ever before. Many of workers have traveled extensively and are quite well informed. They like farm work, but they realize they are entitled to a square deal and many of them insist that they get it

Generally speaking, no longer can agriculture reasonably expect farm workers to appear at its doorstep asking for work. Only by organized cooperation of farmers and a definite national farm labor program that

recognizes the peculiarities of farm work can be the agriculture of the future be assured of an adequate labor supply.

The new day in farm labor is approaching. It will bring many problems. The most important factor in the farming of the future is probably the farmers' ability to get along with their help. While already improved, notably in California, employee-employer relations must continue to improve.⁴¹

However, tendencies and forces toward reducing inequalities in employment standards and labor relations of agriculture are opposed by contrary forces that operate to maintain or increase the inequalities. These contrary forces stem from the sustained high level of nonagricultural employment opportunities and in combination therewith the access of agriculture to foreign labor supplies. Agriculture, only, is privileged to obtain contract labor under waiver of the immigration law that allows the temporary admission of otherwise inadmissible aliens. Thus, unique access to foreign labor in and of itself gives agriculture an exotic and elastic labor supply. Agricultural employers, through their organizations, have chosen not to compete for labor in the domestic labor market but rather to assume a posture of dependence on foreign laborers. In consequence, attractive employment opportunities in nonagricultural industries have drawn citizen labor away from agriculture. Nevertheless, local workers can be found, it is admitted, but they cannot be depended upon to do satisfactory work or stay and see the job through, for they are found to be unwilling and unreliable.

As was mentioned earlier, the initial rationale of alien contract labor importation for agriculture was that of war emergency. At peak seasonal employment in the war years, the largest number of Mexican National farm workers in the United States was 63 thousand; the average of the annual seasonal peaks during 1943-1947 was 46 thousand.⁴² In contrast, there were 185,879 contract Mexican Nationals in the United States in October, 1954; Texas reported 76,260; and California, 50,770.⁴³ British West Indies contract laborers averaged 18,500 at the annual peaks of 1943-1947 and were 12,892 in October, 1954; these were widely scattered over the Atlantic Seaboard, but notably Aroostook County, Maine alone had almost 40 percent of them.⁴⁴ Thus, the 1954 contract labor program was approximately three times its wartime emergency average and exceeded the wartime peak year by 120 per cent. This sharp upward growth in contract labor employment in the postwar years would be more readily understandable if total national employment of hired farm workers had also been increasing. But the facts are to the contrary. Peak seasonal employment of all hired farm labor averaged 3,978,000 in 1943-1947; by 1954, peak seasonal

41 *Special and Partial Report*, Joint Interim Committee on Agriculture and Livestock Problems, 1949, p. 29.

42 Report of the President's Commission on Migratory Labor, p. 54.

43 "Employment and Wage Supplement," *Farm Labor Market Developments*, U.S. Bureau of Employment Security, mimeographed, November, 1954.

44 *Ibid.*, and Report of the President's Commission on Migratory Labor, p. 54.

employment had decreased to 3,097,000 a decline of approximately one fourth.⁴⁵ In national proportions, alien contract farm labor was approximately 2 per cent of all hired farm labor in wartime but had risen to approximately 6 per cent in 1954.

In numbers and proportions, alien contract labor may not seem sufficiently large to have much influence on the employment standards and labor relations of agriculture. But the influence of this access to sources of labor exclusively for agriculture is far greater than its proportions would imply, for it relieves farm employers of having to compete for labor in a high or full employment labor market. Under the policies and procedures now in effect, agricultural employers conceivably may, without any change in the terms of employment, obtain 50 thousand or 200 thousand or 500 thousand contract laborers. The only limitation imposed on numbers is certification of the extent of labor shortage by government authorities. Beyond wages and conditions currently prevailing, additional conditions such as employment guarantees, transportation, insurance, and ceilings on charges for board are required by the respective foreign governments, but once the conditions are agreed to, they remain fixed for the term of the contract without regard to the quantity of labor supplied.

So long as this incremental source of labor remains a highly flexible mechanism by which agricultural employers are enabled to meet their labor needs at whatever standards of employment may prevail and without reference to current standards elsewhere in the economy, the effects will be the same irrespective of the numbers and proportions of foreign contract laborers. Furthermore, even though contract aliens are found only in certain spots and on a very minor percentage of all farms, the influence of their availability nevertheless spreads readily and widely to all similar employment situations.

Thus, by this means, the labor relations and employment standards of agriculture remain effectively insulated from those in the remainder of the national economy. Even though erstwhile migratory workers may tend to settle down and to work at irregular farm employment within the radius of their homes, more favorable employment opportunities in nonagriculture remain a continuing attraction, particularly for the younger and maturing workers. So long as economic expansion and industrial decentralization maintain a favorable employment climate, many of those who become dissatisfied with employment conditions in agriculture will seek and find relief by going into other industries.

Only by impaired employment alternatives in nonagriculture that foreclose the opportunities for escape is it likely that vigorous and resistant individuals will remain attached to the agricultural work force in sufficient numbers to mount an effective protest. Only in such a situation will agricultural employment seem to be worth fighting for. But paradoxically, the conducting of resistance in such an

45 *Farm Labor*, U.S. Department of Agriculture, Agricultural Marketing Service, current monthly issues.

environment has already proved to be virtually impossible because of the excessive numbers seeking work.

Hence, employer unilateralism is likely to remain predominant in the labor relations and employment standards of agriculture for years to come. "The Braceros are here to stay"⁴⁶ is a current slogan that may very well supplant the various forms of emergency slogans that successfully launched the contract labor episode. In consequence, the forces toward equality are effectively opposed by powerful forces for disequality, and the disparities of agricultural employment are not likely soon to be removed.

⁴⁶ *California Farmer*, January 22, 1955, p. 54.

Chapter 5

ECONOMICS OF MIGRANT LABOR, 1959

In the economics of free markets and free men the concepts of supply and demand are essentially libertarian. Those who have goods or services to sell elect where and when to offer them. Similarly, those who buy goods and services are equally free to accept or decline. Supply and demand, accordingly, constitute a system of offers and acceptances. Only in controlled and totalitarian economies do the concepts of supply and demand become specifications of required performance.

The American economy is not, of course, completely one of free markets; it is not always one of free men. But when departure is made from the system of free offers and acceptances, it is expected to be done in accordance with decisions that are deliberately and constitutionally made. In war emergency, we find it necessary to specify manpower utilization, to specify maximum prices and maximum amounts that buyers may take. In the civilian economy, we sanction minimum protections, such as fair labor standards, for those not in good position to exercise effective self-protection. We also sanction, within limits, the rights of groups to organize for self-protection, as well as the measures they may take toward achieving self-determination. We do not leave it to individuals to decide the extent to which they will support highways, schools, or the defense establishment. All of these steps to restrict the functioning of free offer and acceptance are taken for the sake of common interest and pursuant to decisions that are constitutionally made.

The relevance of these rather basic premises to the subject of migratory labor is that in the segment of our national economy concerned with supply and demand for accomplishing the seasonal tasks of agriculture the libertarian philosophy of offer and acceptance has been mutilated, and this under sanctions that I believe would have great difficulty in surviving the test of public interest, and perhaps also of law and constitutionality.

With this forewarning of my conclusion, my efforts will be directed to explaining my argument, not in terms of the attributes that are commonplace in the literature of migratory labor—poverty, ill-health, bad housing, etc.—but in the more pleasant euphemisms of the economist, i.e., supply, demand, and price.

In the markets of free men, demand does not determine supply; nor does supply determine demand. Rather, the forces of supply and demand interact on each other through time. The commonly held conception about migratory labor is different. We have been told time and again that the reason for migratory labor is that the nature of agriculture is such as to require it. One of the most faithful proponents of this view of things has been the United States Department of Labor. Its most recent version of this fundamentalism is contained in the *Farm Labor Fact Book*, under the heading of "Demand and Supply," in the following terms:

The employment of migrant farm labor develops out of the logic of labor market conditions. Hired farm workers are in critical demand for short periods of the year. In many areas this demand cannot be met from

local sources living within commuting distance from the place of work. It therefore become necessary to recruit workers from more distant areas where there is at the time a sufficient supply of workers willing to leave their homes for short-term farm work. These workers are known as migrants.¹

If one is vulnerable to fundamentalisms, as all of us are in varying degrees, this proposition seems utterly reasonable and indeed to be a "logic of labor market conditions." However, if one is antipathetic to fundamentalisms, he may note that four pages later the *Fact Book* contains a quite different and basically conflicting view of why workers enter into migratory employment. Here, under the heading "Reasons for Migration," the text commences as follows:

It is easy to see that the absorption of small farms, technological changes, and acreage retirement restriction have caused various groups to migrate. For example, southern sharecroppers who are dispossessed and no longer needed because of their replacement with machinery may be forced to seek a living as local farm workers. Families from marginal subsistence and small farms, lacking the necessary capital or the schooling, training, and skills for other kinds of work find themselves driven out into the wandering world of seasonal farm labor. Some members of minority groups, discriminated against in other fields of employment, find uncertain place in the harvesting of foods.²

Are dispossession, lack of skills, and force the equivalents of willingness? Are they really attributes to "the logic of labor market conditions"? What is logical about discrimination? For me, the statements about "workers willing to leave their homes" in the first quotation and about the dispossessed and unskilled finding themselves "driven out into the wandering world of seasonal farm labor" are openly contradictory. The first-quoted sentence would have made more sense if it had said: The employment of migrant farm labor develops out of the *illogic* of labor market conditions.

With no wish to belabor the Department of Labor or to upbraid its editors, one may nevertheless point out the confusions that reign, even in the highest realms, about the cause and effect relations in seasonal and casual farm employment.

Migratory laborers do not exist because the farm economy needs them; they exist because our society has a large backlog of unsolved social and economic problems.

Given the continued availability of a labor force with narrowly restricted opportunities, a system of casual labor utilization was built around it. This system of labor use did not initially evolve as a deliberate choice of present day labor users. In important respects, the users are as much the victims of the system as are the workers. When the users state that domestic workers are unreliable, they are stating a truth. It is a truth that is inherent in the system. It is a consequence of the fact that temporary work in agriculture is taken mainly by persons who chronically or

1 U.S. Department of Labor, *Farm Labor Fact Book*, Government Printing Office, Washington, 1959, p. 111.

2 *Ibid.*, pp. 115-116.

intermittently can get nothing better to do; when something better appears, they leave. Hence, when nonagricultural employment is high, farm workers are scarce; when other employment is slack, farm workers are in surplus.

In a way that unfortunately can be obscure, temporary farm work is as much a conjuncture of unsolved social and economic problems as it is an employment category. The cause and effect relationships that appear in this conjuncture are confusing. When the workers are found to be poor or destitute, farm wages and employment conditions are often blamed. Actually, the cause and effect relationship, at least at the time of initial entry into farm work, may be more the other way. The people have not *become* poor from working in agriculture; they have become agricultural workers because they were already poor. Thus, in the sense of providing an opportunity for those not accepted elsewhere, temporary farm work may be regarded as ameliorating poverty rather than causing it. Moreover, it is to be noted in this connection that many individuals and groups have made their way through temporary farm employment and into more acceptable situations, in agriculture and elsewhere. Hence, migratory labor has fortunately not been entirely a dead end.

Two alternatives

In respect to populations of migratory workers, social agency people have two broad alternatives in assessing their obligations: they may view populations of temporary farm workers as an employment segment that from time to time needs relief; or they may view these populations as being persons and families who have therapeutic and rehabilitative needs in order to enhance their productivity and self-dependence. In actual life, both objectives are served to some extent. But if the emphasis is mainly on relief, the effect is to aid the perpetuation of the system. If one were to imagine the situation in which the problems of depression, of discrimination in employment, of old age, of vocational rehabilitation, of mental and physical health, and of education were all solved, he would be imagining the situation in which there would be virtually no domestic workers available for seasonal farm work. In the postwar years of full employment, the system has been under stress for this very reason. Had it not been for the relief supplied by the *bracero* program, considerable modification would likely have been made.

More remains to be said about the peculiarities and obscurities that surround the concept of demand for migratory workers, and about the interactions between supply and demand. Before going further, it is necessary to introduce another mechanism that is essential to free markets-price. In respect to the services of migratory workers, the concept of this useful mechanism is also encrusted with fundamentalisms. I will identify two of them and discuss each in turn.

1. *The supply of migrant workers is independent of the price; therefore, it is no use to raise wages.*

Within the context of the situation that has come to exist, the first portion of this doctrine is substantially true. But it is the chain of facts and accepted presumptions that makes it true, rather than the truth itself, that is significant.

The first link in the chain is the fact that has already been considered—workers enter the migratory force and remain in it out of despair rather than from choice. Hence, the supply of workers at any moment of time is established by external forces that determine how big a residual is left over from employment in other sectors of the economy. The price for picking beans or tomatoes, whether high or low, is not likely to tempt workers away from automobile plants. If higher rates were offered by individual users or by districts of users, the effect of course would be to attract workers away from the individuals or districts that did not meet the higher rates. This does not increase the total supply of migrants. Consequently, it is called *pirating*, and the growers have an ethic against it. Moreover, they have an organizational structure that helps them to preserve the integrity of the ethic.

Beginning with this link of fact, and sidestepping some of the issues that are assumed away, the next link in the chain is easily joined. If it is true that raising wages will not increase the labor supply, then why raise wages? This is a trap that is surprisingly easy to fall into. It is a trap that contains the rest of the links of the chain. If a wage increase will not yield a larger supply of labor, then no useful purpose is served by a wage increase. This matures the fundamentalism to the point where it provides absolution for growers from competing with each other and also from competing with other employing segments of the economy. In the process of accepting this fundamentalism, there is also the implicit acceptance of the organizational structures and practices by means of which growers may establish and maintain a collusive price for labor. In other markets, such price-fixing mechanisms and practices could be judged as in restraint of trade and could be dealt with by antitrust actions.

External source of labor

But having swallowed the fundamentalism whole, we added the next link to the chain. If the supply of workers cannot be increased by higher wages, and if the supply is inadequate at prevailing wages, the only thing to do is to look for an external source of labor that is willing to work at the prevailing wage. If such a source is available and access to it is sanctioned, as it was with Public Law 78, the links of the chain are all joined, and the validity of the proposition is inevitable. All deficits in supply at the prevailing price may be filled with imported contract laborers who are paid no more than the established prevailing rates. This is a supply situation that economists call infinitely elastic. In economic theory it is a condition that is supposed to occur only in respect to individual purchasers who are so micro-cosmic that their actions have no perceptible effect on the total market. That it has been achieved by an aggregation of growers whose hirings constitute a substantial segment of the economy reflects both their political genius and the vulnerability of others to a loosely-joined chain of fundamentalisms.

Can growers pay?

A second proposition about price that threatens to mature into fundamentalism can be stated as follows:

2. *Growers cannot afford to pay a competitive wage for seasonal and casual labor.*

Under constraints and assumptions that want explicit recognition and scrutiny, but which usually go by without being noticed, this proposition has a certain validity. Growers state that they cannot add wage increases to the price of their products; this is true because in product markets, competition is effective. Growers also state that if they paid substantially higher wages for seasonal and casual labor, they would be squeezed and possibly forced out of business; it is true that they would be squeezed, at least temporarily, and some growers might retire from production. It is quite probable that the low wages which prevail correspond rather closely to the low economic value of the work performed. This last statement may be rather shocking, for most people are inclined to think of the harvest as the ultimate fruition of all activities and thus to be critically important. But this view is more poetic than economic, as I shall endeavor to explain.

The economic value of a unit of labor service is not determined by the indispensability of the task. It is determined mainly by the price at which workers are available to work at the task. Let us try to use strawberries as an example. If strawberries sell at \$1 per cup and the labor to pick them can be hired for five cents per cup, raising strawberries is likely to be a very profitable business. At this structure of prices, pickers could command much higher wages, if they had the power to do so. But if pickers continue to be available at five cents per cup, the strawberry acreage will expand; market prices will fall; profits will narrow. After adjustments are carried through, the market price will be at a point where no further expansion is profitable when pickers are being paid five cents per cup. At this stage, strawberry growers would declare, quite correctly, that they would be squeezed if they had to increase their pickers to seven cents. But if somehow they were forced to pay seven cents, the reverse process would set in and marginal production would be withdrawn until reduced supplies yielded a sufficient price to make the employment of labor at seven cents profitable.

There are other ways in which the productivity level of labor adjusts to the prevailing wage level. Here are some examples: when the wage for picking cotton is low enough to make it profitable, growers will hand pick rather than machine pick their cotton; when labor costs are low enough and the labor is available, sugar beet growers will hand cultivate their beets instead of using machines.

Growers may make short-run gains from the employment of cheap labor. But it is not likely they will be able to retain any such gains over a period of time. Although absolved from the necessity of competing for a labor supply, they must compete for land on which to employ the labor, and they face vigorous competition in the product markets. Landowners may gain, unless they acquired their properties at fully capitalized prices. To the extent that the growers are also landowners, they may realize gains from capital appreciation and from high net rents. But the ultimate gains from cheap labor, to the extent there are any, probably are realized

mainly by consumers.

It is quite possible that there are few long-run net gains to anyone from the employment of cheap labor. We can test this possibility by examining the consequences of an assumption. Suppose it were to be taken as specified that the costs of labor for all hand and stoop tasks had to double within a ten-year period, and this by increments of ten per cent each year. There are many adjustments that could be made; I will try to list some of the most prospective ones.

1. Rents and values of land used for the production of hand or stoop labor commodities might fall.
2. Marginal producers or segments of marginal production might start to shift to crops not requiring hand labor.
3. Growers would likely discontinue those tasks and operations which can be omitted entirely or on which machines can be used.
4. Interest in mechanization and other labor-saving technologies would be greatly accelerated.
5. Growers would become much more alert to various possibilities of increasing the productivity of their labor, by using supplemental mechanical devices, by on-the-job training, by organizing and planning the work.
6. The employment of seasonal and casual labor would of course decline; those remaining would be employed at a higher level of productivity in accordance with the wage adjustments that have been assumed.

In my opinion, the possibilities for reducing hand labor and for increasing productivity are very great. There are developments in this direction all the time, but the nature of the labor supply has been such as to exert very little pressure. Under pressure, I believe we should see some rather remarkable changes. If the hypothetical ten-year program previously mentioned were to be carried out, I would expect its most notable effect would be a sharp decline in the amount of labor used and a counterpart rise in productivity.

Thus, the fundamentalism that growers cannot pay competitive wages is plausible when one regards the proposition as applying to the price structures and the utilization patterns that currently exist. Given the opportunity for adjustments to occur, the proposition does not hold. It is true, of course, that growers will not prepare themselves to pay high wages as long as they expect to get by with paying low wages. Only when high wages must be paid will the economic value of labor rise. This is not a matter of individual choice; it is a force inherent in the economic system.

An element of labor price which is not less important than the wage rate remains to be considered. That is the tenure of the hiring. It reflects the extent to which the employment relation, even though temporary, is either stable or casual. There are seasonal industries in which the core of the work force is held together from one season to another by elements of the employment relationship that give it

structure and content. The people are employed as individuals; they are put into classified positions and entered upon the payrolls; they have seniority which implies preferential employment rights and possibilities of advancement; they have union membership and their conditions of employment are determined in part by collective bargaining; they have unemployment insurance; they have the possibility of qualifying for pensions and other fringe benefits. These are some of the elements which give a measure of stability and meaning to the employer-employee relationship.

In seasonal agriculture

In contrast, the typical employment relation in seasonal agriculture is utterly barren. The man who picks or chops cotton or does similar work in fruits or vegetables typically enjoys none of the features that stabilize employment relations or give the worker any sense of identification with the employer, with the industry, or with the work force. Very frequently, seasonal farm workers do not know the names of the farmers on whose places they have worked; not always do they know the real name of the labor contractor who brought them there. The worker frequently does not know whether the farmer or the labor contractor is his actual employer. Since the great majority of the work is done at piece rates, neither the contractor nor the farmer hires *people as individuals*. With the work being done at piece rates, neither farmer nor contractor is much concerned whether a hundred boxes of tomatoes are picked by two workers or by ten, so long as they get picked. In a similar way, there is little concern whether those who pick today are the same as those who picked yesterday or last week or last year, so long as there are enough hands to get today's job done on time.

The biological cycles of activity that are inherent in crop production are inevitably demanding. But these demands do not prescribe the particular form of labor utilization by means of which the work is done. The characteristics of the economic and social environment in which the system of labor utilization evolves have a great deal to do with the particular form it takes. The environmental conditions are changing. Change is occurring, too, in the system of labor use. But strangely enough, the major changes of recent years have involved the employment of the *braceros* and not the employment of domestics. In effect, then, the recent modifications are more an effort to avoid the changing environment than to accommodate to it. The building of good on—farm housing—but in the form of dormitories and mess halls that can be utilized only by single men—is a clear example of this.

The direction of change needs to be modified and the rate of change needs to be accelerated. Moreover, ways of change can be adopted and followed that will be to the ultimate advantage of labor users, as well as to the workers, and in the public interest as well. The changes that are appropriate need not be abrupt. If goals of public policy are established and adhered to, the changes can be gradual and transitional.

In my opinion, the goals of public policy should include:

1. The establishment and maintenance of an employment environment that offers positive inducements to a resident core labor force that will have attachment to and identification with seasonal agriculture, one that will constitute an employment category in which workers will have a reasonably good chance of making a living.
2. An organized and planned program for a systematic supplementation to this core force from workers not normally in the labor force but available for summer employment.

These propositions imply the assumption of responsibilities by employers, workers, and by the instrumentalities of government at all levels.

The first essential step is toward decasualization and stabilization of employment and the development of content in employer-worker relations.

These are difficult objectives for the individual farm; their difficulty is greatly diminished if the labor needs of farmers in a district are pooled and approached as an aggregate. The pooling of the labor needs of individual farms makes it possible to employ workers more fully and effectively. This means more days of work per worker and consequently more efficient utilization of the labor force. To give the employment relation stability and content, some form of contract should be used. On the Atlantic Coast, associations employing Puerto Rican workers have offered employment contracts that include a minimum employment guarantee. The association structure, the contract, and the employment guarantee are the foundation of the *bracero* program.

This type of arrangement should appeal to workers who live in the many villages that are spotted through the farming areas. These families try to maintain fixed domiciles and to obtain work within the community periphery of their homes.

Labor users are doubtful, I realize, that the association contracting procedure will succeed with citizens who are not subject to constraints, as are the *braceros*. Yet it has worked with Puerto Ricans, who are citizens and not subject to constraints except as these are specified by contract. As a step toward decasualization and toward introducing stability and content in the employment relation, this appeals to me as one of the most practical moves that could be made.

Potential supply

The second of my propositions recognizes the likelihood that although a reliable core work force may be successfully established, it may not be large enough to handle all of the temporary work. For a supplemental source, I would turn to the high school and college youth of the towns and cities. Here is a large potential supply of workers, quite capable of performing seasonal tasks and critically in need of constructive engagement during the summer months. The current reputation and conditions of farm work are not favorable to the utilization of this potential force on a significant scale. Many of those who have tried to work on farms are bitter about their experiences.

A system for their utilization would have to be carefully planned and arranged in advance. Field sanitation, housing, and transport would have to be on higher standards than we now know them, though not radically different from the specifications of the *bracero* contract. Certainly, labor contractors could not be used. High school teachers or other adult leaders would have to be associated with each group of 15 to 20 youths. The contractual arrangements for employment should be channeled through the same associations as described above.

Remedies

These propositions are sketched only in the barest detail. For the moment they are not meant to be specific but rather to indicate directions that might be taken if public policy is to be constructive. No such possibilities have any chance to succeed unless there is the conviction among labor users that success is essential. A primary and indispensable requisite to the frame of mind that will make constructive policy feasible is that the *bracero* program be committed to a specified termination date and that no similar programs again be authorized. Otherwise, as long as there is the possibility of obtaining *braceros* to make good on failures of even the most minimum of efforts toward systematic utilization of citizen labor, the climate will be unfavorable for experimentation with these or any other approaches to decasualization.

The immediate disposition of labor users, and perhaps of the Farm Placement people as well, may be to reject such proposals as being impractical. They may perhaps be impractical but, until they are tried conscientiously and with a sincere desire to see them succeed, we will never know if they are practical or not.

If such approaches to the solution of seasonal labor problems could be used, they imply a higher quality and more reliable labor force. Reliable employment should attract reliable workers. In a stable situation, employers could go much further toward training workers, planning work, and mechanizing—all of which would serve to raise the productivity of workers. With an identified labor force, farmers would be less vulnerable to the criticisms that now emerge when slack employment in other sectors of the economy dumps an excess of workers upon them.

In respect to the utilization of urban youth, I can see the possibility of such a program becoming so powerful a force for developing self-dependence and reducing delinquency that townspeople and their many organizations would pitch in to see that it worked. Another aspect is worth mentioning: the evident desire of farmers and farm organizations that they and their problems be understood and appreciated by city people. Is there a more effective way to do this than manifesting an interest and willingness to employ the youth of those whose favorable view they seek, and this under conditions that evoke commendation rather than criticism?

Chapter 6
A NEW ERA FOR FARM LABOR? 1967

Several recent occurrences suggest the prospect of a new era for farm labor. The years 1965 and 1966 saw the termination of the *bracero* program, a national minimum wage for farm labor, and possibly the onset of unionization and collective bargaining.

Furthermore, one gets the impression of substantive changes in attitudes: the public seems less concerned by suggestions that crops will go unharvested or food prices will skyrocket if farmers do not get foreign laborers or if farm wages are raised. There also appears to be a quite abrupt change of posture among the farm placement personnel of the Federal-State Employment Service: throughout the postwar years and until 1964 their concept of mission was heavily dominated by the farmer's need to be assured of an "adequate" labor supply—the definition of adequacy being mainly that of farm employers, or more precisely that of the professionals whom the farmers hired to speak for them. Now placement personnel seem to be concerned as well with the interests of farm workers and in the development and effective utilization of domestic manpower resources. Farm spokesmen still insist that due to the peculiarities of farm employment they must obtain labor under special terms and conditions, but one has the feeling that such statements are made chiefly for the record. The small band of emerging farm labor leadership reflects more poise and assurance than formerly. Meetings and conferences on farm labor in the past did not usually include farm laborers; this is no longer so. And, for the first time in history, a major Presidential commission on farm policy (the Food and Fiber Commission) has labor members and seeks the testimony of farm workers.

Do these events and apparent changes of attitude herald a new era in farm labor? More specifically, is the long-standing and ever-widening gap between farm labor standards and those prevailing elsewhere about to be narrowed, or even eliminated? This article examines the several factors underlying this question and suggests a tentative answer.

Termination of the *Bracero* Program

Public Law 78, authorizing government participation in importation of Mexican farm labor under contract, was enacted and approved by President Truman in 1951 as a Korean War emergency measure. With each temporary extension, the opposition of labor unions and "do-good" organizations mounted. The law's supporters would not commit themselves to an arrangement for terminating the program, and when sufficient votes could no longer be marshalled for a further extension in 1964, the program died.

During the fifties there were as many as three or four hundred thousand imported Mexican workers (*braceros*) working the fruit, vegetable, cotton, and sugar beet crops in many states. Under more rigorous federal administration the numbers

were substantially reduced and the program was increasingly confined to California. The peak employment of *braceros* in 1964 was only 72,000, and although seven states were involved, California had nine-tenths of the total.¹ Thereafter, under the authority of the Immigration and Nationality Act (P.L. 414), the Secretary of Labor admitted some temporary contract workers, but in sharply reduced numbers. Mexican workers were admitted to the state of California only—17,000 in 1965 and 7,760 in 1966.²

The apprehensions of those who advocated foreign labor and their predictions of disaster throughout late 1964 and most of 1965 were not completely confirmed by events. Trouble did develop for many individual farm employers, but usually not for large groups; nevertheless, the impact was definitely felt in the harvests of California asparagus and strawberries and Michigan pickling cucumbers. Had the development and use of mechanical harvest procedures for California canning tomatoes not been unexpectedly successful, the producers of this crop would have needed a much larger Mexican labor authorization than they received in 1965. In assessing the 1965 experience, the Secretary of Labor concluded:

Any fair-minded appraisal of the year's experience would require recognition of *both* the fact that *some* labor shortages developed which would not have occurred if Public Law 78 had not been repealed (or if Public Law 414 had been more loosely administered) *and* the fact that these shortages were substantially less serious than anyone could have predicted in advance.³

The various statistics on farm employment do not give a clear picture of what happened in the composition of the work force and in employment patterns during 1965-1966. Nevertheless, it is possible to develop several inferences which have consistency. The long-standing statistical series that perhaps best measures changes in the level of total farm employment is that reported by the Federal-State Crop Reporting Service and published by the U.S. Department of Agriculture. This series indicates that the average annual number of farm workers employed (a magnitude that is less than half of all persons known to have done farm work for hire at one time of another), after having remained nearly stationary through the 1950s, began to decline perceptibly in 1962. In the three years preceding 1965, the declines were

1 *Report on Manpower Requirements, Resources, Utilization, and Training*, U.S. Department of Labor (Washington, D.C.: 1966), p. 132. This report also contains many other details surrounding the ending of the *bracero* program.

2 *Ibid.*; see also, *Farm Labor Developments: Employment and Wage Supplement*, U.S. Department of Labor (Washington, D.C.: October, 1966), p. 5. Relatively small numbers of other nationalities—principally Canadians and British West Indians, who were not covered by Public Law 78—have been admitted for farm employment, mainly on the East Coast. Under more stringent regulation, these also have declined.

3 *Year of Transition: Seasonal Farm Labor, 1965*, a report of the Secretary of Labor, U.S. Department of Labor (mimeographed, 1966), p. 16.

5 to 7 per cent each year. This series, which includes *bracero* employment, shows that only insignificant declines occurred in 1965 and 1966.

More detailed Californian data have recently become available, thanks to the state disability insurance program that was initiated for farm workers in 1961. These data, in contrast to the annual averages of the USDA, show a substantial increase from 1964 to 1965 in the numbers of domestic workers doing *some* farm work. The two measures are not necessarily in contradiction, however, because *average employment* for the year and *numbers* of persons doing some work are not uniquely related. Apparently this is what happened, as inferred by the writer from the disability insurance data and other available information.⁴ Additional short-term workers, including a large component of women and minors, were drawn into the California farm labor force in 1965; the extent of participation evidently increased substantially among those who had previously been in the farm labor force and had been able to find some work in at least three quarters of the year. The overall total payroll to domestic workers was up by 19 per cent in the third quarter of 1965—reflecting both more employment and higher wages—and at the same time average earnings per worker declined. The latter behavior is attributable to the large increase in short-term, low-earning workers. Inasmuch as the increase in total earnings was greater than apparently can be explained by the increase in wage rates, it would follow that the total employment of domestic workers was high enough to offset the reduced number of *braceros*. Hence, the conclusion suggested by the U.S. Department of Agriculture data—that *average* California farm employment leveled off in 1965 and did not continue to decline as in 1962-1964—seems to be corroborated by the wholly independent state data. Department of Agriculture data for January-November 1966 also indicate that employment was at approximately the same level as achieved in the year 1964.

Federal-state farm labor officials laid great emphasis on interstate recruitment as a substitute for *braceros*. This was described by the California Farm Labor Panel as “a dismal failure.”⁵ The number of interstate workers did increase some from 1964 to 1965 (presumably on their own initiative as well as in response to recruitment drives), but the great streams of interstate migrants that were so prominent in the 1930s are apparently not being revived. The gap left by the *braceros* has been filled chiefly by additional short-term workers from local and intrastate sources, plus more effective utilization of the resident farm labor force.

Higher wage rates are believed to have been both a consequence of the departure of the *braceros* and the means by which a greater supply of domestic workers was

4 *Annual Farm Labor Report for 1965*, California State Department of Employment, Report 842, Nos. 3 and 4 (Sacramento: 1965); *Final Report*, California Farm Labor Panel to Secretary of Labor of Labor W. Willard Wirtz (Washington, D.C.: December 1965). U.S. Department of Agriculture estimates appear in the periodical report, *Farm Labor*, issued by its Statistical Reporting Service.

5 *Final Report* . . . , p. 33.

obtained. Surprisingly, however, in 1965 and 1966 California farm wages rose at virtually the same rate as in the nation at large. Through the years 1955-1964, the national average wage rise was 3 per cent a year and California's average was 2.6 per cent. In 1965 the rise in both averages was approximately 7 per cent and in 1966 it was approximately 8 per cent. The U.S. Department of Agriculture's composite farm wage rate series (the only available measure of changes in the *level* of wages over time, nationally and by state) shows that California crossed the \$1 an hour level in 1952, although the national average did not do so until 1966.

The wage rise in California may be ascribed in part to the wage criteria established by the Secretary of Labor as being the minimum to be paid if the farmers wished to be eligible for foreign workers. The Secretary's criteria have been regarded among farm employers as arbitrary and harsh. However, it appears from the data that the Secretary's criteria were in approximate accord with the national farm wage movement and, moreover, that the transition from the *bracero* program did not disproportionately affect California's relative wage level; it was 46 percent above the national average in 1963-1964 and 45 per cent above in 1965-1966.

Unionization of Farm Workers

Farm workers have never been covered by national labor relations legislation. Moreover, their heterogeneous composition, mainly temporary employment, and mobility have made unionization difficult. Nevertheless, over the years, there have been many unsuccessful attempts at organization. Outstanding exceptions are the Hawaiian pineapple and sugar industries and the market milk dairies near San Francisco and Los Angeles.

In the past two years, renewed efforts have been made to unionize seasonal farm workers in the San Joaquin Valley grape area of California, and in Texas and Florida. There have been some unusual occurrences. Three California employers accepted a union as a bargaining agent and entered into collective bargaining; another agreed to voluntary elections at which a union won bargaining recognition. Contracts have been negotiated and issues are being resolved by arbitration. These facts suggest that collective bargaining may have gained a foothold in agriculture and will spread. Whether this is a likely prospect depends on a variety of factors which operate both for and against such a development.

Vertical integration of agricultural industry. Significantly, collective bargaining has been established for farm workers (that is, field or production workers as distinguished from processing workers) only in those companies in which farm production has been allied by contract or by ownership to processing, handling, or manufacturing. Also, in these instances, collective bargaining has already been established in the processing segment. In integrated arrangements, there are many opportunities for established unions on the processing side to influence management's attitude with respect to field workers. Contractual and ownership integration—sometimes called "agri-business"—is likely to increase, thus certainly improving the outlook for farm unionism.

Union and public support. The AFL-CIO and its constituent unions are taking more direct, vigorous roles, as are independent unions, churches, groups, and organizations, based on civil rights, minority groups, and related causes. Urban newspapers are tending to be more sympathetic. For example, the *San Francisco Examiner* editorially supported unionization of farm workers on July 24, 1966. Despite appeals for noninterference from churchmen, local authorities, and community leaders within the affected areas, outside concern shows little evidence of diminishing. External interest and action may reasonably be expected to continue, and if so, they are likely to have considerable influence on the attitudes and actions of both workers and employers.

Possible Congressional action. It is coming to be realized by people generally and by some farm employers as well that the NLRA does not benefit union organizers alone. Economic pressure and force are the obvious alternatives to an orderly procedure to test whether employees want to be represented by a union. Senate Bill 1866 of the 89th Congress, introduced in April 1965, would have amended the National Labor Relations Act to remove the present exclusion of farm workers. At hearings held by the Senate Subcommittee on Migratory Labor in late 1965 and early 1966, most farmers' organizations offered testimony opposed to the bill. Nevertheless, the Subcommittee concluded:

The benefits of the collective bargaining right and procedures of the National Labor Relations Act should be extended to our citizens employed in agriculture. Consideration should be given to the possible desirability of new concepts which may be more suitable to a mobile, seasonal agricultural labor force than those afforded by the present Federal labor laws. For example, jurisdiction standards for the National Labor Relations Board could be revised to meet the special problems of agriculture. Furthermore, a thorough review of this subject may demonstrate the need for an accelerated election procedure as well as an administrative board which deals exclusively with collective bargaining rights in agriculture.⁶

Senator Murphy of California in his individual statement as a member of the Subcommittee seems not to disagree seriously with the majority:

These questions are not insoluble. I have no doubt that the Congress, once alerted to the complexities of the situation, could provide workable guidelines for collective bargaining by farm workers while at the same time preserving freedom of choice and equality of bargaining power. But the situation calls for careful analysis and good judgment, and not a headlong rush to apply to agriculture a legislative scheme which needs special tailoring to avoid a misfit which would be more of a hindrance than a help.⁷

6 *Migratory Farm Labor Problems in the United States*, U.S. Senate Committee on Labor and Public Welfare, Subcommittee on Migratory Labor, 89th Cong., 2d sess., Report 1549 (Washington, D.C.: August 30, 1966), p. 35.

7 *Ibid.*, p. 163.

Forces Limiting Union Growth

Neither the prospect of labor relations legislation nor the forces and influences mentioned above are likely to generate unionization of the type seen in the 1930s. On the contrary, the obstacles to unionism seem substantial and no great changes seem likely. Some of the more apparent obstacles are detailed below.

The problem of small, scattered units. Although the size of the average farm has risen rapidly and consistently, employment per unit is not following the same trend, due mainly to the advance of technology. Employment in large numbers per farm unit seldom occurs except in temporary harvest periods. Farms having five or more year-round hired men—usually dairies, stock ranches, or poultry farms—are few and exceptional. Widely separated, small units and close relations with a working employer are obstructive to union organization.

Seasonal workers are less responsive to unions. Many expect to be in farm work only temporarily and do not regard an improved future in farm labor as a goal worth striving for. Those who are resigned to a future in farm labor—mostly older, less educated, and otherwise handicapped persons—are typically neither well prepared for nor strongly motivated toward purposeful collective action.

High cost of organization without NLRA coverage. As long as farm labor continues to be excluded from statutory coverage, unions will have to use strikes and other pressures in order to obtain recognition as bargaining agents. Since such measures are expensive and uncertain, organizational efforts are likely to be restricted to the few situations in which the prospects of success appear good.

Possible administrative and legal difficulties under NLRA coverage. Even if the law were changed, problems would remain. Were farm workers covered under the present legislation, it would be necessary to make considerable changes in court rulings and administrative procedures regarding such matters as appropriate bargaining units and voter eligibility in order to accommodate these to special farm problems. Lengthy court battles should probably be expected.

On the other hand, if a special law were passed, restricted to agriculture—as suggested by the Senate Subcommittee—the pace would not be likely to be any more rapid. The backlog of administrative experience and court decisions under the NLRA will not be directly relevant, and therefore time will be required to develop new procedures and practices. Either way it goes, taxing demands on the time and resources of the principal parties as well as on the administrative agency would seem to be unavoidable—assuming, of course, that farm employers continue to oppose collective bargaining.

In summary, then, it seems reasonable to expect a new and more broadly supported step forward in the development of farm worker unions and collective bargaining, but under very substantial constraints. Initially, and perhaps for many years, the pattern will be quite spotty. The greatest impact of limited unionization may very well be indirect. Farmers' organizations are already increasing their ap-

peals to members to upgrade employment practices and conditions as a deterrent to union organization.

The Minimum Wage in Agriculture

The Fair Labor Standards Amendments of 1966 will apply a national minimum wage to agriculture for the first time. Effective February 1, 1967, the minimum rate will be \$1 an hour; the rate rises to \$1.15 a year later and to \$1.30 on February 1, 1969. Only large employment units are covered and some categories of workers are excluded.

According to the U.S. Department of Labor, approximately four hundred thousand workers will be subject to the Act. However, the larger, eligible farms tend to be in the areas where the going wage is already equal to or above the statutory minimum. As the law will have no initial direct impact on the major portion of those covered, and none on those who are exempt, it follows that the direct effective coverage at the beginning will be quite small. Subsequently, as the minimum rises to \$1.15 and then to \$1.30 the direct impact will increase. In California and elsewhere on the West Coast there will be virtually no direct impact because wages are already above the ultimate minimum.

The principal exemption from the new law is coverage for farm employees on farms which, in any quarter of the preceding year, did not use more than 500 man-days (the equal of six or seven men working full time) of agricultural labor. As the consolidation of farms continues, no doubt there will be an increase in the proportion of farms covered. This, in combination with a higher minimum wage level, will mean a broadening impact, at least in proportional terms. However, the day is far off when the majority of hired farm workers will be effectively covered by present minimum wage legislation.

Nevertheless, the law should have a considerable indirect impact on wages: by raising the lowest rates paid by covered employers, it will encourage other employers to raise their rates so as to preserve established relationships among individual farms and neighboring labor market areas. The present law should reduce regional farm wage differences between North and South and East and West, but it is not likely to eliminate them. It can be expected to accelerate mechanization and other forms of capital-labor substitution more in the low-wage regions than in the higher ones.

Farm Labor and Manpower Programs

National policy recognizes that manpower is a resource to be developed and utilized effectively. Both self-employed and hired farm workers are treated comparatively well under the recently enacted manpower and poverty programs. But these programs depend on local initiative and concurrence. Federal and state officials can do little until local leaders ask for help. Given the fact that farm workers characteristically lack cohesion, congregation, and articulation—particularly when contrasted with eligibles in the metropolitan trouble spots—it is not surprising that

there have been proportionally few projects under the Manpower Development and Training Act for farm people. However, a general rural manpower service (as I will discuss later) might become the agency through which rural community leaders and agricultural extension personnel could take a more active interest in manpower development.

Migrancy and Seasonality

Whatever else may happen—higher wages, unions, collective contracts, or even unemployment insurance—agriculture will still require large numbers of temporary workers. Mechanization has dramatically reduced seasonal labor requirements in many important crops and undoubtedly will continue to do so. Yet sharp peaks in employment have been left, and more highly skilled people are required to operate and attend the new equipment. The day is still far off when biologically seasonal crops will be handled by regularly employed, year-round personnel. Meanwhile, traditional solutions to temporary labor needs become increasingly less satisfactory.

Employers can no longer rely on alien contract labor. Within our borders migratory patterns are breaking down and interarea recruitment is becoming less effective. Migratory families settle down once they are given reasonable opportunities for steady work. Now, in an era of concern about poverty and underprivilege, and with community centered anti-poverty programs, a new set of forces has come into effect against migrancy. In my view, it is contradictory for government to sponsor simultaneously community war-on-poverty programs and interarea seasonal labor recruitment programs. Manpower training, job development, and fair employment programs may lower the level of underprivileged which has in the past produced seasonal farm laborers. Therefore, farm employers and others concerned might well be advised to seek new arrangements to get seasonal labor.

Over the years, farmers have often been exhorted to diversify their enterprises so as to provide continuous employment for themselves and hired personnel. But the trend has been toward more specialization, not less. It is realistic to expect that as long as seasonal workers are available, specialized farms will continue and seasonal labor requirements will be substantial. Moreover, given the regional diversity in our climates, soils, water supplies, and market proximities, there are advantages in specialization that, in the general interest, ought not to be obstructed.

Therefore, it seems as if seasonal work force needs will have to be satisfied more and more from among the residents of the immediate labor market area; and recruitment—both public and private—will have to depend less on need and disadvantage to create a labor supply. Assuming that these generalizations are valid as to direction even though not specific as to timing or magnitude, they suggest the development of two sources of seasonal labor: (1) persons who are not obligated to support a family and who are not seeking full-year employment—which is a roundabout way of referring to students, housewives, and retired, able-bodied persons; (2) persons who seek full-year employment and are able to combine other part-year employment with farm work in a seasonably complementary way.

What are the possibilities of integrating farm and other employment in rural economies? And what are the possibilities of establishing dependable seasonal patterns of employment which will more systematically utilize persons not regularly in the labor market? There are a priori grounds for believing that possibilities for both are considerable. But before going further into these questions, I wish to examine some of the implications of recent data on farm labor force participation and composition.

Labor Force Participation and Composition:

National data from the U.S. Department of Agriculture show that of all persons doing 25 days or more of farm work a year, the majority (three-fifths in 1964-1965) did not do farm work as their chief activity. Some were mainly unemployed; but the largest segment was made up of those not in the labor force most of the year. Moreover, in the postwar years there has been a persistent decline in the proportion of those (employed 25 days or more a year on farms) whose chief activity is farm work. The principal reciprocal of this trend has been the increased temporary use of persons not otherwise in the labor force.⁸

Information on composition and participation of the California farm labor force is available in the most recent comprehensive analysis of employment and earning by the State Department of Employment for the year 1964.⁹ During 1964 some farm work was done by 570,875 individuals. This large number of persons produced only an average annual employment of 190,000.¹⁰ Of all farm labor force participants, 24 per cent were women, and 24 per cent of these also had some nonfarm work. Of the women who worked only in agriculture, 56 per cent worked during some part of only one calendar quarter, and since the median earning of this group was \$76, it may be inferred that they were at work in California in a small portion of the quarter. Of the women having employment just in agriculture, only one-tenth had employment in four quarters.

Of all the men who did some farm work, 36 per cent also had nonfarm employment. Of the males working only in agriculture, 33 per cent worked only in one quarter and 35 per cent had some employment in each of four quarters. The male one-quarter workers who worked only in agriculture had a median earning of \$84, which implies no more than incidental labor force participation in California within the quarter. Males who did both farm and nonfarm work had the highest proportion with employment in four quarters—52 per cent.

If a regular farm worker is defined as a person working on farms only and having employment in four quarters, the regular farm work force in 1964 consisted of 92,525

8 *Rural People in the American Economy*, U.S. Department of Agriculture, Agricultural Economic Report 101 (Washington, D.C.: October, 1966), p. 46.

9 California State Department of Employment, Research and Statistics, Report 830, No. 2 (November 7, 1966).

10 *Farm Labor*, a periodical issued by the USDA Statistical Reporting Service.

males and 10,100 females. However, the earnings reports indicate that no more than 40,725 males and 4,925 females could have worked through portions or all of the four quarters for the same employer. Consequently, it appears that no more than some forty-five or forty-six thousand farm workers in California have employment that ordinarily would be defined as permanent—less than one-tenth of all farm labor force participants. The majority of the four-quarter workers were able to obtain this span of employment only by moving from one employer to another. Between one-fourth and one-third of four-quarter males had 10 or more “wage items” for the year, implying considerable interemployer mobility.

The level of earnings has further implications. Table 1 shows that median earnings for four-quarter workers in 1964 declined quite consistently as the number of wage items (i.e., employers) increased. Since these differences are not logically explained by any probable differences in wage rates, the implication to be drawn is that effective labor force participation—number of days of employment obtained—declines with greater job-to-job mobility. Hence, one is forced to the conclusion that all but about 8 per cent of those who worked on farms in 1964 are casuals in varying degrees.

Table 1
Median Earnings of Four-Quarter
Farm Workers, California, 1964

	Four wage items ^a	Ten or more wage items ^b
Men (farm work only)	\$4,106	\$2,138
Women (farm work only)	2,355	1,150

SOURCE: Based on California State Department of Employment, Research and Statistics, Report 830, No. 2 (November 7, 1966).

a One employer likely.

b Probably multiple employers.

Because of their surprisingly large numbers, those doing some farm work only in one quarter and not otherwise employed (in California) call for further attention.¹¹ A ready surmise is that they would be mainly women and minors, but they were not, as Table 2 indicates. It is astonishing to find that some 45,000 males between 22 and 60 years did some farm work (judged by their earnings, not much) and were not in the California labor force more than one quarter. Some of this magnitude is attributable to interstate migrancy, but this could explain no more than a small fraction of the total. Apparently there are quite a large number of adult males in California who are not only casual to farm employment but also to the labor market.

¹¹ The data are for 1964 and therefore before the post-Bracero supply response discussed above.

In contrast, the brief labor force participation of approximately 40,000 males under 22 years and 56,000 females of all ages is in line with expectations. It is to be noted that relatively few of the short-term farm workers did other than farm work.

Table 2
Persons Doing Some Farm Work, But Working
in only One Quarter, by Age and Sex, California, 1964

Age	Males		Females	
	Farm work only	Farm and nonfarm work	Farm work only	Farm and nonfarm work
16 and under	19,000	500	8,850	100
17-21	16,325	2,550	8,450	725
22-29	10,925	1,825	7,575	300
30-39	11,175	975	10,650	525
40-49	10,900	1,075	7,700	300
50-59	8,400	475	6,375	100
60 and over	9,900	100	4,925	50
Total	86,625	7,500	54,525	2,100

SOURCE: See source for Table 1.

The median earnings in Table 3 show that earnings increase more than in proportion to additional quarters worked. The increasing differences imply that with a longer spread of work activity over time, there is a correlated tendency toward intensification of labor force participation on a day-by-day basis. However, as we noted previously, the tendency to more intense participation is frustrated if the worker has to seek employment from numerous employers.

Table 3
Median Earnings by number of Quarters
of Some Employment, by Sex, California, 1964

	One quarter	Two quarters	Three quarters	Four quarters
Males, farm work only	\$84	\$397	\$1,121	\$3,181
Males, farm and nonfarm work	203	469	1,130	2,817
Females, farm work only	76	285	640	1,590
Females, farm and nonfarm work	203	374	847	1,580

SOURCE: See source for Table 1.

A related matter is the relation between farm and nonfarm employment in the utilization of the labor force. When one looks at the overall median earnings, one sees the great importance of combining nonfarm and farm work:

	<i>Males</i>	<i>Females</i>
Farm work only	\$681	\$160
Farm and nonfarm work	1,602	838

These results are in accord with data from other sources, and they have been interpreted as meaning that the best way for a farm worker to improve his income situation is to obtain nonfarm work. National data of the U.S. Department of Agriculture also show that farm workers earn more per day in nonfarm than in farm work.¹² However, in California the data indicate that the principal contribution of nonfarm work toward increased earnings is through additional employment (see Table 3). One-quarter workers who have nonfarm as well as farm work have a definite advantage over one-quarter workers who have farm work only. This advantage diminishes for two-quarter workers, tends to disappear for three-quarter workers, and actually is reversed for four-quarter males. Thus, a combination of farm and nonfarm work appears to improve an individual's chances for more intensive labor force participation and longer term employment. At the same time, those who do farm work only and get an equivalent amount of employment are able to earn equal or better incomes.

Table 4
Percentages of Persons Doing Some Farm Work Who
Also had Nonfarm Employment, by Sex, California

Quarters of earnings	Males	Females
One	8%	4%
Two	37	29
Three	49	45
Four	45	53
All	36	24

SOURCE: See source for Table 1.

¹² *The Hired Farm Working Force of 1965*, U.S. Department of Agriculture, Agricultural Economic Report 98 (Washington, D.C.: 1965), p. 15.

Nonfarm employment plays a prominent role in the annual work program of many of those who do farm work, especially among workers who are active in at least three quarters (see Table 4). Presently available California statistics do not make clear which category of work is supplemental to the other. Department of Agriculture data show that farm work tends to supplement nonfarm work among the population doing both.¹³ In California, the levels of earnings suggest that the relationship may be the opposite—that among workers doing both, farm work may dominate. If so, this may reflect the greater diversity of California agriculture. In any event, the important points are that opportunities exist for interindustry employment and that workers have the versatility to take advantage of them.

It has been noted previously that many of the four-quarter California workers are apparently job-to-job casuals. This has a marked effect on the range of earnings, as Table 5 indicates. One would expect that a distribution of earnings restricted to four-quarter male workers would be more closely centered around the median. Some of the range shown in Table 5 may be attributable to differences in work-finding abilities and on-the-job performances of individuals; it is not likely that these are the primary causes, however, considering the fact that these were the individuals who presumably were the most successful in piecing together full-year employment from a series of jobs in and out of agriculture.

Table 5
Annual Earnings of Four-Quarter Male
Workers, California, 1964

Annual earning	Farm work only	Farm and nonfarm work
Under \$1,000	9%	10%
1,000-1,999	18	22
2,000-2,999	20	23
3,000-3,999	21	18
4,000-4,999	16	11
5,000 and over	16	16

SOURCE: See source for Table 1.

Labor Force Utilization in Rural Economics

Historically, farm employers with short-term seasonal labor needs have believed that the workers should or would have to come from outside the area—from a “migratory stream,” from abroad, or from a special recruitment program. Government and academic people, by identifying migratory streams, have contributed to the notion that such labor is the only feasible solution to seasonal labor needs. The federal

¹³ Ibid., p. 22.

farm placement system built its "annual worker plan" on the concept of arranging and expediting continuous migratory movements. Because of these attitudes and the practices associated with them, workers who wished to settle down were not encouraged by employers or by the placement service, and particularly not by local authorities who were apprehensive lest the workers become relief charges.

Another factor contributing to the estrangement of farm workers from local labor markets is the structure of government farm placement. For almost a quarter century, farm placement has been operationally separate from the general federal-state placement system. Farm placement offices are expected to make referrals only to farm employers. Farm placement personnel have the responsibility for recruitment of farm labor as well as placement of those seeking farm work on their own initiative. In recruitment, aside from the specific responsibilities in foreign labor, the major emphasis has been on interarea movements. Local office personnel have characteristically not been expected or even permitted to help workers arrange combinations of seasonal farm and other jobs which would give an approximation of full employment in one area. Individual farm placement officers have occasionally been interested in trying to help farm workers to arrange annual work programs within areas of feasible daily commuting, but the restricted obligations of the placement program have constrained rather than encouraged this.

In my view, there are two major reasons for optimism regarding the development of a "pluralistic" rural economy and a multiple-occupation labor force. First, there is the upgrading of farm jobs and farm workers. These help to remove barriers between farm and nonfarm jobs and to create an environment in which workers are willing and able to move between farm and nonfarm work. Second, there is the unique set of economic and demographic facts concerning rural areas. Although our rural areas are ceasing to be dominantly agricultural, we have yet to evolve policies which recognize the changes taking place. It is a common assumption that if either self-employed farmers or hired farm workers are redundant to an area, seasonally or permanently, they go somewhere else. And "somewhere else," as we can no longer avoid realizing, has all too often been a jobless, congested city slum.

A nation that has done so much to advance farm technology should have concerned itself long ago with its obligations to the people made redundant by that technology. Even though the historic farm exodus is now well along, it is not too late to apply energy and resources to develop viable, diversified rural economies. Success would bring many benefits, particularly the building up of a stable labor force and an orderly set of employment relations which would help get seasonal farm work done and would provide worthwhile earning prospects.

A Rural Industries Manpower Service, instead of the Farm Placement Service, would be a good starting point. Such a service could be a center for contact and communication. In addition to placement and recruitment, it should help workers arrange annual work programs composed of several short-term jobs in farming and other rural industries. In so doing, some training needs would be encountered,

and here too the proposed service might play a vital role by helping to develop appropriate training programs. In combining these activities, manpower service personnel should take the initiative on job development, i.e., informing potential employers of workers' qualifications and availability and soliciting placement orders. Given a rural labor market of diversified skill and an effective manpower service, efforts to encourage the decentralization of industry into rural areas should become more rewarding. Also, the new "growth" industries—particularly recreation, but not excluding health and education—might find rural locations to be practical in such a manpower environment.

We know from the data that have been reviewed here and from other sources as well, that many farm workers show versatility and initiative in working on a series of jobs for different employers, both in and out of agriculture. Nevertheless, both the data on length of employment and on earnings strongly imply that the long-term workers, and especially those participating in the labor force through four quarters, could make a greater manpower contribution and improve their income position if public and private procurement and management practices were to undergo some rationalization. A rural industries manpower service could be a good way to begin. The rationalization could be carried much further if, in addition, farmers would associate themselves for a collective (as opposed to an individual) approach to labor needs, as, for example, they have already done for obtaining and managing *braceros*.

Conclusion

Is there to be a new era for farm labor? A qualifiedly affirmative answer seems in order. Since farm employers apparently no longer have access to foreign labor, they will have to become more competitive for labor, both among themselves and against other labor markets. Furthermore, unionization drives are likely to have an impact even if they are not highly successful, for farm employers will be under pressure to improve wages and conditions in order to combat unionism.

The critical question is, if unemployment rises again and the anti-poverty programs are curtailed, will thousands be thrown into the open-ended farm labor market for whatever they can get, thereby canceling the forces for improvement? The optimistic view is that the level of unemployment will remain low and the anti-poverty effort, including manpower development and training, will be sustained; in this case the differences between farm and other employment can be expected to narrow over time.

In a full employment economy, with the borders closed to foreign workers, seasonal labor needs in farming will be met to an increasing extent by local residents, who normally are not in the labor market for more than two or three months a year. Union organization is not likely to have much appeal to such persons, but earnings and working conditions will have to be attractive if they are to be induced into a regular pattern of farm labor force participation. At the other extreme is the small minority of workers who are regularly employed by the same employer throughout the year. This group has comparatively good incomes and often also

has fringe benefits—insurance, profit-sharing, paid vacations, and housing. Most of this group are in dairies or other livestock enterprises. Although dairy workers in the Los Angeles and San Francisco areas have had unions and collective bargaining for many years, they have not spread to others in the regularly employed category. For this regular work force, in which the level of skill is relatively high, prevailing conditions already are close to being competitive.

Between these extremes are the large numbers of more than incidental and less than fully employed workers. This is the group which has the most to gain and possibly the most interest in unionization. It is mainly for them that some improvement in public and private manpower policies and programs is important. The evidence is that this group has the initiative and versatility to put bits and pieces of jobs together toward the goal of full-time work. They need some assistance toward a more systematic way of trying to achieve a full year's income. Such assistance would help solve agriculture's manpower needs and, at the same time, the income needs of the workers. In the past, when rural economic activity was confined mainly to farming, occupational and employment diversity was less practical. Now, and in the future, with greater economic diversity in rural areas, increased population, and more rapid transportation, the delineation between farm and nonfarm labor can be expected to become less and less distinct.

Those interested in improving the lot of farm labor should be aware that the demand for labor probably will be highly responsive to rising cost. In spite of the revolutionary reductions in manpower needs that already have occurred, there is much potential for further innovation, such as alteration of plant forms and production techniques and improved mechanical substitutes for the human hand. If costs go up, these innovations will be accelerated. Rising labor costs and the latitude of labor-saving possibilities will both add further to the already existing economic and technical pressures on farmers to consolidate into larger enterprises.

For the above reasons, a new era for farm labor is likely to be one in which many of those now in the field will not be present. But this will not be the first such episode in American economic history, nor the last.

Chapter 7

FARM LABOR AND NATIONAL LABOR RELATIONS LAW

"Agricultural laborers," as a class and not defined, were excluded from the National Labor Relations (Wagner) Act of 1935. The method of exclusion was simple. The statute said that agricultural laborers were not employees within the meaning of the act. Persons in domestic service and individuals employed by parent or spouse were similarly excluded.

Exclusion of Farm Labor from the Wagner Act

A considerable folklore built up about why farm workers were excluded. Spokesmen of organized farmers said again and again that Congress "in wisdom" or sometimes "in infinite wisdom" recognized that agriculture was different from industry, and that a labor relations law designed for industry was not suitable. Until 1969 the moral that legislators were expected to draw from this argument was that any form of labor relations law was inappropriate for agriculture. This conclusion prevailed with very little divergence of view among organized farmers and related agribusinessmen. Labor spokesmen also offered rationalizations for the exclusion: In 1935, they said, farms were primarily family and household enterprises; few farms were then "factories in the fields"; some believed that farming was not included in interstate commerce. This conventional wisdom had sufficient force and persuasion to be a powerful obstacle to further congressional action.

Actually the facts of the exclusion are far more simple and much more political. The original Wagner bill did not contain the farm labor exclusion. It was added in the Senate Committee on Education and Labor, with only the following explanation: "For administrative reasons, the committee deemed it wise not to include under the bill agricultural laborers, persons in domestic service . . . or any individual employed by his parent or spouse."¹ As reported out of the House Committee on Labor, the bill also contained the exclusion of farm workers, but its report had a minority view urging that the exclusion be removed on the House floor. When questioned on the matter in the House, Labor Committee Chairman Connery defended the exclusion in these terms: "We hope that the agricultural laborers eventually will be taken care of . . . certainly I am in favor of giving the agricultural laborers every protection, but just now I believe in biting off one mouthful at a time. If we can get this bill through and get it working properly, there will be the opportunity later, and I hope soon, to take care of the agricultural laborers."²

The exclusion thus was uneventful. Formal positions were not articulated by either farmers or farm laborers. One may presume, however, that the Senate Com-

1 Wason, James R., *Legislative History of the Exclusion of Agricultural Employees . . .*, Library of Congress Legislative Service, HD1521, May 1966, p. 5.

2 *Ibid.*, p. 7.

mittee's concept of "administrative reasons" and Representative Connery's concept of a sufficient "mouthful" both reflected some degree of implicit agrarian hostility.

In trying to obtain the labor law that they got, Senator Wagner and his colleagues were under severe constraints, not the least of which was the indifference of Franklin Roosevelt and the hostility of some of his advisers. The President's veto was being courted by a coalition of southern Democrats and industrial state Republicans. Only after Senator Wagner had debated the pending bill with his White House Labor adviser (who was opposed) did the President decide he wanted a labor relations bill in some form.³

Representative Connery's hope of 1935, that agricultural laborers would soon be taken care of, went unfulfilled. Legislative attempts immediately following the enactment took the opposite course. The Act had left the term "agricultural laborers" undefined. Consequently the National Labor Relations Board had to provide an administrative definition of the persons and the work to be excluded. In this situation the foes of the Act sought the widest possible definition of "agricultural laborer." They strove to attain this by pressure on the Board, by demanding legislation, and by court action. The principal matter at stake was whether employees of packing houses, canneries, creameries, and other industries allied to agriculture could be declared to be agricultural and therefore also excluded. These efforts failed. The campaign abated somewhat after 1938, because the newly enacted Fair Labor Standards Act contained a definition that was adopted by NLRB. Nevertheless, a broadly based and comprehensive effort was made in 1939 to insert an agricultural laborer exclusion in all New Deal legislation, and this effort failed.⁴

At this distance from enactment, the folklore also occasionally embraces statements that farmers are exempt, or that agriculture, is, or that farm labor unions are illegal. These statements are all untrue. Regardless of the obscurity of the reason for exclusion and the complexities of its application, the basic situation is simple: "agricultural laborers," whoever they are, wherever they work, and by whomever they are employed, do not come under the provisions of the National Labor Relations Act.

The first effort to make good on Representative Connery's hope "that the agricultural laborers eventually will be taken care of" came in 1942, by a bill introduced by Senators Robert La Follette and Elbert Thomas. Their bill would have removed the exclusion of agricultural laborers as a class, but would have confronted the administrative issue troubling the Senate Committee in 1935 by exempting "... a farm operator who at no time during the preceding twelve months employed as

3 Schlesinger, Jr., Arthur M., *The Coming of the New Deal*, pp. 397-406. Burns, James MacGregor, *Roosevelt: The Lion and the Fox*, pp. 224, 244. Burns reports that the Wagner Act was forced upon the President but that he finally signed it enthusiastically.

4 Morris, S.J., Austin P., "Agricultural Labor and National Labor Legislation," *California Law Review*, Vol. 54:1939 (1942), pp. 1956-69.

many as four or more individuals at any time to perform agricultural labor.”⁵ This and some related bills were referred to the Committee on Education and Labor. Senator La Follete made an explanatory speech in the Senate under the title “The Problem of Economic Democracy on the Land.”⁶ But the nation and the Senate were concerned with more urgent wartime matters, so efforts in this direction got no attention. Thereafter it took 21 years for the next effort, equally abortive, to be made in the Senate in 1963. Not until 1965 did any bill in either house seeking labor relations law for farm workers get as far as hearings.

Attempts in the 1960s

Numerous bills were introduced in the years 1963-1969, and a few hearings were held. Through the years until 1969 the postures of the partisans were stable and predictable. Organized labor and pro-laborites proclaimed the exclusion as discriminatory and demanded equal treatment of farm employees. Organized farmers and their sympathizers (not quite unanimously) fabricated a mantle of conventional wisdom around the 1935 exclusion and embellished it at every turn. For them the ogre was strikes at harvest time—their chain of causation was that if farm workers had the protection of NLRA, they would organize unions; if unionized, they would be more likely to strike at harvest time; not only would farmers be vulnerable, the nation’s food supply would be in jeopardy.

These were the polarities until 1969. Then, rather suddenly, the partisans reversed positions: the United Farm Workers Organizing Committee wanted no labor relations legislation unless it were the original Wagner Act without the Taft-Hartley and Landrum-Griffin amendments; farm employer partisans wanted labor relations legislation, but they wanted it to be more restrictive than the amended NLRA. This new stand-off was to have considerable durability.

One event—the unexpected power of the grape boycott conducted by Caesar Chavez’ United Farm Workers Organizing Committee—was the factor that altered the postures of both partisans. UFWOC discovered that, excluded from NLRA, it had an instrument of power that would be lost if its exclusion were terminated. Reciprocally, organized farmers discovered that without NLRA coverage of farm workers, they were unarmed against boycotts.

A note of explanation is in order: The original Wagner Act of 1935 was mainly concerned with protecting the rights of workers to organize. It was widely believed to be excessively pro-labor. Consequently, amendments were sought and ultimately obtained in 1947 and in 1959. The Taft-Hartley amendments of 1947 constrained union behavior in several respects, including prohibition of the secondary boycott. The Landrum-Griffin amendments of 1959 further constrained and prescribed union behavior. In their efforts to redress what they considered an imbalance of power,

5 U.S. Congress, Senate, Hearings, 77th Congress, 2nd session, on S. 2860, Washington, D.C.: 1942.

6 *Congressional Record*, October 19, 1942.

the lawmakers overlooked the possibility that excluded farm workers might succeed in organizing unions. Consequently, the explicit exclusion of farm workers from the benefit provisions was not matched by a specific inclusion of farm labor unions in the constraint provisions. Accordingly, the courts have held that (within some specific conditions to be discussed elsewhere) farm labor unions are not subject to the constraining amendments. Therein lies the legal foundation of the reversal of partisan polarities.

Through the 1960s the congressional spearhead for agricultural labor relations legislation was in the Senate Subcommittee on Migratory Labor, of which Harrison Williams of New Jersey was the long-time chairman. As a subcommittee of the Committee on Education and Labor, it operated under Senate resolution and was not restricted to bills at hand. Its hearings and annual reports dealt with several aspects of agricultural laborers' welfare, consistently including a majority attitude in favor of collective bargaining legislation.

From 1965 to 1969 there were introduced in both houses several bills that provided NLRA coverage, usually with some adaptations and with the exclusion of small farms. Numerous members of both houses sponsored the bills; nevertheless, it was left to the Democratic members of the Senate Subcommittee to carry the initiative.

Early in the decade Democratic proponents often made conciliatory gestures; they spoke of "new concepts . . . more suitable . . . than those afforded by present Federal labor laws;" "jurisdictional standards . . . devised to meet the special problems of agriculture;" the possible need for "an administrative board which deals exclusively with collective bargaining rights in agriculture."⁷ In this sort of rhetoric they seemingly were seeking common cause with Republican dissenters on the Subcommittee. The stalwart of ambiguous consent-dissent was Senator George Murphy of California, who occasionally was joined by one or more of his Republican colleagues. Murphy's "individual statement" in the Subcommittee's report of 1966 seemed quite conciliatory: "I have no doubt that the Congress, once alerted to the complexities of the situation, could provide workable guidelines for collective bargaining by farm workers while at the same time preserving freedom of choice and equality of bargaining power."⁸

By 1969 the semantics of the Subcommittee were no longer so congenially obscure. That year hearings were centered on S.8, which was simple in language and pointed in intent: the exclusion of agricultural laborers would be deleted, and employers in agriculture would be authorized to make "pre-hire" union shop agreements as had previously been authorized for the construction industry, which also is

7 U.S. Congress, Senate, Committee on Labor and Public Welfare, Subcommittee on Migratory Labor Report 155, Hearings, 89th Congress, 1st session, Washington, D.C.: April 1965, p. 34.

8 U.S. Congress, Senate, Committee on Labor and Public Welfare, Subcommittee on Migratory Labor Report 1549, Hearings, 89th Congress, 1st session, Washington, D.C.: August 30, 1966, p. 163.

seasonal. Through the years of subcommittee hearings and in his "individual views" in its reports, Senator Murphy, as a member, had stoutly proclaimed himself to be pronoun and cited his veteran role in pioneering the Screen Actors Guild as evidence. In 1969, however, Murphy clarified his rhetoric: "I have stated before and reiterate now that collective bargaining is the heart and soul of American labor-management relations and a cornerstone of American industrial democracy. But collective bargaining is not an abstract principle; it involves practical relationships . . ." Thereafter followed the catalog of familiar arguments of organized farmers against any known form of collective bargaining.⁹

Subsequently Senator Murphy let it be known that he had constructed his own farm labor relations bill and had succeeded in having it referred to the Senate Agriculture Committee. But it was not Senator Murphy's split-off that brought the Subcommittee's momentum to a halt; it was the unexpected repudiation of its efforts by the presumed chief beneficiary, the United Farm Workers Organizing Committee (later UFW).

The Stance of Labor

"What I attempt to do here is to show the great need of having farm workers covered under the National Labor Relations Act." This was the testimony of Caesar Chavez to the Senate Subcommittee on Migratory Labor in 1966.¹⁰ Chavez was then General Director of the National Farmworkers Association, an independent organization of which he had been the chief builder. At the same hearing, C. Al Green, Director of the Agricultural Workers Organizing Committee, AFL-CIO, also supported the farm labor coverage bill then under consideration.¹¹ Subsequently these two organization merged to become the United Farm Workers Organization Committee, and Chavez emerged as dominant leader. Thereafter, until April 1969, the explicit and implicit public posture of UFWOC was to seek coverage under NLRA. In this respect the organization was in full alignment with AFL-CIO.

Then, anticipating testimony soon to be given in the upcoming hearing on S.8 before the Senate Subcommittee on Labor (not the Migratory Labor Subcommittee as heretofore), Mr. Chavez called a press conference to announce the position to be taken a week later by Dolores Huerta and Robert McMilliam, speaking on behalf of UFWOC. In submitting the Chavez press statement at the hearing, Mr. McMilliam observed: "The position was not new or not a surprise . . . to those who had been

9 U.S. Congress, Senate, Committee on Labor and Public Welfare, Subcommittee on Migratory Labor Report 91-83, Hearings, 91st Congress, 1st session, Washington, D.C.: February 19, 1969, p. 143.

10 U.S. Congress, Senate, Committee on Labor and Public Welfare, Subcommittee on Migratory Labor, *Amending Migratory Labor Laws*, Hearings, 89th Congress, 1st and 2nd sessions, Washington, D.C.: 1966, p. 367.

11 *Ibid.*, p. 388.

closely following our deliberations”¹² Whoever was or was not surprised, the statement said that UFWOC did not wish to be covered by the NLRA. It amounted to a repudiation of many Democratic senators who had long striven to obtain what they believed UFWOC wanted.

Dolores Huerta, Vice-President of UFWOC, expanded in detail and sought to dispel any notion the senators might have had that UFWOC’s change of position was an abrupt one; among her statements were these: “At times we have wondered whatever led our friends to say we had been denied the protections of that act Coverage under the present NLRA would not give us the needed economic power, and it would take away what little we have . . . we don’t really need protection if the growers have the willingness to settle but they don’t have this willingness. They have all the power. So, the only power that we have is the boycott threat in order to get them to negotiate.”¹³

In commenting upon their reversed position on NLRA, the UFWOC spokesmen distinguished between the original Wagner Act and its amendments, since it was the latter that instituted constraints against use of the secondary boycott as well as recognition picketing. Comparing farm labor needs with those of industrial workers during the years of the unamended Wagner Act, 1935-1947, Chavez contended: “We too need our decent period of time to grow strong under the life-giving sun of a public policy which affirmatively favors the growth of farm unionism.”¹⁴

A month later, in May 1969, AFL-CIO President George Meany appeared also to testify on S.8. He indicated that the Federation position remained unchanged and knowingly not respondent to the altered UFWOC posture: “We are aware that the United Farm Workers Organizing Committee, in testifying on this point, contended that mere coverage was not enough, that there should be exemption from certain onerous provisions of the National Labor Relations Act. The fact is, Mr. Chairman, the AFL-CIO has long sought the repeal of these sections, which are unpalatable to all organized labor. But reform of Taft-Hartley and Landrum-Griffin is another fight for another day. Today we are fighting for the right of the farm workers to a union and to collective bargaining.”¹⁵

Mr. Meany’s statement leaves little doubt that UFWOC had changed its position without consultation with or concurrence of AFL-CIO. Equally uninformed was one of UFWOC’s strongest allies—the International Longshoremen’s and Warehousemen’s Union. For the same hearing this organization submitted a statement of policy adopted in convention (during the same week as the Chavez press conference) saying among other things that “extension of NLRA coverage to farm workers

12 U.S. Congress, Senate, Committee on Labor and Public Welfare, Subcommittee on Migratory Labor, Hearings, 91th Congress, 1st session, on S.8 and S.1808, April-June 1969, pp. 22-23.

13 Ibid., pp. 9, 16.

14 Ibid., p. 23.

15 Ibid., p. 190.

is imperative.”¹⁶ Still another strong and long-standing supporter of UFWOC, the United Automobile Workers, made no appearance at the 1969 hearing.

Notwithstanding the divergence of perspective and the degree of unilaterality associated with the UFWOC shift of position, the significant fact is that the position was respected. It brought to a halt the initiative from the labor side and from pro-labor members of Congress to obtain removal of the exclusion of farm workers from NLRA. Henceforward, until 1974 the initiative for farm labor relations legislation was to be taken up by employers; what they sought to obtain bore little resemblance to the policy content of the NLRA.

Proposals of Federal Labor Relations Law Appropriate to the “Unique Characteristics of Agriculture”

During 1969 the dominant posture of pro-farmerites on labor relations legislation shifted from all-inclusive opposition to selective sponsorship of ideas divergent from the policy standards of NLRA as they had evolved in legislation, administration, and court decisions. The main schemes proposed were three: (1) that of George P. Shultz, then Secretary of Labor; (2) that of the American Farm Bureau Federation; (3) that contained in the Consumer Agricultural Food Protection Act, S. 2203, a bill sponsored by Senator George Murphy of California.

Secretary Shultz opened his testimony to the Senate Subcommittee on Labor on S.8 by declaring: “I am here to support the right of farm workers to full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection.”¹⁷ Thereupon he denounced S.8 because it “did not adequately recognize the unique characteristics of agriculture.”

Shultz proposed a Farm Labor Relations Board, whose three members would be acquainted with the farm industry and would be appointed by the President: “The intent . . . is to insure that this new board will not be bound by 34 years of industrial precedent established under the NLRB. The farm board is established as a separate entity for this purpose.”¹⁸ The other principal Shultz proposal had to do with strikes or lockouts when the parties were unable to agree on the terms of extension or renewal of an agreement: a 10-day notice of intent to strike or lockout would be required, whereupon the respondent party could request a 30-day mediation and fact-finding period. The party seeking the mediation would be required to accept the mediation outcome provided that the other party accepted it; the party asking for the 30-day period would be permitted to specify the timing of it. Shultz tried to maintain that his proposal was reciprocal as between the parties, i.e., balanced as between strike and lockout. But the discourse between him and

16 Ibid., p. 375.

17 U.S. Congress, Senate Committee on Labor and Public Welfare, Subcommittee on Labor, *Agricultural Labor Legislation*, Hearings, 91st Congress, 1st session, on S.8 and S.1808, Washington, D.C.: April-June 1969, p. 133.

18 Ibid., p. 135.

committee members and staff was conducted entirely in terms of the farmer as the initiating party who elected his 30-day period to cover harvest time. The fact finder would be agreed upon by the parties out of a list of five supplied by the Secretary of Agriculture. Coverage under the Shultz proposal would be the same as under FLSA, namely, farms hiring more than 500 man-days in the peak quarter of the previous calendar year. It was estimated that this would include 2 percent of all farms and 45 percent of all farm workers.

Shultz stated that he had worked with the Secretary of Agriculture in preparing the proposal and that it had Administration support. Apparently the Administration did not have very serious intentions about the proposal, however, for the minority members of the Subcommittee and their counsel were even more surprised and perplexed than were the Democrats and their counsel. No new high points in communication and persuasion were set during the Shultz testimony. The difficulty in communication was due mainly to the different images held by Shultz and the Committee: Shultz envisioned the strike or lockout as occurring in situations where collective bargaining was already in effect; subcommittee members held the image of unorganized workers seeking recognition and the start of collective bargaining. Another difficulty in communication was that Shultz had exaggerated the inappropriateness of NLRA; under questioning he agreed that the main corpus of a farm labor relations law—representation determination, recognition picketing, unfair labor practices, prohibition of boycotts—all should be as in NLRA.

The administrative branch of national government has not been a noteworthy source of initiative-taking on farm labor relations, whichever the party in the White House. According to hints and staff expectation around Washington, a strong executive initiative was to be launched with the Shultz testimony. But it turned out to be a faltering one, and destined for uncelebrated demise. This outcome was apparently quite congenial with the aspirations of concerned partisans, including Senator Murphy and the American Farm Bureau Federation.

The Stance of Employers

When Charles B. Shuman, then president of the American Farm Bureau Federation, appeared before the Senate Subcommittee on Labor, his response to S.8 also was to propose an alternative. He had prepared a "rough draft" of a bill designed to implement his organization's concepts of a desirable agricultural labor relations law. Senator Javits asked, "... is it fair to say we now have some measure of agreement between the farm community and the farm worker in that you agree that there ought to be a law?" Shuman responded, "... there is agreement between at least part of the farm community we represent and the workers when they have said there should be a procedure for decisions as to representation." Shuman added: "... there has been considerable evidence in the last year or two that we needed some procedure defined by law."¹⁹ The evidence he referred to was UFWOC's boycott of

¹⁹ Ibid., pp. 68-69.

California table grapes.

What the AFBF wanted was an Agricultural Labor Service set up within the U.S. Department of Agriculture with powers and responsibilities unlike those held by NLRB. Representation and decertification elections could be held—these being described as a “ministerial function”—by the proposed Agricultural Labor Service. Interpretations of the law and judicial questions would be matters for federal district courts rather than administrative ruling. Rights and proscriptions for employers and workers would be quite unlike those of NLRA.

AFBF's proposal in greater detail was later presented to the Special Subcommittee on Labor of the House Committee on Labor and Education, in July 1969, by Matt Triggs, assistant legislative director.²⁰ In relating it to the Murphy bill, Triggs said, “Senator Murphy's bill is not our bill . . . although there are a lot of things in [it] that we are very much for . . . there are some things in it that we are not so much for.”²¹ Mr. Triggs' opinions notwithstanding, the fact is that a month before, on June 11-12, AFBF directors had “agreed to support the Murphy bill and to aggressively work to move the bill through the Senate Agriculture Committee Further, the AFBF directors called for Farm Bureau to work for some changes in the bill, notably in the area of union shop provisions.”²²

Mr. Shuman did not claim the AFBF position to be that of all organized farmers. In the spring of 1969 opinions among farm organization leaders on labor relations matters were truly divergent. Such AFBF-allied organizations as the National Council of Agricultural Employers and the United Fruit and Vegetable Association simply opposed S.8 without offering or endorsing any alternative. As they had before, two of the other general farm organizations—the National Farmers Union and the National Farmers Organization—supported the enactment of S.8. The National Grange submitted a statement declaring sympathy for workers' right to organize and bargain but opposing S.8 because it did not contain sufficient safeguards against farmers' vulnerability to strikes. All three of these general organizations linked their favorable attitudes toward employee bargaining with their own positions in favor of legislation to protect farmers' rights to bargain with the buyers of their output. The Agricultural Producers Labor Committee (of Southern California) submitted a statement of opposition to S.8 based in part on the allegation that on-farm production was not interstate commerce and therefore S.8 would be unconstitutional.²³

With a shift of tactic to the Murphy proposal and of scene to the Senate Committee on Agriculture and Forestry, an increased measure of unity among organized

20 U.S. Congress, House Committee on Labor and Education, Special Subcommittee on Labor, Hearings, 91st Congress, 1st session, on HR12667, Washington, D.C.: 1969, pp. 113-19.

21 *Ibid.*, p. 113.

22 *California Farm Bureau Monthly*, July 1969, p. 7.

23 U.S. Congress, Senate Subcommittee on Labor, *op. cit.* pp. 98-108, 227-41, 271-74, 327-43.

farmers was in prospect—ephemeral as it was to be.

The Murphy Bill

Senator Murphy's bill, the Consumer Agricultural Food Protection Act of 1969 (S. 2203), was referred to the Senate Committee on Agriculture and Forestry and thence to the Subcommittee on Agricultural Research and General Legislation. Hearings were held January 20, 26, 27, and March 16, 17, 1970. Murphy's remarks upon introducing his bill to the subcommittee included reiteration of a point he had made many times earlier as a member of the Senate Migratory Labor Subcommittee: "My personal position is well known. As a longtime union member, union organizer, and a union president, I have a background in the labor movement stretching over 40 years. I think I understand unions, as a veteran of the Screen Guild, for instance. I see a number of surprisingly close parallels in the transient nature of actors and farm workers. Many farm workers move from farm to farm and crop to crop during a given year, just as actors move from studio to studio, picture to picture, and city to city."²⁴

In contrast, if not in contradiction, Murphy closed his presentation by saying, "Now, in presenting this bill I might say there was a concern as to why this bill did not go to the Labor Committee, and I would like for the record to explain it . . . I wanted carefully to delineate the reasons why the problems of the farm workers are unique and different from the problems of industry, and believe me they are. I have belonged to unions in both industry and outside of industry and I know there is a great difference . . . That is why I wanted the originating hearings in this bill to come before this committee."²⁵

Supporters of Murphy had another version on the committee referral: ". . . getting the bill to the agricultural committee is the first bright sign for growers. It could have gone to the Labor and Welfare Committee where it would have been difficult to predict what type of bill, if any, would ever come out."²⁶

In any event, both the title of the bill and its not being referred to the Labor Committee were signals that the substance of the bill was not an orthodox application of labor relations law. Nevertheless, the bill's substance reflected study of the NLRA and of the administrative practices and court decisions relating to it. Senator Murphy presented a detailed explanation of similarities and differences. Subcommittee members who questioned him²⁷ were not much interested in the

24 U.S. Congress, Senate Committee on Agriculture Forestry, Subcommittee on Agricultural Research and General Legislation, Hearings, 91th Congress, 2nd session, on S.2203, Washington, D.C.: January and March 1970, p. 65.

25 *Ibid.*, pp. 73-74.

26 *California Farmer*, July 5, 1969, p. 11.

27 The membership of the Subcommittee on Agricultural Research and General Legislation was Jordan, North California, Chairman; Eastland, Mississippi; Talmadge, Georgia; Allen, Alabama; Young, North Dakota; Curtis, Nebraska; Dole, Kansas.

niceties of labor relations law. Beyond complimenting Murphy on his knowledge of agriculture, they mostly were concerned that small farmers would not be subject to the law and that harvest time strikes would be prevented.²⁸

Like the Secretary of Labor and AFBF, Murphy wanted a separate Farm Labor Relations Board. His was to consist of three members appointed by the President for twelve-year terms. Its chairman was to be an assistant secretary in the Department of Agriculture. That the current Administration felt no discomfort in lodging farm labor relations in the Department of Agriculture was conveyed in a letter of unqualified approval of S.2203 by J. Phil Campbell, Acting Secretary.²⁹ This letter contained some of the same points on agricultural labor relations previously made by Secretary Shultz in his testimony against S.8, but did not specifically state that the Administration had dropped the Shultz proposal in favor of Murphy. One is left to wonder why nobody from the Department of Labor appeared at the hearings on S.2203; one scarcely need wonder that no opinion from NLRB was solicited on whether S.2203 would be a workable labor law.

The Murphy bill had some resemblance to the anatomy of NLRA as amended; it also had some new limbs and organs, some of which were cosmetic embellishments, but others were ponderous deviations from the corpus of generally accepted labor law. The details of the Murphy bill will be later described in connection with California Initiative Proposition 22 of 1972, wherein many of its ideas were reincarnated. A few of the most novel of the Murphy ideas should perhaps be mentioned now, however.

First and foremost among the Murphy goals was to terminate the immunity from constraints against boycotts which the courts had decreed for farm labor unions in consequence of exclusion of agricultural laborers from NLRA.³⁰ But the prescription went beyond the union to include "any person acting on behalf of a labor organization or to further the objectives of a labor organization." The intent was to constrain sympathetic organizations and individuals who had carried much of the burden of UFWOC's boycotts. The inventory of unlawful acts also was expanded to the point of dubious constitutionality. In order to undertake persuasion of an ultimate consumer, "any person" would be required to know the details: "... inducement or encouragement is limited to honest, truthful, and undeceptive publicity and specifically identifies the producer of such commodity ..."

Protection against strikes at critical times was broad and inclusive: it would have been unlawful "for any person to initiate, participate in, conspire to or threaten

28 U.S. Congress, Senate Subcommittee on Agricultural Research and General Legislation, Hearings on S.2203, op. cit pp. 74 -91.

29 Ibid., p. 53.

30 This had occurred in *Di Giorgio Fruit Corporation NLRB*, 191 F. 2nd 642 [app. D.C. 1951] *Cort den* 342 US 869 (1951). In order to be immune from the anti-boycott provisions of NLRA, the union was required to be composed exclusively of agricultural laborers. For discussion, see "Legal Problems of Agricultural Labor," *UCD Law Review*, Vol. 2, 1970, pp. 23-27.

a strike, picketing or refusal to perform work, in whole or in part, at a farm if such action will result in a cessation of operations necessary to prevent the loss, spoilage, deterioration, or reduction in grade, quality or marketability of an agricultural commodity in commercial quantities.”

The mechanism to make this prohibition effective was to be a court restraining order and injunction. Petitions “shall be heard forthwith and, if the petition alleges that substantial and irreparable injury to the petitioner is unavoidable, such temporary restraining orders may be issued without notice and shall continue in effect until the court has heard and ruled upon a request for a temporary injunction.”

On procedural matters such as rights and obligations to bargain, the holding of certification or decertification elections, and unfair labor practices, the Murphy proposal ran generally parallel with NLRA. The differences that were introduced were not designed, however, to facilitate unionization or to expedite collective bargaining. For example, two constraints in the right to vote had potentials of frustration: “An agricultural employee who has voted in a valid election shall not be eligible to vote in any election at the farm of another agricultural employer in the same geographical area for a period of twelve months thereafter. Any agricultural employee who shall be found to have sought or accepted employment for the purposes of affecting the outcome of an election shall not be eligible to vote in an election conducted pursuant to the provisions of this Act for a period of twelve months.” These constraints, Murphy explained, were to prevent “submarining.”³¹ But the delay caused by investigation of such questions could also torpedo an election.

Summaries and descriptions of the Murphy bill as well as arguments in promotion of it began to appear in the presses of organized farmers in June 1969. During the months prior to hearings and during the recess (January to March 1970), efforts to promote the bill were considerable.³² As seen by promoters, their task was to develop a broad consciousness about the jeopardy of boycotts; they had to convince agricultural, food trade, and consumer interests that the threat went far beyond farm specialties such as table grapes and their few producers in California. Seemingly, on the showing of the hearings record, the campaign went well. The spectrum of support was impressive. Numerous regional fruit and vegetable associations sent supporting spokesmen. The trade was represented by local retail store associations as well as the National Association of Food Chains, the National Association of Retail Grocers, the Society of American Florists, and the National Banana Association. There also were supporting appearances by the national and several state chambers

31 U.S. Congress, Senate Subcommittee on Agricultural Research and General Legislation, Hearings on S.2203, op. cit pp. 82. The proposed Act from which the preceding quotations are taken is printed in full on pages 2-52 of the Hearings Record.

32 California Farm Bureau Federation *Newsletter*, February and March 1970. *California Farmer*, March 7, 1970. Council of California Growers *Newsletter*, February 23 and March 16, 1970. *California Farm Bureau Monthly*, July 1969 and March 1970.

of commerce. Of the general farm organizations, the National Farmers Unions and the National Farmers Organization continued to support S.8 and to oppose Murphy; the Grange, which had been ambivalent on S.8, filed another statement of ambivalent rhetoric about its philosophy on bargaining but ended by urging early approval of the Murphy bill. Among local commodity associations the only holdout was the president of the Vegetable Growers of America of Sturtevant, Wisconsin: "... in my opinion, this legislation will open a Pandora's box and I am confident that, if it ever becomes law, it will not and can not accomplish the theoretical, the sociological, and the academic virtues claimed for it. I hope that ... the type of legislation embodied in this bill will be relegated to oblivion because its ultimate consequences will place more authority in government and union leadership."³³

Murphy's own statements and the propaganda on behalf of his bill argued its merits for workers and consumers as well as farmers. Workers would be protected from the coercion of an unwanted union; consumers would be protected against the harassment of pickets at stores and the shortages and high prices caused by strikes and boycotts. Yet no affirmative response was forthcoming from either of these sources and apparently little effort was made to cultivate it.

The Reverend Eugene Boutilier, United Church of Christ, appeared to testify on behalf of 36 organizations, principally consumer and union. His testimony opened on a conciliatory note: "We are pleased that many growers and other agricultural and rural interests have at long last become convinced in the last year and one-half that their former stance of total opposition to orderly labor-management relations in agriculture is no longer viable. It is good news that their representatives are now ready to talk about negotiations and enabling legislation to provide a roadmap out of the jungle of extended conflict and stalemate."³⁴ But the Reverend made it clear that the Murphy bill was not the sort of roadmap he had in mind: "This misnamed bill is a labor relations bill. ... It is my view that the sponsors of this labor legislation bill have placed the Senators of this committee in an embarrassing position. It is a violation of the rules of procedure and the courtesy due between Senators that this bill was assigned to a subcommittee of this committee rather than a subcommittee of the Labor and Public Welfare Committee."³⁵ The ensuing altercation with Senator Curtis as to who should tell the Senate how to conduct its affairs did little to establish Boutilier's persuasiveness in the Subcommittee, as did the discovery that he was not currently a practicing minister and that he had been active in the grape boycott. Aside from the considerable discourse on these peripheral matters, Boutilier's testimony consisted mainly of contrasting some of the provisions of Murphy with those of NLRA and "NLRB procedure." His remarks seemed to favor NLRA coverage for farm workers, but he did not specifically say so—possibly because one of his "clients" was UFWOC.

33 U.S. Congress, Senate Subcommittee on Agricultural Research and General Legislation, Hearings on S.2203, op. cit. p. 211.

34 Ibid., p. 137.

35 Loc. cit.

The Amalgamated Meat Cutters sent a letter to say, among other things, that "provisions of S.2203 are crudely and laughably unconstitutional."³⁶ The AFL-CIO sent a letter also to say it favored including agricultural employees under NLRA. This letter included a copy of the statement made by President Meany to the Senate Subcommittee on Labor in May 1969.³⁷ (The parenthetical observation to be made on the AFL-CIO communication is the explicit nonconcurrence with the UFWOC position against NLRA coverage, as announced almost a year before.)

From the California Legislature came testimony from William K. Ketchum and Clare L. Berryhill, chairman and vice-chairman of the Assembly Committee on Agriculture, who were accompanied by committee consultant William H. Geyer. Mr. Ketchum commented on the unsuccessful efforts in the California Legislature to cope with the "law of the jungle," coming to the conclusion that "farm labor relations is a Federal problem because only in the Congress can all pieces to the puzzle be assembled."³⁸ Ketchum stated that, as an individual assemblyman, he supported the Murphy bill, but that "on behalf of the California Legislature my testimony is neither in support nor opposition . . ."³⁹

At the close of hearings on his bill, Senator Murphy was reported to be confident.⁴⁰ Senator Curtis had spoken of his proposal as "a fine piece of legislation" and had predicted it would pass both houses.⁴¹ Governor Reagan stated his support and urged growers to keep working for its passage and not to be concerned with the lack of movement during the first few weeks after hearings.⁴² Thereupon, without explanation, the presses of organized farmers fell silent on the matter of Murphy. By September 1970 Governor Reagan, without any mention whatever of Murphy, was saying, "I have long endorsed the need for adequate national legislation to protect the rights of workers, or growers, and the general public" and added he now was working with the President for such legislation.⁴³ By November 1970 the Council of California Growers was writing about the prospects of new bills in Washington, reporting that the Murphy bill "did not make it through the Senate this year . . . reportedly because of apathy on the part of growers in other parts of the nation."⁴⁴

Apparently Murphy did not have the votes to report the bill out of subcommittee. Proponents who had dreaded an impending confrontation with pro-laborities on the Senate floor had been unnecessarily worried.

Other bills on labor relations for farm workers written in Washington during

36 Ibid., p. 281.

37 Ibid., p. 282.

38 Ibid., p. 172.

39 Ibid., p. 174.

40 Council of California Growers, *Newsletter*, March 23 and 30, 1970.

41 Ibid., February 23, 1970.

42 Ibid., April 14, 1970.

43 Ibid., September 21, 1970.

44 Ibid., November 2, 1970. Also Statewide Agriculture Committee, California State Chamber of Commerce, September 4, 1970.

1971 got nowhere. The Administration did not revive its faltering initiative of 1969. Given the failure to establish a momentum in Washington, organized farm interests again began to court the California State Legislature.

Chapter 8

TOWARD AN AGRICULTURAL LABOR RELATIONS LAW IN CALIFORNIA

Two types of effort were made in California in the early 1970's to obtain a labor relations law covering agricultural workers: (a) regular procedures in the legislature; (b) an initiative proposition in the general election of November 1972.

New Efforts in the Legislature

Prior to 1971 the State Legislature showed occasional but never long sustained interest in the labor-management problems of agriculture. After the 1965 thrust of UFWOC at Delano, the interest became more intense and the number of efforts increased. In 1966 the State Senate responded to what it considered "a potential crisis in California agriculture" and by resolution directed that its Fact Finding Committee on Agriculture should:

... exhaustively review all existing states and federal legislation in this area together with any constructive proposals which take cognizance of the unique problems attendant to the production, harvesting, and processing of perishable farm commodities ...¹

The committee held four days of hearings in July 1966 and submitted its report in 1967. Neither its hearings nor its review of legislation in other states and abroad produced a model suitable for adoption in California. After reviewing prior legislative efforts in Sacramento, the Committee concluded:

Thus, we have seen that the legislature has in recent years attempted to solve, at least in part, the thorny problem of farm labor disputes. To date, however these efforts have been in vain. The reasons for this have been touched on before. These include the unwillingness of either side in the farm labor dispute issue to make even the smallest concession, and the inability of the legislature to take a firm stand in the absence of a consensus. As long as these forces maintain predominance, the 'law of the jungle' will continue.²

Notwithstanding its pessimistic conclusion, the committee did make several recommendations, most of which would have required new legislation. Since the officials of the State Conciliation Service admitted, the Committee said, that it had been almost totally ineffective in handling farm labor disputes, a new separate conciliation unit was proposed, to be set up in the State Department of Agriculture. (Why and how it could be more effective there was not explained.) The use of this proposed conciliation service would be mandatory but not its findings, and legislation should be passed that would require labor contracts to contain a prohibition against harvest-time strikes or a 30- or 60-day notice of intention to strike. The law also should require secret balloting in all representation elections.

1 California Legislature, Senate, Resolution 148.

2 California Legislature, Senate, Fact Finding Committee on Agriculture, Farm Labor Disputes Report, Sacramento, California: 1967, pp. 19-20.

A farm labor relations bill was introduced by Assemblyman Veysey in 1967 (AB1163). Its content and approach were, however, responsive to recommendations made by Ronald Reagan during his 1966 gubernatorial campaign. The Veysey bill would not have put the state into a very comprehensive labor relations role; even so, it got little consideration. According to the general counsel of the California Farm Bureau, "The complexities which would result from the adoption of such a law and the lack of support caused its author to drop the bill on May 19, 1967."³

Not the least of the "complexities" of the Veysey bill was the procedure that hearings on disputes would make recommendations to the Governor and to an Agricultural Conciliation Service to be set up in the Department of General Services. The "lack of support" referred to must have been only within the community of organized farmers, for the proposal apparently did not go far enough to encounter labor opposition.

In December 1968 Governor Reagan issued a press release that declared his belief that "applying the principles of the National Labor Relations Act to farming is unwise." Further, the governor declared that "if some form of the NLRA is not in the public interest, neither is a different economic status for farm workers in the public interest. Thus, our citizens generally and our legislators particularly must be more diligent, more imaginative and more aggressive in seeking to improve the well-being of seasonal farm labor."⁴ The governor's press release made no specific requests or recommendations. Its content, aside from this comment on labor relations, seemed to imply that approaches other than collective bargaining, and preferably at the federal level, were better choices for providing an equal economic status for seasonal farm workers.

Within a month's time, however, the governor's views apparently became more set against any form of federal action on labor relations. In January 1969 he declared to a joint convention of the legislature:

... we should lead the way in agricultural labor relations policies. If we don't, we may soon be forced to march to yet another federal drum beat.

Therefore, it is my intention to seek and support legislation in the area of farm labor-management relations. Such legislation will protect the public, the farmers and farm workers. It should establish ground rules for and supervise free elections to determine, first, if the workers want to be represented by a labor union or association and, if they do, to choose which one without fear, intimidation or reprisal. This legislation should also spell out what role arbitration should play, and should clearly establish the prohibition of strikes and other work stoppages at harvest and other critical times.⁵

The Governor's announced intention notwithstanding, no results were achieved. According to the California Farm Bureau, events were as follows: "... several hear-

3 Rummel, Charles A., "Current Developments in Farm Labor Law," *Hastings Law Journal*, January 7, 1969.

4 Press Release No. 691, December 3, 1969.

5 California Legislature, *Assembly Daily Journal*, January 7, 1969.

ings were held last Fall [1969] concerning the need for a Senate labor management law The feeling expressed at the time by all sides to the current labor relations problems was that Federal legislation was needed in this area since State law cannot reach beyond State boundaries. In keeping with these findings, no legislation has been introduced into this session to set up a State farm management relations law.”⁶

In fact, however, Assemblymen Ketchum and Veysey had prepared a bill in response to the Governor's initiative. But the “hearings” mentioned by the Farm Bureau were apparently private conferences of organized farmer spokesmen concerning the bill. According to a capital reporter, the “big farm boys said it [the Ketchum-Veysey bill] was a no-no”; they had decided instead to support Senator's Murphy's federal bill.⁷

When Governor Reagan rejected “yet another federal drum beat” and declared in favor of state legislation in January 1969, organized farmers were still mired in their anti-NLRA orthodoxy. The articulation of a federal approach more to their liking than NLRA was yet to come. Within six months the Shultz-AFBF-Murphy chain of versions of labor relations law appropriate to the “unique characteristics of agriculture” had been laid out. And with the Murphy bill in the hands of the Senate Agriculture Committee, the “big farm boys” apparently felt secure in abandoning the Governor and his distaste for federal drum beats. But as we already have seen, the Murphy project collapsed in 1970, and the legislative action returned to California.

The year 1971 was intense, though unproductive, in effort on farm labor relations in Sacramento. Action was to center around AB964. Two other bills also were introduced, to be discussed briefly before reviewing the episode of AB964.

Senator Harmer introduced SB40 in January. It resembled the Veysey bill of 1967 with respect to involving the State Board of Agriculture and the Conciliation Service, but attempted to go further in requiring representation elections and in trying to outlaw secondary boycotts and jurisdictional disputes. SB40 was referred to the Senate Committee on Industrial Relations, where it got little attention until July 29, 1971. On that date it was amended by deleting its entire content and substituting an extremely simple addition to the Labor Code that would have authorized the State Department of Industrial Relations to conduct elections if voluntarily petitioned for by an agricultural labor organization. Amended SB40 got no further attention, but was re-introduced by Assemblyman Powers in 1972.

In February Assemblyman Ketchum introduced AB639. It was again along the lines of Veysey in 1967, involving the State Board of Agriculture and another variant of conciliation. This bill also was to get nowhere, as had previous Veysey-type proposals centering around the State Board of Agriculture and based on proposed amendments to the Agricultural Code.

⁶ *California Farm Bureau Monthly*, June 1970, p. 5.

⁷ Walton, Rus, *Santa Rosa Press Democrat*, July 20, 1971.

AB964 was the third bill to arrive on the 1971 legislative scene, introduced in March. Until this bill appeared, and through the fall of 1970, the president of the California Farm Bureau was appealing for renewed efforts to obtain national legislation.⁸ Although not fully specific, the Farm Bureau statements seemed to imply readiness to support a measure more conciliatory to labor than the Murphy bill, but not full NLRA coverage. In contrast, the Western Growers Association stated its readiness to bring farm workers under NLRA as well as to seek California legislation: "We know we cannot get anything like the Murphy bill passed, and we want to be realistic about the farm labor laws," this association's vice-president was quoted as saying.⁹

From his own knowledge, this writer can say that still another route to labor relations law was being considered in 1971, although it involved limited individual interest and no organized farmer collectivity: This was to legally challenge the constitutionality of the 1935 congressional exclusion of agricultural laborers from NLRA on the ground that it arbitrarily discriminated against farmers. A coincidence of some interest was that concurrently the constitutionality question was being tried in Louisiana by the Butchers Union, which has some sugar plantation worker members in that state.

The bits of evidence available indicate that AB964 was not produced or even anticipated by California's organized farmers. Rather, their thinking centered upon national legislation and upon provisions not widely deviant from established labor relations practices as reflected in NLRA and the administrative practices of NLRB. Yet when AB964 was unveiled, there was a quick rallying around it. Within three weeks of its introduction, the Council of California Growers claimed that AB964 "appears to be a middle ground upon which both points of view can meet" and that most spokesmen of agriculture were putting their hope in it.¹⁰

But AB964 was no middle ground. After asking many questions about its origin, this writer concludes that it came from Southern California and was put together by the lawyers who had worked on the Murphy bill. Assemblyman Cory, its senior author, a Democrat from the 69th District (Orange County), had not previously been active in labor relations matters. AB964 carried much of the verbiage of the Murphy bill (some of it verbatim) and its general philosophy on the role of government with respect to farm labor-management relations. But it also had additional anti-union embroidery; it was the most radical departure from NLRA yet to be propounded.

AB964 was heard and debated in the Assembly Labor Relations Committee, and amended on seven occasions extending from April 22 through August 2 of 1971.

8 *California Farm Bureau Monthly*, September 1970. California Farm Bureau Federation *Newsletter*, November 1970. *Santa Rosa Press Democrat*, February 12, 1971.

9 *The Sacramento Bee*, January 20, 1971.

10 Council of California Growers *Newsletter*. April 5, 1971.

The process was remarkable in two respects: (1) the amendments were consistently pro-union, and by August the most radical deviations from accepted labor relations law had been removed; and (2) publicly and formally the spokesmen of organized farmers did not withdraw their support as the amendment process went forward.

On August 14 the editor of *California Farmer* said that AB964 "is alive and well in spite of some of the fantastically poor and slanted reporting of some of our daily press," and he further suggested that readers might be helpful in getting the bill passed.¹¹ In September the president of the California Farm Bureau stated that "some progress is being made in getting the Legislature to adopt farm labor relations legislation" and that "this is not the time to throw in the sponge. It is the time to move in with all the strength we can muster."¹²

Nevertheless, AB964 was ill-fated. According to the *California Journal*,

The California Agricultural Conference led a united front of farm groups in advocating the enactment of a state labor relations act for agriculture, a posture that as late as 1969 has been the exclusive province of organized labor, and which even last year was anathema to most of its current supporters AB964 squeaked out of the Assembly Industrial Relations Committee, after extensive amendments, supported by farm owners and the Teamsters Union and opposed by UFWOC, the State Federation of Labor, and right-to-work groups. The bill subsequently died in the Ways and Means Committee after nationally prominent Democrats interceded in behalf of UFWOC, which felt that the mandatory election and secondary boycott prohibitions in the bill would jeopardize its organizing efforts.¹³

The intercession was more colorfully described by a Sacramento correspondent: "The calls came from Humphrey and Kennedy, from Muskie and McGovern, and from the AFL-CIO fat cats. And even though the bill had already passed the Assembly Labor Relations Committee, Speaker Moretti rendered unto Cesar his *quid pro quo* and the bill was dead. Heil Cesar!"¹⁴

Neither the original content of AB964 nor the amendments were generally known to the citizens of California during 1971. But in 1972, with only very minor revisions, the original bill was to be reincarnated as Initiative Proposition 22. In this corpus it became the object of much notoriety, highly funded persuasive endeavors, and intense efforts by both protagonists and antagonists. It lost.

Consideration needs to be given to some of the principal provisions of AB964 as originally introduced and to the amendments made upon it, but this can most conveniently be done after considering the life and death of Proposition 22, which follows.

11 *California Farmer*, August 14, 1971.

12 *California Farm Bureau Monthly*, September 1971.

13 *California Journal Supplement*, December 1971.

14 Walton, Rus, *Santa Rosa Press Democrat*, July 25, 1972.

**Farm Labor Relations Law by Initiative
(California Proposition 22, November, 1972)**

According to the California Farm Bureau in November 1971,

Farm Labor relations legislations is dead for this year, both in Sacramento and in Washington. But the fight for it, far from being over, will be actively resumed early in 1972, at both levels. In California, proposed legislation moved further through the Legislature this year than ever before, a good omen worth pursuing diligently. The latest move in California is a drive to place a so-called Farm Workers' initiative on the ballot, probably next June FB is currently studying the proposal (emphasis in original).¹⁵

Concurrently, the editor of *California Farmer* was reporting that "some good people with good intentions" had put together a "so-called initiative [that] is an inept and amateurish attempt to deal with a very complex and sensitive area . . ." He mentioned a Citizens Committee as the proponent. Based upon the opinions of lawyer Ivan G. McDaniel of Los Angeles, he listed detailed criticisms of the proposal.¹⁶ *California Journal* referred to the proponent as a "Sacramento-based Farm Workers Secret Ballot Election Committee" and added that "agricultural leaders appear to be shying away from this proposal as technically deficient and technically unsound."¹⁷

Faced with the prospect of an initiative measure they did not originate and of which they disapproved, the nominal leaders of California's organized farmers were forced to a rapid determination of strategy. They held three statewide meetings and by March 2, 1972 decided to sponsor a rival initiative. In doing so, they said, "We hope to make a deal with the members of the Citizens Committee so that we can all go on one initiative."¹⁸ They made the deal.¹⁹

As noted above, the California Farm Bureau in November 1971 had regarded normal legislative prospects with optimism; yet by May 1972 its president said, "The only alternative is to take the matter directly to the voters of this state through the initiative process."²⁰ In view of the events his revised position could not possibly have been based upon further efforts or adverse legislative experience in either Sacramento or Washington.

The decision of the nominal leaders of organized farmers to sponsor an initiative on farm labor relations was made in advance of their discovery of what its content might be. Even worse, their comments about the substance of what they were in the process of adopting imply substantial doubts that they recognized or understood what it was.

15 California Farm Bureau *Newsletter*, November 1971.

16 *California Farmer*, November 20 and December 11, 1971.

17 *California Journal Supplement*, December 1971.

18 *California Farmer*, March 18, 1972.

19 *California Farmer*, April 15, 1972.

20 *California Farm Bureau Monthly*, May 1972.

In his May 1972 editorial, the Farm Bureau president never once mentioned that the new initiative was virtually word for word the original and unamended version of AB964. Rather, he said of it: "... the new initiative was reviewed by some of the most competent attorneys in the state. The new act contains no flaws to later come back and haunt the workers or growers; it is on solid legal footing; it will stand any court test."²¹ The editor of the *California Farmer* told his readers: "In our humble estimation, the Agricultural Labor Relations Initiative is a masterpiece. It was drawn by three outstanding labor lawyers and reviewed by several other lawyers in draft While it is modeled after the Cory-Wood bill (AB964), it is greatly expanded to fill a big legislative gap" He also stated the measure had an arbitration procedure it did not actually contain.²² A line-by-line comparison of the language in the initiative and that of the original of AB964 reveals that the changes were so slight as to be scarcely cosmetic, the biggest of them being a small reduction in redundancy.

In the months to follow, the might, main, and money of organized farmers and their agribusiness colleagues were put behind this initiative. Their campaigns to get sufficient signatures to qualify the measure for the ballot and to get it voted in at the general election were both centered in an especially created sub-agency called the Fair Labor Practices Committee, with headquarters in Sacramento. As is the general practice in California, opponents made no effort to counteract the qualification phase. Proponents obtained substantially more than enough signatures to qualify the measure. The most noteworthy event to occur in the qualification process was the charge made by the United Farm Workers and several Democratic members of the legislature that some of the signatures were obtained by false claims and fraud. The Secretary of State, on the basis of these claims, sought to obtain a court order to remove the initiative from the ballot; his petition was dismissed.

Immediately following its being organized, the Fair Labor Practices Committee issued a "White Paper," which candidly stated, "The language of the new initiative parallels that of the 1971 Cory bill [AB964]. There have been several minor technical changes to make the measure better" The White Paper estimated that the cost to qualify would run about \$260,000. And in a further appeal for supporting funds, it said, "Once the measure qualifies, a sophisticated campaign plan has been developed using the modern tools of campaign tactics. This effort will cost upwards of \$600,000."²³ The Fair Labor Practice Committee later reported to the Secretary of State that just under \$950,000 was spent on the election.

The primary and most widely known opponent of the measure was Cesar Chavez' United Farm Workers Union, which reported to the Secretary of State that it spent slightly more than \$200,000 in the election.²⁴

21 Ibid.

22 *California Farmer*, May 6, 1972.

23 Fair Labor Practices Committee, Sacramento, *A White Paper on Farm Labor Relations* [Updated—approximately May 15, 1972].

24 *San Francisco Chronicle*, December 29, 1972.

Since 1972 was a presidential year, there were inferences that sympathies on Proposition 22 would be aligned with support for either Nixon or McGovern. Had there been such an alignment, 1972 would have been a vintage year for the proponents, because Nixon won over McGovern in California by more than a million votes. But Proposition 22 lost by more than 1-1/4 million votes, or in percentage terms, 57.9 to 42.1. Some of the details of the outcome were astonishing.

The state's ten most populous counties all rejected the proposition. Only three (Alameda, Contra Costa, and San Francisco) voted pro-McGovern—his vote margin in these counties was 29 percent, whereas the margin of rejection on Proposition 22 was 91 percent. In the seven large pro-Nixon counties (Los Angeles, Orange, Sacramento, San Bernardino, San Diego, San Mateo, Santa Clara), Nixon's winning margin was 42 percent, while the losing margin for Proposition 22 was 48 percent. Pro-union San Francisco County rejected the measure by a margin of 125 percent; Orange County, often referred to as a bastion of ultraconservatism, rejected it by 26 percent. Presumably San Francisco voters rejected it because they believed the arguments of opponents that the measure would be repressive to unionization of farm workers. Did Orange County voters reject it because they believed arguments of the proponents—that it actually would protect unionism and collective bargaining? The measure did allow the possibility of a union shop, and this was provocation for statewide opposition by right-to-work interests. Right-to-work supporters are relatively prominent in California, and it is commonly believed they are especially so in the Orange County population.

In any event and for whatever reasons, voters were not impassive toward Proposition 22. The voter drop-off (as compared with total vote for President) was less than 5 percent.

Pro and con appeals to voters were made in a complex of complicated ballot issues with respect to which few arguments were made in great candor. Proponents sought to align their initiative with NLRA, upon which they claimed it was modeled with only the necessary modifications to accommodate to the unique characteristics of farming; for farm workers it would be the equivalent of NLRA for industrial workers, they said. For farmers the benefits of immunity from strikes and boycotts were mentioned, but most often in the context of lower consumer prices. Much emphasis was laid on the right of farm workers not to be forced into a union without it having been authorized by election. Among opponents there were allegations of racism (against Mexican-Americans) and of grand conspiracies to exploit and repress the poor. The unconstitutionality of the measure was declaimed. But the central argument of opponents was that while the measure was designed to appear as a guarantor of democracy and self-determination for farm workers, it actually contained devices designed to obstruct and destroy the very rights it purported to safeguard.

Some of the tone and color of the campaign are reflected in two selected statements: One from Father James L. Vizzard, S.J., on August 31:

A most unlikely love affair has recently been revealed in California. By its own not-so-coy admission, the Farm Bureau, that bastion of agribusiness power, loves farm workers. At least that is what its spokesmen imply. A bemused observer would suspect that what the FB would really like to do is to love the farm workers to death.²⁵

And a post-election version from the editor of *California Farmer*:

Prominent members of the clergy: Protestant, Catholic, Jewish; demagogic politicians; the liberal new media; alleged labor leaders; people who wish to do good but are sadly misinformed, and lastly, a loud and loquacious band of crusaders who play fast and loose with the truth—these are the executioners of Proposition 22.²⁶

What Might Have Been, Had Farmers Prevailed

For the discussion that follows, one needs to remember that Proposition 22 was virtually word-for-word the original and unamended content of AB964. Amendments of AB964 in the Assembly Industrial Relations Committee were principally deletions of its most radical deviations from generally accepted labor relations policy and practice. The main public policy issues involved in the principal amendments made to AB964 were avoided by proponents of Proposition 22.

Shall there be a Union?

The general underlying policy of NLRA and of its administration is to protect the right of workers to decide by majority vote whether a union is wanted. Even so, certification elections are not always required. Employers may voluntarily recognize a union, but it is expected that they will assure themselves by some means that a majority of workers do favor the union. If a petition for an election is filed and NLRB determines it to be appropriate, either as a consent or ordered election, the effort that follows is directed toward timeliness and maximum opportunity for all employees having a continuing interest in the terms of their employment to vote. NLRB tries to schedule elections within 30 days of the decision to hold one. However, if the employment is seasonal or casual, the date of the election may be adjusted to allow all eligible employees the opportunity to vote.

Those in the bargaining unit and on the employer's payroll in the pay period immediately preceding the election are eligible to vote. If more than one union can demonstrate a substantial interest, the ballot may contain a rival union as well as "no union." A majority of votes is required, and if not obtained initially, a runoff may be in order. In this event the parties on the ballot could be Union A vs. Union B or one of the unions vs. "no union," depending upon the ranking choices in the initial election.

In contrast to the quite open and flexible NLRA election policy, the following were some of the restrictions of AB964:

²⁵ *Los Angeles Times*, August 31, 1972.

²⁶ *California Farmer*, December 9, 1972.

1. To be an "agricultural employee," the person must have worked for the particular "agricultural employee" at least 14 workdays in the preceding 30 calendar days and for that or another agricultural employer for at least 100 workdays during the preceding calendar year.
2. Persons who were eligible to be an "agricultural employee" had to meet additional tests before they would be eligible to vote in an election: (a) they must not have voted in a valid election at another farm in the same geographical area (not defined) in the preceding 12 months; (b) they must not be found to have sought or accepted employment to affect the outcome of an election in the preceding 12 months; (c) they must not be employed on a tract of land lying outside a 50-mile radius of the farm's headquarters.
3. On the timing of elections, AB964 specified that "the date of such election shall be set at a time when the number of temporary agricultural employees entitled to vote does not exceed the number of permanent agricultural employees entitled to vote." (The terms temporary and permanent were not defined.)

If the state assumes a role in monitoring union elections for farm workers, it seems reasonable that it provide promptness, fairness, and broad eligibility for participation. The qualifications exacted by AB964 as to who could be an "agricultural employee" and one eligible to vote quite obviously would have denied these attributes. These restrictions amounted to an arbitrary exclusion of a major fraction of workers. Moreover, if an election were delayed while the agency determined detailed and elusive facts as above prescribed, the season would be over and the people gone before eligible voters had been identified. Alternatively, if an election were held without having determined the eligibility of each and every voter, it would be vulnerable to objection by some one of the interested parties, the investigation of which also could exhaust the season and the presence of the affected employees.

Finally, one must ponder the meaning and administrative potential of the proposed specification on timing of elections. Having already proscribed an inclusive list of workers who might be regarded as casual, who is left to be "temporary" and yet eligible? Lacking definitions, one is left to wonder about the arbitrariness with which an administrative agency would have to go about determining how much less than year-around a "permanent" employee might be and how much more than casual it might take to qualify for the category "temporary." In any event, this specification on timing on top of the restrictions on employee definition and voting eligibility could scarcely be interpreted as having a motivation other than to deny voting participation to eligible voters. Unionization sympathies are likely to be greater among the numerous workers usually regarded as temporary than the comparatively few who could be regarded as permanent. Accordingly, is it possible that the farmers of AB964 had any intent other than trying to assure a "no union" outcome in the seasonal fruit and vegetable industries where the unionization effort

is found?²⁷

As the Assembly Committee on Industrial Relations worked on the bill, it eliminated the proscriptive restrictions on the definition of an employee and on eligibility to vote and the specification on timing of elections.

Shall boycotts and strikes be prohibited?

On the farm labor scene the possibility of strikes at harvest time was for years the main apprehension of employers, but in the 1960's the secondary boycott moved into first prominence in California. NLRA provided some protection against organizational strikes and certain protections against boycotts. These provisions are written as prohibitions against specified tactics when used toward specified objectives, and they apply only to unions or labor organizations. Because agricultural laborers are excluded from NLRA coverage, the court has held that unions composed exclusively of agricultural laborers are also excluded from coverage. As a result, farm employers' efforts to invoke NLRA boycott restrictions against UFW have been denied. Moreover, in the view of this writer, the NLRA anti-boycott provisions, even if available to employers of agricultural laborers, would have limited utility. This is because the farm product boycott is a quite different and more complex affair than the type of situation dealt with by the amendments to NLRA.

In simplest form the secondary boycott is described by NLRB as follows:

A secondary boycott occurs if a union has dispute with Company A and in furtherance of that dispute causes the employees of Company B to stop handling the products of Company A, or otherwise forces Company B to stop doing business with Company A. The dispute is with Company A, called the "primary" employer, and the union's action is against Company B, called the "secondary" employers; hence the term "secondary boycott." In many cases the secondary employer is a customer or supplier of the primary employer with whom the union has the dispute. In general, the Act prohibits both the secondary boycott and the threat of it.

In the farm scene the Company A-Company B vs. the union image does not fit very well: (a) promoters of boycotts in Eastern markets often were sympathetic individuals or organizations not holding an explicit agency relation with any union; (b) the subjects of persuasion sometimes have been chain stores that are the counterparts of "Company B" but also they have been individual customers; (c) no "primary" relationship existed between the union and an employer; rather the boycott effort was against "California grapes" or "California lettuce" which did not bear the UFW label—not against "Company A."

The framers of AB964 struggled to cope with these particularities. In doing so they went considerably beyond NLRA. In contrast to the inexplicable overkill on

²⁷ As a footnote to the history of this obstructive requirement on the timing of elections, it might be noted that the language came from the Murphy bill. When Senator Murphy was representing his bill to the Senate Subcommittee in 1970, his "Analysis and Summary" said, "It is recommended that [the provision] be deleted in order to preclude inequitable restrictions on voting by migrant workers" (Hearings on S.2203, op. cit., p. 82).

election restrictions, their motivation on anti-boycott provisions is understandable. The questions here are on constitutionality and on how far public policy should go in trying to police the freedom of individual expression. (And if these questions of policy were less overriding, one might also feel obliged to raise questions of enforceability.)

As noted above, NLRA anti-boycott controls are imposed only upon unions. AB964 did those too, and went beyond to impose a substantial inventory of illegal acts upon "any person." Part of the language relating to "any person" is as follows; it would have been unlawful for him:

(a) To threaten, restrain, or coerce, or to attempt to threaten, restrain or to coerce, any secondary employer to make a management decision not to handle, transport, process, pack, sell, or distribute any agricultural commodity of an agricultural employer with whom a labor dispute exists.

(b) To induce or encourage the ultimate consumer of any agricultural product to refrain from purchasing, consuming, or using such agricultural product by the misrepresentation of any fact or law, or by the use of dishonest, untruthful, and deceptive publicity. Permissible inducement or encouragement within the meaning of this section shall mean truthful, honest, and nondeceptive publicity which must identify the agricultural product produced by an employer with whom the labor organization has a primary dispute. Permissible inducement or encouragement shall not include publicity directed against any trademark, trade name, or generic name which includes agricultural products of another producer or user of such trademark, trade name, or generic name, and shall not include picketing at a retail establishment.

Concepts of being "truthful, honest and nondeceptive" in matters of labor-management conflict are not readily enforceable, if even definable. Less elusive are the requirements of product and primary employer identification—if enforceable, they would have crippled the grape and lettuce boycott projects conducted by and on behalf of UFW. The prohibition of picketing at a retail store is in conflict with Supreme Court decisions.²⁸

The above-quoted provisions plus some elaboration thereon were deleted by the Assembly Industrial Relations Committee.

Injunctions and restraining orders

Prior to the Norris-LaGuardia Anti-Injunction Act in 1932, court-issued injunctions were a widely used weapon against union activity. Neither the NLRA of 1935 nor its amendments of 1947 and 1959 made any substantial change in the anti-injunction policy laid down in 1932. Injunctions still are used, but they must

²⁸ These are usually referred to as the *Servette* and *Yakima apple* cases. They are *National Labor Relations Board v. Servette, Inc.*, 377 U.S. 46 (1964) and *National Labor Relations Board v. Fruit and Vegetable Packers Local 760*, 377 U.S. 58 (1964). In both cases picketing of supermarkets was involved, but the union in each instance clearly identified that the action was against specific products and not against the store itself. The court ruled that this restricted form of picketing was constitutionally protected free speech under the First Amendment.

conform to general standards of law and must relate to the performance of illegal acts.

The framers of AB964 attempted to move anti-injunction policy backward by several decades. These are the words with which they sought to do it:

In case of a strike or boycott, or threat of a strike or boycott, against an agricultural employer, the court shall be empowered to grant, and upon proper application shall grant as herein provided a 60-day restraining order enjoining such a strike or boycott in order to enable such employer and his employees and their conciliation, and any agricultural employer shall be entitled to injunctive relief upon the filing of a verified petition showing that his agricultural employees are on strike or are conducting a boycott, or are threatening to strike or boycott

Lawyers say that a petition can be verified by attestation of a notary public that the signature of the petitioner is authentic; no verification of the allegations made in required. This provision can be fairly characterized as "the farmer's do-it-yourself injunctive relief package."

The Assembly Committee on Industrial Relations removed this provision as well as the further elaboration upon it.

When the momentum on AB964 came to a halt, the bill had not become the full counterpart of NLRA but the most radical differences were gone. Accordingly, much could be said in concurrence with president of the Farm Bureau that 1971 was a year of legislative accomplishment and a "good omen worth pursuing diligently." Unfortunately, what followed—the episode of Proposition 22—could scarcely bear description as diligent pursuit. It would not have brought tranquility to the fields of California. Fortunately for the welfare of the state, including the proponents, California's voters declined it.

Another Effort in Washington, D.C.

After the demise of California's AB964 and Proposition 22, it would not have been surprising if legislative effort were to die at least temporarily, or if resumed, that it would occur in Washington. The latter would have been consistent with prior oscillations. But there was little prospect of action in the U.S. Senate—its Subcommittee on Migratory Labor was comatose on labor relations from the sting administered it by UFW in 1969. In the House, however, a stir of interest had occurred in 1971, and its Committee on Labor and Education had appointed a Subcommittee on Agricultural Labor. The Subcommittee's first chairman, Representative O'Hara of Michigan, promptly began to move as though something might happen. The traditional re-survey of the situation was expeditiously conducted, and several bills were prepared. The bills laid before the subcommittee covered the widest range of perspectives ever on how farm labor relations should be conducted.²⁹

²⁹ These bills together with staff summaries and other related materials were published in *Hearings* on H.R. 5010 and related bills regarding labor-management relations in agriculture, March 23 and April, 1972, 92nd Congress, 2nd Session.

At the pro-labor extreme was O'Hara's "Farm Workers' Bill of Rights"; part of it was the original (unamended) Wagner Act, as had earlier been demanded by UFW. At the pro-farmer extreme was Representative Talcott (Salinas Valley), whose bill surpassed Murphy in anti-unionism. California dominated the bill-writing; other familiar names included Representatives Leggett, Sisk, McFall, Ketchum, Teague, and Veysey.

Congressmen Sisk and McFall would simply have removed the exclusion of agricultural laborers from NLRA. Congressmen Veysey, who had previously been active on farm labor matters in the California Assembly, would have authorized a separate board with powers parallel with NLRB but with adoptions to the need for expeditious elections and handling of unfair labor practice charges. Congressmen Talcott's bill was built on the Murphy skeleton but added that strikes and lockouts would be outlawed and replaced by compulsory arbitration. Congressman Leggett started out with a bill identical with S.8, but soon shifted to another approach. In the latter, which Leggett called a compromise, he was joined by Teague of California, Ullman of Oregon, and Quie of Minnesota. This bill embraced some of the Murphy-AB964 line, but most of the cumbersome restrictions on elections and voting were removed and the relief package for employers was moderated. In its declaration of policy, the new Leggett bill mentioned the "unique nature of the agricultural industry" and the necessity "to establish special provisions," stating "The board is authorized and directed to administer and apply the provisions of this Act with due regard to the special characteristics of agriculture and employment in agriculture . . ." The Subcommittee's staff translated that to mean "its intent is not to make any precedents by the NLRB binding upon the ALRB."³⁰ At the request of the American Farm Bureau, this provision was amended by adding "and particularly the need for expeditious action in the handling of representation and unfair labor practice cases in agriculture."³¹

In introducing the first version of his compromise bill, congressman Leggett stated he had "long felt that the best solution was simply to bring farm labor under the NLRB just like any other kind of labor" but that he had entered into the compromise proposal in the hope of drawing a wider range of support.³²

The House Subcommittee held no public hearings on any of these bills, but in 1973 it issued a "hearings" based upon explanations by authors of the bills, including twelve statements of support for the new Leggett bill from farmers' organizations. These organizations were the American Farm Bureau Federation, one state and one county Farm Bureau, the national Grange and five state Granges, and three commodity associations. American Farm Bureau's statement set forth

House of Representatives, Committee on Education and Labor, Subcommittee on Agricultural Labor, 1973.

30 *Hearings*, *Ibid.*, p. 45.

31 *Hearings*, *Ibid.*, p. 83.

32 *Hearings*, *Ibid.*, p. 65.

its guidelines on farm labor relations legislation and noted that the Talcott, Veysey, and Leggett bills were the ones "which most nearly accomplish these objectives." The statement said further that although AFBF did not support the entirety of the Leggett bill, it "having bipartisan backing, would appear to have the best prospects for enactment." AFBF's analysis did not take sharp issue with any of its provisions, although several changes were suggested.³³

The Leggett bill was a quantum move toward the philosophy of NLRA; the Sisk-McFall bill was NLRA. AFBF noticeably did not commend the latter, but its spokesmen apparently no longer believed support of NLRA coverage to be a political capital offense. Despite this accommodation in organized farmer thinking, no counterpart showing of interest was forthcoming from pro-laborites. Presumably, UFW continued its opposition to losing secondary boycott immunity. Additionally, national labor leaders and their congressional supporters were not sympathetic to any further extension of NLRA's amendment that would sanctify state "right-to-work" laws.

In any event, nothing came of the House Subcommittee's momentary flurry.

The First Bill Ever to Reach the Floor of a Legislative Body

California in 1973-74 became the scene of action as momentum built toward a solution of long festering problems.

In anticipation of legislative proposals, the Assembly Labor Relations Committee held one day of hearing in October and one-half day in November 1973. Witnesses were requested to respond to a list of questions bearing on the characteristics of farm labor relations and possible approaches to inherent problems. Most of the persons invited to appear were partisans of organized labor or organized farmers; questioning by committee members was seldom lengthy or more than superficial. Although launched as an avowed quest for knowledge, the Committee's hearings discovered little on the intrinsic of the situation or on the proper role for the state from the standpoint of the public interest.

The highlight of the hearings was the announcement by UFW that it would propose a farm labor relations bill. Less noticeable but not much less significant were the meager showing and moderate tones of organized farmer spokesmen. The latter were primarily concerned that they, like nonfarm employers covered by NLRA, should have relief from their vulnerability to secondary boycotts.

When the committee convened its legislative session in May 1974, it had four bills at hand:

AB337-Burton, Altorre, Garcia, Foran. This was the promised UFW bill; its major content was an election-certification procedure and a "recognitional strike"; it was not patterned upon NLRA.

³³ *Hearings*, *Ibid.*, p. 80-83.

AB3816—Maddy, Mobley, Thurman, Nimmo, Chappie, Seeley. This was sponsored by the Teamsters Union and was basically NLRA.

AB3900—Berman, Wood. This bill had no sponsoring organization; its authors were identified as respectively pro-labor and pro-farmer; the bill undertook to be a "compromise" election procedure; Berman later deserted his bill and became an author of UFW's bill.

AB4161—Duffy. This was generally considered to be the farmers' bill. It was supported by the California Farm Bureau and the State Chamber of Commerce.

All four bills were proposed as amendments to the Labor Code; all would have created a new farm labor board or commission to administer the legislation.

Well ahead of the scheduled hour to commence the committee's hearing on the bills (May 22, 1974), the small auditorium and adjacent halls of the Capitol were overflowing with a colorful and dominantly Chicano UFW pilgrimage. Neither its pre-hearing chanting of "Cesar si; Teamsters no" nor its subsequent vigorous applauding of points scored by its leaders were seriously disruptive. Only John Henning of the California Labor Federation, AFL-CIO strove to be flamboyant or heroic as a UFW advocate.

Following the affirmative presentation of each sponsoring group on its bill, testimony of those opposed was invited. Most of the day was consumed by the pro and con arguments of counsel for UFW and the Teamsters. When the lengthy opposition of Teamsters' counsel to the Burton (UFW) bill had concluded, Committee Chairman McCarthy asked, "Is there any other opposition to the Burton bill?" Hearing no response, McCarthy continued, "Are there no growers present? Then everyone else is in favor of the Burton bill?" These questions also brought no response.

The Assembly Committee had not intended to take action until a subsequent hearing in June. Later, action on the bills was postponed until August—allegedly on the basis of a rumor that UFW and the Teamsters were expecting to compromise.

In August when the Committee again met, UFW's counsel said nothing about efforts to compromise with the Teamsters; however, counsel for the later stated that such efforts had been made, but unsuccessfully.

Nevertheless, during the May-August interim members Berman and McAlister had prepared a package of amendments to the UFW bill and undertook to propose it. Most of the proposed amendments were only cosmetic, and none approached the bill's most serious defects. Teamsters' counsel described the amendments as "verbiage"; UFW's counsel referred to one of them as "academic verbiage" and opposed most of the rest. State AFL-CIO Secretary Henning rose to appreciate the sincerity of the Berman-McAlister efforts but seemingly also to place AFL-CIO into accord with UFW's apparent rejection. After a pause in his rhetoric, Henning declared "we accept the amendments." Neither Assemblyman Alatorre, the bill's manager, nor the again overflowing auditorium of UFW pilgrims registered audible astonishment.

During the last half-hour of the hearing, Teamsters' counsel completed his argument that legal deficiencies would persist in the UFW bill notwithstanding the amendments; a constituent of Assemblyman McAlister requested him to withdraw his "useless" amendments; a Seventh Day Adventist rose to ask what would happen to a worker whose religion forbade him to belong to a union; the Berman-McAlister amendment package was adopted; Assemblyman Berman asked to be added as a sponsor of the amended UFW bill; the amended bill was approved by the Committee on a split vote; the Maddy (Teamsters) bill was called, not debated, and failed; the Duffy and Berman-Wood bills were not put to vote; and the session was terminated to the thunderous applause of UFW's supporters.

On August 19 UFW's amended bill got to the Assembly floor, the first time in California's legislative history that a farm labor relations bill had ever made it to the floor of either house. After long debate and the defeat of proposed amendments the bill was approved, 41-31. Forty Democrats and one Republican voted for it; 25 Republicans and 6 Democrats voted nay.

Two days later, and within a fortnight of the end of the legislative session, the Senate declined to waive procedure and enter into immediate consideration of the Assembly-approved bill. Further, it was said that Governor Reagan would have vetoed the bill even if it had been approved by the Senate.

Momentarily, the 1973-74 Assembly effort was just another entry into the ledge of ghosts.

Changed Balance of Power in the Legislature

The prominence of organized farmers was notably diminished in the 1973-74 legislative episode.³⁴ Their participation in the hearings was no more than nominal; the support they gave the Duffy bill was less than ardent; some of the organizations previously prominent in farm labor matters made no appearance. Speaking on behalf of the California Farm Bureau, Sam Chinn at the hearing of November 19 gave way on one of the stock demands of organized farmers: "A no strike at critical periods provision in legislation would be welcome by producers. Being realistic, however, growers recognize that enforcement of this provision would be difficult at best." Chinn stated that Farm Bureau members were "adamant" that secondary boycotts be prohibited, but his language lacked the customary stridence: "... we also believe that agricultural employers should be allowed the same protection that employers covered by NLRA have—namely to be protected from a secondary boycott." On the same subject, James Van Maren for the California Chamber of Commerce said "... we continue to feel that such legislation should hopefully have this in the future" and Don Dressler for Western Growers said: "We suggest that a secondary boycott provision as an unfair labor practice is essential."³⁵ Clearly the

34 This decline in political power had been previously noted in other contexts. See *California Journal*, July 1973, p. 240.

35 Assembly Committee on Labor Relations, *Interim Hearing*, November 19, 1973, pp. 91, 93, 166, 186.

stance of the agricultural community had shifted.

Subsequently, in committee and on the Assembly floor, organized farmers and their cohorts strove but failed to amend UFW's bill to conclude a prohibition of boycotts and to exclude its "recognitional strike." Yet in the Assembly the bill passed by a comfortable margin. When it got to the Senate—on the question of accelerated consideration by the Senate's Industrial Relations Committee—the vote to deny was 16-19. Organized farmers were supported by the Teamsters in this defeat. Only two votes would have changed the outcome. Had organized labor been in accord, a different Senate outcome would have been likely.

There was no expectation that the November (1974) election would reverse the pro-labor balance of power in the legislation. And whichever major candidate for governor won, a veto based upon empathy for farmers was not to be expected. Accordingly, there was a sense of assurance in expecting that 1975 would be the year of enactment. If so, it would come on the 40th anniversary of the "temporary" exclusion of farm workers from the National Labor Relations Act.

If, as seemed apparent, the era of dominance over farm labor matters by organized farmers had come to its end, then the future of farm labor legislation lay in the hands of organized labor. Continued discord between the Teamsters and UFW could mean prolonged stalemates. But the differences between them ultimately proved surmountable.

Persisting Ideological and Substantive Problems

Notwithstanding that 1973-74 saw a modest effort by some legislators to probe into the substance of farm labor relations and a proper role for the state, partisan posturing as well as intra-legislative politicking laid an obstructive pall over the search for the public interest. The "secondary boycott" had become a multi-faceted shibboleth for all parties concerned.

UFW had given its members and supporters an image of the secondary boycott to be cherished as a sacred right. Actually, most of UFW's boycotting was primary or needed only slight legal sophistication to make it so by bringing it under First Amendment protection. Yet UFW's nostalgia for its past obstructed a clear vision of the limited usefulness of boycotting in the presence of a labor relations statute.

Organized farmers also used rhetoric about secondary boycotts loosely. Their confusion ranged from primary picketing to concepts of conspiracy and acts of violence already outlawed by other laws and local ordinances. They seemed to think that prohibition of secondary boycotts would cure all of their worst labor anxieties.

Legislatures, too, were vulnerable to boycott propaganda, assuming that partisan positions were set in concrete. At one of the fact-finding hearings Committee Chairman McCarthy stated: "... it is my personal assessment that no bill will pass the Legislature this year that contains a prohibition on secondary boycotts ..."³⁶ Such expectations served as self-fulfilling prophecies.

³⁶ Ibid., p. 190.

Boycotts, Unionization and Collective Bargaining

Union organizers have long been aware that it is sometimes easier to organize workers through coercion upon or collusion with employers. It is an efficient and economical though not commendably democratic approach. The secondary boycott is an instrument of coercion upon an employer, and if his workers are not already unionized by the boycotting union, it is also an instrument of coercion upon his employees. If an employer capitulates to the boycott and agrees to contract with the union, it becomes an act of collusion. Whether the act of collusion originates in coercion or in conspiracy, the outcome for employees is lacking in self-determination. Since unorganized farm workers are inclined to indifference, and farm employers to hostility, the boycott approach was doubly effective. But the same absence of law that initially permitted UFW to obtain recognition and contracts through boycott coercion subsequently permitted the Teamsters to take them away by non-boycotted collusion.

UFW's bill attempted to restrain collusion between employer and union, but left intact the secondary boycott as a coercive device. There is illogic in this. One does not logically demand both a free democratic election procedure and simultaneously the right to a tactic that could force both employer and worker to an outcome not based upon free choice. A distinction can and should be made between the use of this type of coercive tactic to obtain union recognition as against its possibly more legitimate use in obtaining or maintaining a collective bargaining contract. Assemblyman Berman was keen on this distinction, and it was contained in the Berman-Wood bill of 1974.

How Free Should a Free Election Be?

The 1974 legislative session went a great distance without resolving another major policy issue: UFW's "recognitional strike." The language of the Assembly's approved bill was this:

Whenever a majority of the agricultural employees in a bargaining unit engage in a bona fide recognitional strike and an employee or group of employees or any individual or labor organization acting on their behalf makes a demand upon the employer that he recognize the labor organization, the employees shall be deemed to have selected said labor organization as their bargaining representative.

Further language provided that the presumption above stated could be challenged by "any person, individual or labor organization" provided that he made a demand for verification upon the Commission within 48 hours of the initiation of the strike. Absence of such demand for verification that "a majority of the employees in the bargaining unit are engaged in a bona fide recognitional strike" would automatically constitute certification of whoever or whatever was the "said labor organization."

There are two fundamental defects in this arrangement: First, if the public policy is to require elections as a condition of designating a bargaining representative, then no one should possess the authority on behalf of anybody to demand

recognition directly from an employer. Secondly, strikes in agriculture have always been notoriously chaotic. In scenes of chaos it is impossible to distinguish between reactions motivated by free choice and those of fear; an agricultural strike is not a suitable place for individuals to exercise democratic rights in privacy.

Given California's long history of chaos, coercion, and collusion in farm labor relations, UFW's idea to restrict recognition and collective bargaining to unions that had been officially certified was commendable. But to also specify that the integrity of the certification procedure could be adulterated by recognitional strikes as well as secondary boycotts was poor fodder for the logical mind. Worse yet, their persistence was a hazard to the goals of the legislation. Nevertheless, they were approved by a substantial majority in the Assembly.

Other less major yet substantive issues were over-ridden rather than resolved in 1974; they included the definition of the bargaining unit, eligibility of voters, and timing of elections. Some of these also were further considered in 1975.

1975: An Extraordinary 50 Days

As had been generally expected, UFW's bill, AB 1 (Alatorre and Torres), led the pack of farm labor relations proposals to confront the 1975-76 legislative session. It was not significantly changed from 1974. By the end of January, half a dozen bills were at hand. They embraced the well-known divergencies of view and several shades of farm employer perspective. The bill of Senator Zenovich was supported by the Teamsters; authors of several employer-supported bills were quick to announce their willingness to work with the Zenovich bill.

Nothing of consequence occurred until April. Newly elected Governor Brown at his January inaugural had stated an intention to assume leadership on farm labor legislation, but his awaited proposal did not appear until April 9, when it was introduced by Senator Dunlap and Assemblyman Berman. The fifty days to follow were to become the most extraordinary period in the long travail for public policy on farm labor relations.

After April 9 the Governor's bill preempted the field. Within a day of its appearance the assaults began, led by Cesar Chavez, his counsel and compatriots. Others joined in, and a 50-day siege was under way. The demands were for amendments on details; no rival bills appeared. Notwithstanding his general posture of resistance, the Governor accepted two sets of amendments. Some of the amendments demanded were on substantive matters of policy; others were shallow or contrived, but their source was such as to require political accommodation.

Chavez and his principal lawyer proclaimed Brown's bill to be deceptive, to strip farm workers of their economic power (i.e., the secondary boycott), to be biased toward employers. Within the first week of the bill's public life, Assemblymen Alatorre, Torres, and Montoya called a press conference to denounce the bill as an attack on the Chicano movement, as racist labor policy, and to allege it would continue the "sweetheart Teamster contracts."

Reading the bill oppositely, the Teamsters alleged that it would cancel pre-existing contracts, and 50,000 workers would lose their collectively bargained benefits. To prevent this, the Teamsters threatened to strike.

The next major assault came from AFL-CIO craft unions. They charged that the bill's definition of agricultural worker coverage could be interpreted to include their craft members working on farms.

Concurrent with these several organized labor complaints came low-keyed rumblings from organized farmers. The most prominent objection was that the bill failed to outlaw secondary boycotts; less sharp objections were that it did not outlaw harvest-time strikes; did not restrict voting by strikers; did not provide immunity for Seventh Day Adventists on the paying of union dues.

The Assembly Labor Relations Committee scheduled a hearing for May 5. Whether seen as ploy or mere coincidence, May 5 is Cinco de Mayo, independence day in Mexico and a day of considerable celebration in California. Prefatory to celebrating Cinco de Mayo, Chavez had been on a lecture circuit, including several college campuses. Anti-Brown bill comments were a feature of his remarks. At Sacramento State University on May 3 a student asked if he meant to say that Brown had betrayed UFW, to which Chavez was reported to have answered, "not betrayal, but close."³⁷

As the hour of the committee's hearing approached, the Capitol again overflowed with "Cesar si; Teamsters no" chanting pilgrims. As the committee chairman entered the jammed hearing auditorium by a side door, his apprehension was allayed to an uncertain extent by a lately circulating rumor to which he had no official confirmation: namely, that an amendment package had been agreed to.

The rumor proved valid. Committee member Berman pushed his way into the auditorium with an armload of mimeographed sheets containing 26 amendments to the Brown bill. Berman reported that the amendments were the outcome of an arduous over-night, multi-partisan negotiating session conducted by Governor Brown.³⁸ Berman described the package as "fragile" and admonished that it could not stand much tampering. Without questioning, the committee agreed to accept

³⁷ *Sacramento Bee*, May 4, 1975.

³⁸ Some of the colorful details on this session are reported by Jaques E. Levy in *Cesar Chavez, Autobiography of La Causa*, W.W. Norton and Company, Inc., 1975, pp. 527-35. Among the tape-recorded recollections are revealing comments from Allan Grant, California Farm Bureau president: "All the farm organizations supported the governor's bill, with the exception of one or two. The boycott was only a minor reason. It did affect us. It put a lot of small grape growers out of business, and it had some effect in lettuce. But more important was the violence that took place, the property destruction, and the very strong antipathy felt between the two unions. The growers had gotten along with unions for several years, and they're just the same as any other employer. They could adjust to whatever situation comes along, and costs would have to be passed on to the consumer" (pp. 533-34).

the amendment package, and then its chairman turned the auditorium over to UFW to continue the celebration of Cinco de Mayo.

UFW and most of the farm organization got enough out of the May 5 amendment package to win them over; the Teamsters and the AFL-CIO craft unions did not.

Many of the 26 amendments were only corrections of errors, but several were responsive to complaints. One concession made to UFW was an addition that "no collective bargaining agreement executed prior to the effective date of this part shall bar a petition for an election." Teamsters saw this as confirmation that their contracts would be nullified and renewed their threat to strike. The May 5 package contained a redundant assurance that skilled craft workers employed on farms would not be treated as farm workers; but their officers, with State AFL-CIO Secretary Henning now in re-alignment, still withheld support. It was to take yet another redundant assurance—contained in the May 19 amendments—to win their support; this one stated specifically that the statute was not to apply to construction workers "or logging or timber-clearing operations in initial preparation of land for farming, or who does land leveling or only land surveying for any of the above." Still further, land leveling was defined as contour changing, not annual cultivation.

The May 5 amendment package had a little something for farm employers: A "No Labor Organizations" category would be provided on all ballots except runoff elections; employees would not be required to pay dues to more than one union in any calendar month. Further, some segments of the farm employer community showed an interest with the AFL-CIO craft unions on the definition of coverage and others with the teamsters on the status of prior contracts.

The status of prior contracts was left ambiguous in the original Governor's bill and was not fully clarified in the May 5 amendment package. Although it was said that Teamster support was not needed to get the bill through, some legislators and ultimately the Governor came to acknowledge there was an important question to be settled; that question got an answer in the May 19 amendment package. In ample (but still contradictory) language, the answer was this:

SEC. 1.5. It is the intent of the Legislature that collective bargaining agreements between agricultural employers and labor organizations representing the employees of such employers entered into prior to the effective date of this legislation and continuing beyond such date are not to be automatically canceled, terminated or voided on that effective date; rather, such a collective-bargaining agreement otherwise lawfully entered into and enforceable under the laws of this state shall be void upon the Agricultural Labor Relations Board certification of that election after the filing of an election petition by such employees pursuant to Section 1.3 of the Labor Code.

Now there remained only the question of the effective date. Under normal legislative procedure that would have been January 1, 1976. However, there was general agreement that the new law should apply in the 1975 harvest season. Accordingly, the Governor called a third extraordinary (but concurrent) session of the Legislature. Last-ditch attempts made in both houses to amend the bill further

were voted down. The Senate approved May 26 by 31 to 7; the Assembly approved May 29 by 64 to 10; the Governor signed on June 5; the law became effective August 28.

The prologue of the beginning version of the bill said it was to be known as the Agricultural Labor Relations Act of 1975; the final enactment says it is to be known as the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975.

Policy Highlights of the 1975 ALRA

In numerous respects the California law diverges from NLRA and from administrative practice of NLRB. Its primary goal is to provide for and to administer representation elections. It deals copiously with unfair practices prior to election by employers and labor organizations; it is sparse on unfair labor practices that might occur in on-going collective bargaining after representation has been certified. It contains very little on "duty to bargain" and "refusal to bargain in good faith" doctrines. There is no provision for emergency intervention or for dealing with impasse situations. In contrast to national law, which permits voluntary recognition of a union by an employer, the state farm labor law prohibits the giving of recognition without an election and an official certification. Whereas national law constrains against secondary boycotts for any purpose, the state law prohibits them prior to certification but allows their use by a certified union to obtain and maintain collective bargaining agreements.

In sum, the California law prescribes an intense monitoring of behavior leading to certification, decertification, or noncertification of a labor organization as bargaining representative, but leaves the employer and the certified union largely to their own devices in subsequent relationships. To say, as its title does, that it is a labor relations act is implicitly to exaggerate. The state legislation can be viewed as a measured response to the problem as generally perceived: farm workers were being forced into one union or the other without the exercise of self-determination; farm employers were being forced to choose one of three options: to resist unionization, to capitulate to coercion, to engage in collusion. None of these choices brought tranquility to the parties involved or to the community at large. To the contrary, the numerous frictions associated were regularly disruptive and occasionally bloody.

But to comment on the fact that what was done in California in 1975 is less than a fully-rounded labor relations statute is not to carp. A full-range attempt was beyond the limits of political accommodation in 1975.

Representation and Bargaining Only by Certified Unions

Ideally, it should be possible for workers to present a request for collective representation directly to their employer, and for him to have the option of giving voluntary recognition. In fact, NLRB requires that an attempt be made to obtain voluntary recognition before it will accept a petition for election. Whether based on voluntary recognition or certified representation, collective bargaining agreements

have the same standing with NLRB. But the sordid history of farm labor relations supports the conclusion that only representation based upon election and certification should be permitted, and that only such representatives be allowed to enter into collective bargaining. The constraints in the California law relate to both parties. For agricultural employers, it is an unfair labor practice "to recognize, bargain with, or sign a collective-bargaining agreement with any labor organization not certified pursuant to the provisions of this part." For labor organizations, the counterpart constraints are more detailed. The combined effect of the various provisions is to impose severe pre-certification constraints upon the labor organization, including principally the use of strikes and boycotts. But each paragraph of constraints concludes with the following or its equivalent: "unless such labor organization is currently certified as the collective-bargaining representative of such employees." Thus, the detail of constraints applicable prior to certification in effect becomes a set of authorized tactics available to the union once it has obtained certification.

Clearly, the certified agricultural worker union in California has a greater array of tactics legally available than does the union under the jurisdiction of NLRA. Spokesmen for organized farmers whose memories live on may now rue their long years of perceptual and political commitment to the notion that agriculture was too unique for NLRA. One will recall that until 1969 all farm labor partisans would have been happy if only their discriminatory exclusion from NLRA could be ended.

The combination of constraints and authorizations discussed above is set forth at length in a chapter of the act titled "Unfair labor practices and regulation of secondary boycotts." At the conclusion of the following chapter on "labor representatives and elections," the legislators further solidified their intent to sanctify only certified unionization by adding:

In order to assure the full freedom of association, self-organization, and designation of representatives of their own choosing, only labor organizations certified pursuant to this part shall be parties to a legally valid collective-bargaining agreement.

This would seem to settle the matter. But the curious non-lawyer is impelled to wonder if the shift from unfair labor practice doctrine to contract law is not a bit vulnerable. In any event, the above language read against SEC. 1.5, quoted previously, would appear to contradict the validity of prior collective agreements that are not subjected to certification procedures.

Which Employees Shall be the Bargaining Unit?

Under national law, the policy that has evolved is to allow substantial flexibility in determining the categories or employees to come within a bargaining unit. The goal of NLRB is to define a group having common employment interests and conditions which can function effectively in collective bargaining. Although the law specifies a few restrictions, the Board has considerable prerogative which it exercises in consultation with the union and employer parties concerned. The outcome may be a unit based upon craft, plant, area, or industry, and single employer or

multi-employer. In the first version of the Governor's bill, an attempt was made to adapt this approach to California farm employment.

The board shall decide in each case, in order to assure to employees the fullest freedom in exercising rights guaranteed by this part, the unit most appropriate for the purpose of collective bargaining. In determining the appropriate bargaining unit the board shall consider the adverse impact on the collective bargaining relationship of fragmenting the employees of any one agricultural employer into more than one unit. Unless special circumstances require otherwise, the board shall include in one collective bargaining unit all employees, for the greatest number of employees possible, of any one agricultural employer. If the agricultural employees of the employer are employed in two or more noncontiguous geographical areas, the board shall determine the appropriate unit or units of agricultural employees in which a secret ballot election shall be conducted. However, the board shall not find any unit to be an appropriate unit unless one or more of the employee organizations involved in the election is seeking or agrees to the election in such a unit.

This provision provoked the charge from UFW and Assemblymen Alatorre, Torres, and Montoya that the bill was "racist." UFW's doctrine was that farm workers were all in the same fix, and all employed on each farm belonged in a single election unit. According to this rationale, any possible subdivision could be inspired only by the motive of racial discrimination, i.e., if there were to be any craft classifications their purpose would be to exclude Chicanos. Further extension of this view suggested that only within a single bargaining unit would Chicanos find upward job mobility.

In the Governor's first amendment package, the first three sentences of the original version (as quoted above) were stricken and replaced by this: "The bargaining unit shall be all the agricultural employees of an employer." The last sentence of the original version also was omitted. The board's only remaining prerogative for recognizing separate units was on noncontiguous geographical areas farmed by a single employer.

This legislated rigidity reflects limited experience with unionization and collective bargaining in agriculture—a perspective shaped around the harvest of a few crops, principally grapes and lettuce. But California's farm employment is not now homogeneous, and as it becomes more industrialized, heterogeneity will increase. There may come a day when workers will resent being herded into an inflexible single unit.

Speeded up Elections

National law allows NLRB considerable flexibility on the timing of elections. First, a petition is investigated sufficiently to determine its appropriateness; then, if the outcome is affirmative, an election is ordinarily held within 30 days. But it may be postponed depending upon the current level of employment and whether unfair labor practice charges are pending. In contrast, the California law mandates an election within seven days after the filing of the petition. Further, it specifies that "if at the time the election petition is filed a majority of the employees in a bargaining unit are engaged in a strike, the board shall, with all due diligence, attempt to hold

a secret ballot election within 48 hours of the filing of such petition. The holding of elections under strike circumstances shall take precedence over the holding of other secret ballot elections." This is a bizarre provision. Other provisions in the act clearly establish the policy intent of not permitting uncertified labor organizations to attempt to coerce recognition from an employer by striking. Only a noncertified organization would be submitting an election petition. Is this a way of quashing what otherwise would be an unfair labor practice? Is it an authorization to strike an employer in order to get the board to hold an instant election? The provision was contained in the initial version of the Governor's bill, presumably to pacify UFW against the omission of its "recognitional strike."

Much but not all of California's farm employment is highly seasonal and involves fleeting employment relationships. In the seasonal situation, elections must be held expeditiously—which means avoidance of burdensome procedure. The California act reduced the burdens of its board by shifting several of them to the petitioner. Whereas NLRB has to discover certain facts about the petition, the state act undertakes to establish them by allegations required of the petitioner. The most formidable of the required allegations is: "That the number of agricultural employees currently employed by the employer named in the petition, as determined from his payroll immediately preceding the filing of the petition, is not less than 50 percent of his peak employment for the current calendar year." This requirement is not one appropriately served by allegation. Organizations not already certified would normally not have access to an employer's payroll (unless collusion were being practiced); nor would they have any precise way to know future peak employment. Within the seven days (or 48 hours) available to it, the board's staff is not likely to conduct a rigorous verification of this allegation. Labor organizations eager to win elections are not likely to be highly scrupulous in making allegations on which verification is not expected. The monitoring of the petition—and of the election—comes about only if within five days of the election "any person" files a signed petition asserting errors in the petition or misconduct in the holding of the election.

This rigid coupling of petition and election is not the best way to expedite action in a fleeting situation. If challenges are numerous, election could be frustrated by delays or denials of certification. The inverse of the petition-election linkage is to prevent early filing; even though a labor organization may have intended for weeks or months to petition, it cannot do so earlier than seven days before the organization wants its election. Every case in the seven-day mold, has the potential of procedural chaos. The rigid linkage means that the board is denied time to arrange an orderly election; it also means that the petitioning organization unilaterally sets its own election date. And, even though the requirement of 50 percent of employment is met, there may in long season operations be other dates with higher percentages of employment and hence of greater realization of elective self-determination. Even if the law is fully obeyed, any vote in excess of 25 percent of maximum employment becomes a majority decision.

It would have been better policy to charge the board with the duty of conduct-

ing timely elections and leaving with it the right to exercise judgement in setting the election date in such a manner as to achieve the goals of the legislation.

Conclusion

This essay has dealt only in a general way with some of the most novel features of the California farm labor law of 1975. There are other unresolved problems, such as access of labor organizers to workers while on farm properties. The statute is not likely to be the state's final expression of public policy on agricultural labor relations. Indeed, its creators did not expect it to be. At the signing ceremony, the Governor was quoted as saying "I think we shouldn't overstate what's going on here today This is the beginning, not the end."³⁹

Moreover, the prologue of the act is unusually modest in proclaiming the virtues of its accomplishment: "The Legislature recognizes that no law in itself resolves social injustice and economic dislocations. However, in the belief that the people affected desire a resolution to this dispute and will make a sincere effort to work through the procedure established in this legislation, it is the hope of the Legislature that farm laborers, farmers, and all the people of California will be served by the provisions of this act."

Whatever the modifications and amendments to come, the 1975 California act was a noteworthy achievement. From the long years of travail, public policy making had emerged into a new arena, where old opponents could at least consider new modes of compromise and possible consensus.

³⁹ San Francisco *Chronicle*, June 6, 1975.

CONSTRAINTS ON CALIFORNIA FARM WORKER UNIONIZATION*

The California Agricultural Labor Relations Act of 1975 (ALRA) provides the basis for a positive impact on the unionization of the state's farm workers. Immediately following the effective date of this legislation, union activity reached an impressive magnitude, causing many to expect that most of the state's agricultural labor force would soon be unionized.

It can be argued, however, that total unionization depends not only on significant outlays of time, money, and leadership, but also requires that certain economic and other constraints inherent to organizations be surmounted. After a brief discussion of the ALRA, this article focuses on possible and prospective constraints affecting the unionization of farm workers, and seeks to determine to what extent they are likely to be overcome. An analytical model is presented in which unions seeking to organize farm laborers are likened to commercial agencies supplying services, thus making unionization subject to an income/outlay calculus. Although we recognize that unionization is frequently considered more of a "social movement" than a commercial enterprise, we argue that in general, the income outlay calculus is inevitable regardless of how lofty the ideals of the organizing agency or its leadership. And given the heterogeneities and elusiveness of the "market" for unionization of farm labor, this calculus is exceptionally binding. Our analysis leads us to conclude that the unionization of California's farm laborers will reach a plateau at less than total saturation.

California's Labor Relations Act

The 1975 legislation protects workers' rights to organize and to bargain collectively; it authorizes procedures to determine representation and to engage in bargaining; and it establishes an administrative board which is specifically committed to implementing the policies and purposes of the Act. Although the ALRA is structurally similar to the National Labor Relations Act of 1935 (which excluded farm workers), there are two specific differences which are relevant to our discussion:¹

(1) *Elections and certification of bargaining agency.* In contrast to the NLRA, employers are not permitted to recognize a bargaining representative voluntarily; nor are unions permitted to request or coerce recognition by employers. Representation, bargaining, and contracting must all be preceded by a successful election and certification by the Agricultural Labor Relations Board (ALRB). Strikes, boycotts,

* This essay was jointly authored with John W. Mamer, who has given permission to reprint, and appeared first in *Industrial Relations*, XVII (May, 1978).

1 See Joseph R. Grodin, "California Agricultural Labor Act: Early Experience," *Industrial Relations*, XV (October, 1976), 275-94, for a more complete discussion of ALRA's provisions.

or other coercive tactics may not be employed except by unions holding certified representation with respect to the employment unit involved; elections must be held within seven days of the receipt of a valid petition, and election units are restricted to the farm workers of the individual employer.

(2) *Bargaining and contracting.* Only a certified union may enter into a legally valid bargaining agreement, but once certification for a specific employment unit is obtained, the union's bargaining rights are strongly protected (although decertification can occur). In contrast to the Taft-Hartley and Landrum-Griffin prohibitions of secondary coercive weapons, the certified California farm workers' union holds explicitly prescribed secondary coercion rights for use in obtaining and maintaining collective agreements.

Unionization Activity under the ALRA

The first four weeks of the Labor Relations Board's life (September, 1975) brought a flood of election petitions, and it rushed through 182 elections. By February 7, 1976 (when depleted funds shut down the Board's operations), a total of 429 elections had been conducted, involving 50,000 farm workers.² The bulk of the early petitioning was to challenge or to protect already existing union recognitions. Within this category, United Farm Workers (UFW) was the most active, for it was seeking to regain the bargaining units it had lost to the Teamsters by collusive agreement between Teamsters and employers during 1973.³ The conflicts over prior recognitions and the formal elections needed for certification of recognitions not contested first dominated the scene. Thereafter came a considerable volume of petitioning to establish new unionization; this phase was dominated by the UFW, which attained an election success rate of 82.5 per cent.

After July 1, 1976, when the Board's funding was reinstated, election activity was greatly diminished (only 188 elections were held during the next 12 months). The Christian Labor Association (unaffiliated), for many years active in dairies in the Los Angeles area, sought certifications of existing bargaining relationships in Southern California dairies. Approximately four-fifths of the 147 certifications issued during the year ending June 30, 1977 were to the Association, while the UFW obtained only 15 (10 per cent). The Teamsters initiated no elections through petitions, but did intervene without success in a few elections during that year.⁴

2 Further details on this initial period, some of which are the basis for comments to follow, are contained in W. H. Segur and Varden Fuller, "California's Farm Labor Elections: An Analysis of Initial Results," *Monthly Labor Review*, IC (December, 1976), pp. 25-30.

3 The UFW had only a handful of recognitions left to protect, for which it filed election petitions. Its more numerous filings were challenges against units currently under Teamster recognition and as interventionist when the Teamsters filed petitions to protect its current recognitions.

4 Information for the year ending June 30, 1977 was compiled and supplied to us by Dr. Sue Hayes, Economist, Cooperative Extension, University of California, Berkeley.

Attributes of California Farm Employment

Efforts to unionize agricultural labor must contend with the fact that farm labor typically occurs in small, scattered employment units that are dominantly seasonal in their activities. According to U.S. Census estimates, there are about 50,000 California farms on which some labor is directly hired. Some of these and thousands of others also hire labor indirectly—through labor contractors, contracted machine hire, or custom work. In 1974, farmers' expenditures for directly hired labor were approximately \$1 billion and for indirectly hired labor, \$350 million. Slightly more than 8,000 farms had per farm expenditures for hired labor of \$20,000 or more; 3,630 of these farms had expenditures for hired labor of \$50,000 or more.

Although only a minor fraction of all farmers are significant employers, they are still numerous as compared with plant sites of other major industries. That they are small in terms of annual wage expenditures reflects brief seasonality as well as fewness of workers. Of course, there are exceptions—the “giants” that hire workers in the hundreds and with considerable continuity throughout the year. But these are likely to be units in which farm production is integrated with processing or marketing, and farming is typically only a small fraction of the total enterprise.

The estimated number of individuals in California employed in agricultural labor ranges from a seasonal low of 160,000 in January, to a high of 290,000 in October. However, the number of individuals who do some farm work during the course of a year is much larger than the number in any particular week, including the peak season. This is because farm work is done by numerous individuals who are not full-time labor force participants, including housewives and students, and by persons who do farm work temporarily while not otherwise employed, or as a supplement to a regular nonfarm job. Past estimates of the number of persons who do *some* farm work during a year in California suggest that the actual total figure is approximately double the number at the peak. Thus, employment and payroll data do not fully reflect the potential for unionization; but the casual, temporary employment pattern and the fractional labor force and occupational commitment characteristics imply difficulties for the unionization effort.

As in the nation at large, California's farming has witnessed revolutionary changes in technology and financial structure, of which declining numbers of farms, greater acreages per farm, and labor-saving machinery are prominent components. However, these changes appear to have come to at least a temporary plateau; numbers of farms and farm employment have stood fairly stable during the seventies, and with the exception of improvements in lettuce harvest mechanization or radical changes inspired by the unexpected depletion of natural resources, the immediate future of technological change should be one of small, less noticeable increments.

Geographic dispersion is an important constraint on prospective unionization. California's agriculture has several areas of compact, intensive employment—notably in the Salinas, San Joaquin, and Imperial valleys; smaller compact, but isolated, areas occur along the coast and in other valleys. These areas are inter-

spersed with heterogeneous crop and animal specializations and general farming that span over 150,000 square miles.

"Facts" about the industrial structure and employment patterns of California agriculture, even if adduced in far greater detail, do not in themselves tell us much about the likely course of unionization. They suggest difficulty, but they provide no means of assessing the power of constraints inherent in the industrial structure. Therefore, we have constructed a model of "rational action" as an aid in analyzing likely unionization behavior, making such correlative assumptions as were necessary.

An Analytical Model

The model we employ in this analysis is based on the assumption that unionization of farm labor will be accomplished by externally supplied initiative, i.e., that it will be brought to employees of individual farms by an already established union. Conceivably, workers could self-organize; the California law clearly provides for this. If it were to occur, indigenous organization would be a way to avoid some of the high overhead costs and diseconomies of organization and administration that are imposed by the structural characteristics of farming. But there is nothing in California's agricultural labor relations history to suggest that self-unionization by individual employee units is a likelihood.

Our model assumes that a union which seeks to organize farm workers is offering an economic service for which it must receive compensation. The demand for the service lies in the workers' expectations of future benefits to be obtained in collectively bargained contracts; whether the demand for unionization service is brisk or slack depends upon workers' level of net expectations, i.e., the improvements they can hope for in wages and working conditions minus the costs of supporting the union. For its service, the unionizing organization must receive compensation (an income flow). We are assuming that union members in total will be the major source of this income flow—that external gifts, subsidies, contributions in money, goods, or personnel will not be a significant fraction of the income needs of the unionizing organization. Under these assumptions, the agency supplying the unionizing service becomes subject to an income/outlay calculus in much the same manner as is applicable to other commercial service supplying organizations. This means that in the typical increment of prospective unionization, expected income to the unionizer would have to equal or exceed anticipated costs; otherwise, the project would not likely be undertaken.

Unionization Costs and Uncertainties

The ALRA has numerous economic implications for both unionization and collective bargaining. Not the least of these is a great reduction in uncertainty of outcome. Strikes and boycotts to coerce recognition, which were expensive and uncertain, are no longer permitted. Since elections are now mandatory, the unionizing agency must incur costs of campaigning sufficient to win. The campaigning costs of an election can surely be more readily estimated than were those of strikes and

boycotts, and the outcome less uncertain. Of course, the mandatory election eliminates the cheapest and most certain form of unionization—voluntary recognition by the employer without any elections. But, on the other hand, the certification that follows success in an election is a guarantee against losing representation to collusive action between the employer and a rival union.

The unionizing agency must advance (invest) outlays of time, money, and organizing skills sufficient to carry the project through election and certification; it must also bear the risk of losing. But with certification obtained, the unionizer then has an estimable and fairly reliable flow of income from newly organized members. The California law sanctions a number of tactics for the certified union to aid it in obtaining and retaining a collective bargaining agreement that are not available to unions under the jurisdiction of NLRA; the potentiality of these tactics should reduce the uncertainties of engaging in collective bargaining.

It would seem that the initial outlays necessary to success in elections would be the largest "investment" or "risk" to be incurred by the unionizing organization. But if multiple union rivalry were to develop or if anti-unionism were to become pervasive, the costs of defending and retaining the certified units could become high, for there would be decertification and recertification elections to face. As matters now stand, the prospects of multiple union rivalry are not apparent, and we assume that the UFW will not be seriously challenged by an established union. Employer inspired anti-unionism is another matter, however, and one that relates to both original elections and subsequent defense requirements.

If, as our model assumes, there is a "market" among workers for unionization, then it is no less logical that there is one among employers for anti-unionism. That there is such a market is attested by the existence of numerous individuals and organizations offering counseling on the choice and implementation of effective anti-union tactics. But since these tactics must include improvements in wages and conditions equal to or approaching the union's terms, the employer's prospect of advantage has to lie mainly in being relieved of what it considered infringements on management prerogatives.

In the original election and in any decertification challenges that may follow, the level of costs to be incurred by the unionizing agency will depend in large part on how readily voters perceive the advantages of being unionized. Once the unionizer has established itself by winning some elections and procuring some contracts, but while nonunion conditions still generally prevail, campaigning costs to develop favorable perceptions among voters may be modest. But as unionization proceeds and prevailing wages and conditions more nearly approach those of the union's contracts, perceiving the advantage of being unionized is not so readily accomplished. Then, campaigning costs will rise; outlays on initial and decertification elections will become larger and the uncertainty of winning greater. At that point, if not previously, the unionizer can scarcely avoid a rational economic evaluation of prospective costs and income as each project comes under consideration.

Economic Constraints

We return now to the proposition stated earlier that there is an inevitability of economic determinism in the extent of unionization, regardless of how zealous and idealistic the unionizer's leadership. The fact of success will in itself generate constraints against rationally uneconomic behavior. These constraints originate both within the union structure and external to it.

(1) *Internal constraints.* Internally, the main factor to be considered is that as membership increases so also does the magnitude of members' rights and the obligations of the union to serve them. As the organization grows and ages, new and younger members will increasingly outnumber older ones; they will be less bound by the philosophies and goals of the initial leadership. Membership will grow more conservative, in the sense of being more interested in what the union is doing for them as against its own institutional goals. As membership grows, so does the potential of rival leadership, thereby giving political effect to conservative interests.

Serving membership interests obviously involves negotiation and enforcement of collective bargaining agreements. And, if the traditions of general trade unionism are followed in farm labor, seniority rights, work guarantees, and employment procedures will be prominent features of the union contract. Not only do these provisions create a structure of rights and obligations between worker and employer, they also create a system of preference and privilege among members. The union will acquire administrative obligations to ameliorate frictions among members as well as between workers and employer.

(2) *External constraints.* External to its own structure and functioning, the unionizing organization faces numerous possibilities of assault that relate to prestige and survival—perhaps not always that of the organization itself but of its leadership. Appeals for, or interest in, unionization outside of California are a strong possibility. There will be concern about getting the counterpart of the California law in other states, at least in those that have similar areas of compacted farm employment. Requests for aid will arrive; whether for assistance on legislation or in actual unionization, they will be challenges to prestige and solidarity. How much investment should be made in these "external" projects? Unless the organizer were somehow to be supplied with abundant funds and capable personnel—not a likelihood—it inevitably will find itself implicitly if not explicitly in a tradeoff situation with respect to the frontier of unionization within California.

Another external factor likely to be confronted is control over the aggregate supply of labor available to all farm employers. In recent decades, the supply of labor available to California farmers—scarce or abundant—has been generally correlated with magnitudes of movement over the Mexican border, both legal and illegal. Given its own dominantly Mexican-American ethnic character, the UFW has not yet taken a strong or consistent position against inflows of Mexican nationals, even though they have been significant competitors in the labor market. Yet, again

thinking in terms of the seniority and employment rights to be acquired in greater magnitude by union members and the prospect of demand upon union leadership for protection of them, one can anticipate the prospect of responses that will entail diversion of unionization resources.

The possibilities of having to defend or to try to improve the ALRA in legislature or its functioning in the courts and the costs of doing so in terms of diverted leadership energy are also quite real.

No claim is made that the foregoing exhaust the possible diverse assaults from either internal or external sources; on the contrary, the lives of organizations historically have been altered by wholly unexpected events and the succession of different philosophies in leadership, and there is no reason to expect otherwise in organizations of farm labor.

Some Imperatives of Growth

We can now combine the preceding observations on forces toward conservatism—whether internal or external—into an inclusive proposition that reflects organizational life in general.

As an organization passes beyond its beginning phases and achieves some or all of the goals that motivated its origin, its own maintenance and survival come to assume increasing importance; its leadership becomes more inclined to conservatism. Maintenance of membership is the organization's foremost need. In trade union parlance, this is "union security." Various devices have been invented to tie members to organizations. Some are cohesion-promoting features such as insurance, credit unions, travel clubs, wholesale buying arrangements—none of which has a direct relation to the organization's primary goals or purposes. Trades and professions that are able to tie their membership to government licensing procedures—doctors, lawyers, beauticians, termite exterminators, to mention a few—are able to neatly shift most or all burdens of maintaining membership to the general public. Labor unions typically seek to impose much of the burden of membership maintenance on their employers by negotiating membership requirements as a condition of employment. If they are able also to get a check-off of union dues from the payroll, their total burden is further reduced. In large, stable units of employment, the union that has a membership requirement and check-off has little to worry about, and even less if it has a hiring hall. However, such arrangements diminish contact between officers and members, which may create the necessity of extraordinary monitoring against the potentials of dissenting minorities and challenge of leadership. At the other extreme, where employment units are numerous, dispersed, seasonal, and subject to high turnover, maintaining membership comes at a high cost that seldom can be fully shifted to the employer. The result may be fractional unionization. One notes, for example, that the building trades are likely to be fully organized in major cities, but nonmetropolitan contractors often have an option as to whether to operate "union" or not.

In the farm labor situation, maintaining membership can scarcely escape being a burdensome obligation, except for the few large, stable employment units. Even if tactics were invented to moderate the maintenance costs, the income/outlay calculus must still be considered in deciding whether to attempt unionization of small, seasonal employment units. This constraint becomes all the more restrictive if the organization is being assaulted and its energies diverted by any of the several types of external possibilities mentioned above.

Other Constraining Factors

Ethnic composition. An additional aspect of agricultural unionization that merits attention is the ethnic composition of the farm labor force in comparison to the ethnic orientation of the UFW. As Assembly Committee on Agriculture study found that in 1965 the Mexican ethnic group was 46 per cent of the total and the Anglo group was 44 per cent, while smaller percentages were Black, Filipino, Oriental, and American Indian.⁵ In contrast, the orientation of the UFW is dominantly Mexican, in both leadership and ethos. This contrast implies an impending paradox for the UFW. To retain and sustain the cohesion of its founding members, UFW leaders will be motivated to preserve the "La Causa" ethos. But on the other hand, to make its unionization service attractive to non-Mexican ethnics, the UFW may need to shift toward a more general appeal and more traditional trade union approach. Either alternative inevitably poses the prospect of some degree of constraint upon the pace and extent of unionization.

Primitive employment practices. Another dimension of constraint upon unionization that is a correlate of the industrial structure of agriculture is the generally primitive state of employment management, labor relations, and personnel practices. Farmers historically have not been affirmative labor recruiters. For labor supply, they have been able to depend mainly on external negative recruitment—foreign poverty, domestic unemployment—and on worker self-recruitment. When these sources seemed unlikely to be sufficient, they have been able to persuade the federal government to import temporary alien contract workers, as in World War II and subsequent years until 1965. Farm employers have been able to avoid both recruitment and employment management, especially in the fruit and vegetable harvests, by using labor contractors. Labor economists characterize the farm market as unstructured: employer-worker relations have seldom had much personal content or formality; job classifications and payroll slots have been more the exception than the rule.

Clearly, employment units do not now generally offer a satisfactory base upon which to build orderly collective bargaining. Loose ends need to be gathered up; orderliness and decasualization need somehow to be injected into the employment

5 *The California Farm Labor Force: A Profile*, report prepared for the Assembly Committee on Agriculture, April 1969, p. 23.

relationship. These ends could be accomplished either by tightening the relationship between employer and worker or by the union developing and maintaining job entry control and a tight relationship between itself and its members. The first approach would emphasize seniority of employment, re-employment rights, minimum employment guarantees, and fringe benefits—it would amount to a set of imposed relationships between employers and identified workers to be fulfilled under union surveillance. The second alternative would resemble the longshore model; it would center job control and members' rights and benefits in the union; recruitment and allocation of work would be done by a hiring hall. Either of these alternatives involves a heavy drain on the union's resources.

Hiring halls. It has been a tenet of pro-labor thought for many years that unionization of farm labor could displace the labor contractor and institute some sort of pooling or joint hiring arrangement to decasualize hiring practices. But results of none of the experiences to date support the general use of hiring halls in farming. For a hiring hall to succeed, discipline is obviously required of employers; less obviously but more importantly, it requires complete discipline of union members. Conditions favorable to the success of a hiring hall do not generally prevail in farming, although it may be satisfactory in exceptional instances where the employment base is adequate and the mentality of shared interest among workers is present or can be developed.

Employer organization. But in the more general case, it would appear that the union's only feasible approach to attaining structure and decasualization is by tightening relations between worker and employer, reserving for itself the tasks of surveillance. Under duress, farmers have demonstrated that they can adapt to a degree of organization and concerted action in their hiring. Because the government required it, they did so during World War II and the subsequent *bracero* programs. Many farms were not able to accommodate individually to the specified standards and employment guarantees for contracted workers, but they found they could meet the imposed conditions if they formed joint hiring associations.⁶

Under the California farm labor relations law, the union may not promote the development of multi-employer bargaining units, except as they involve individual certified election units. But following certification, the union might encourage farm employers to form associations with which it would then attempt to secure collective bargaining contracts. Members of these associations, as some currently operate,

⁶ There was consideration expectation that many of these associations would survive the termination of the contract alien program and be used for domestic workers, but few did. See Franz Dolp, *Decasualization of Seasonal Farm Labor* (Berkeley: University of California, Giannini Foundation Information Series No. 68-1, 1968). One that did has developed into a highly systematic employment organization. See Donald Rosedale and John Mamer, *Labor Management for Seasonal Farm Workers* (Berkeley: University of California, Division of Agricultural Sciences, Leaflet 2885, 1976).

transfer to the association management the functions of recruiting, selecting, keeping records, supervising and paying workers, as well as administering fringe benefit programs.⁷ Abroad such associations are known as Farm-Relief Cooperatives. In the Netherlands, where their development has been extensive, all employees of the cooperatives work under collective bargaining contracts. A contract with a cooperative enables the union to extend its contract terms to hundreds of farms very economically.

If the union were to perform some or all of the functions of the labor contractor or the farm labor cooperative, it would involve itself in a substantially heavier administrative commitment to structuring the seasonal farm labor market than that performed in traditional union approaches. However, in the seasonal farm labor market the peculiarities of the prevailing patterns of labor utilization would seem to make it possible for a union that succeeds in this type of effort to offer both seasonal farm worker and employer substantial economic benefits. Even if such an arrangement made available crews at substantially higher per unit labor costs but offered farm employers greater certainty of availability of competent crews, many farm employers would no doubt find such an outcome an economic improvement over the current situation.

Recruitment and crew coordination programs initiated with respect to seasonal work would not necessarily be restricted to supplying crews for seasonal tasks. It would be quite logical to extend the labor supply activities to include the whole hierarchy of skills that exist on the farm. If such organizations were extended to the more skilled work, it would be possible to incorporate in this effort an apprenticeship program, which could give form and structure to the variety of skills that exist on farms and expand career opportunities.

Future possibilities. The development of a job structure poses complex problems and opportunities for a farm labor union. On the one hand, there is the problem of developing a wage structure that takes appropriate account of the hierarchy of skills. On the other hand, the existence of a job structure provides the union with an opportunity to play a role in facilitating the upward mobility of seasonal farm workers.

The concept of a career in hired farm work is becoming increasingly recognized. Although the levels of skills and the categories of jobs need to be identified and defined in terms that facilitate more formal and uniform farm-to-farm acceptance, it is evident that a hierarchy of jobs based on knowledge, skills, experience, and proficiency is emerging. Surveys of the tasks performed on California farms indicate a rather broad basis exists for a well developed job structure.⁸

7 Rosedale and Mamer, op. cit.

8 O. E. Thompson, *Functions and Activities of Agricultural Jobs in California* (Davis: University of California, Department of Applied Behavioral Sciences, 1972).

Conclusions

Our analysis brings us to the conclusion that constraining forces, in whatever number and combination, will be sufficient to bring the California farm labor unionization effort to a plateau far below total saturation. Small, remote, briefly seasonal employment units will be the least likely to be unionized. Larger but still seasonal units, having perhaps 20 to 50 workers at peak, would be stronger unionization possibilities, if not scattered and remote. Being in an area of compacted employment is likely to be the strongest factor in favor of unionization efforts.

The 1974 census data indicate that there are about 68,000 farms in California. Slightly more than 8,000 had payrolls of \$20,000 or more; another 4,300 had payrolls of \$10,000 to \$20,000. If one were to assume unionization plateaus for these two categories at two-thirds and one-third respectively, the total would be under 7,000. Including a few smaller units, 7,000 farms would be a passably rough, but probably high, guess for the plateau of unionization. Such a plateau would include approximately one-tenth of California's farms and somewhat less than half the workers who have anything approaching a systematic attachment to farm employment. Even so modest a plateau will take many years to evolve.

These guesses do not include the elusive forms of employment that occur through labor contractors, custom work, and machine hire. Unionization may have an impact on these magnitudes, both to increase and diminish them. On the one hand, the California farm labor relations law as it now stands denies recognition of a labor contractor as employer. This should have a diminishing effect on the amount of employment occurring through labor contractors. But on the other hand, the California law permits "... any harvesting association, hiring association, land management group, any association of persons or cooperatives engaged in agriculture ..." to be recognized as an employer. It is often speculated that some of these group arrangements may come into greater prominence as means of sharing overhead costs of employment, especially if unionization presses stridently against open and casual hiring practices.

Even if unionization does not come to half of the individuals who regularly work at farm labor, this does not mean that radically disparate union vs. nonunion conditions will prevail. Movements toward the conditions established by union contract will proliferate, both as a matter of labor recruitment and as a thrust to thwart further unionization. Consequently, there will be substantial "umbrella" benefits for nonunionized workers, for which the burdens carried by the union will be less than fully recognized.

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