

COLLECTIVE BARGAINING FOR FARMERS

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The economic organization of American agriculture is in the process of radical transition. The science-based industrialization of the economy is creating a need, and a demand, for revised rules of the game for coordinating economic activity and distributing rewards. Among the changes in rules regulating the economic organization of agriculture which are up for serious consideration are those which would facilitate collective bargaining by farmers. The purpose of this paper is to enter into the discussion of the implications of changes in the rules for collective bargaining by farmers, especially as related to possible effects on the structure of agriculture, distribution of income, economic efficiency, and market performance.

SOME LEGAL BACKGROUND TO COLLECTIVE BARGAINING

In principle it is the stated policy of the U.S. Government to foster competition and restrict concentration of economic power. The Sherman Act of 1890 established formal rules for competition by making conspiracies to restrain competition illegal and by imposing restrictions on attempts by firms to monopolize markets. The Clayton Act of 1914 added prohibitions relating to price discrimination, tying clauses and exclusive dealing arrangements, certain types of mergers and interlocking directories, which might lessen competition or tend toward monopoly. In the same year the Federal Trade Commission Act was adopted, primarily to provide assistance in enforcement of the Clayton and Sherman Acts, but it also attempted to regulate a number of practices considered inconsistent with fair competition. The Robinson-Patman Act of 1936 further specified unlawful conduct where the effect may be to lessen competition or to tend to create monopoly. And the Celler-Kefauver amendment in 1950 attempted to curb mergers by making the acquisition of assets of competitors subject to antitrust action. The rules of the game, of course, consist of much more than statutes. The "de facto" rules depend upon enforcement by administrative agencies and interpretation by the courts.

In the late 1800's and early 1900's the courts applied the principles of the Sherman Act to labor as well as to business. Unions

were not specifically prohibited, but action by unions to restrain trade usually resulted in a court injunction bringing the force of the community against the union. Strikes and boycotts were considered to restrain trade. An apparent attempt to exempt labor and farmers from the provisions of the Sherman Act was included in the Clayton Act. It declared that:

Nothing contained in the antitrust laws shall be construed to forbid the existence and operation of labor, agricultural, or horticultural organization, instituted for the purpose of mutual help . . . or to forbid or restrain members of such organizations from lawfully carrying out legitimate objectives thereof; nor shall such organization . . . be held or construed to be illegal combinations or conspiracies in restraint of trade, under the antitrust laws.

However, court interpretation, while mixed, tended to support the position that the Clayton Act did not exempt labor organizations from accountability when they engaged in actual combination or restraint of trade.

The Norris-LaGuardia (Anti-Injunction) Act of 1932 expanded the rights of labor to engage in united efforts by limiting the injunctive power of the courts. This left the government about neutral in collective bargaining disputes between unions and management. Unions could organize and exert direct pressure on management, and management could engage in a variety of tactics to discourage union membership. By 1935 the Congress decided orderly procedures for collective bargaining should be established, and passed the Wagner (National Labor Relations) Act. This act set up the National Labor Relations Board, outlined procedures for recognition, and established a set of ground rules for collective bargaining. The encouragement of collective bargaining became public policy. The Wagner Act was significantly modified by the Taft-Hartley (Labor-Management Relations) Act which stands as the basic framework of rules for collective bargaining between labor and management.

Farmers are treated uniquely under our rules of competition. They are not treated as other employers in that agricultural laborers are not covered by the Labor-Management Relations Act.

The Capper-Volstead Act of 1922 and the Cooperative Marketing Act of 1926 exempt farmers from most provisions of the antitrust laws and encourage agricultural cooperatives. The extent to which cooperatives are immune from antitrust is unclear. The courts have held some actions of cooperatives as antitrust violations. The law seems to be that farmers may unite in a cooperative, but once formed, the cooperative as an entity is subject to the same rules

of competition as other firms. And Section 2 of Capper-Volstead empowers the Secretary of Agriculture to order a cooperative to cease and desist if it is successful in unduly enhancing prices of its products. The Capper-Volstead Act permits formation of cooperatives for bargaining but provides no mechanism for their recognition, nor does it establish rules for fair bargaining.

The Agricultural Marketing Agreement Act of 1937 provided for marketing agreements and orders for a limited number of farm commodities, primarily fruits and vegetables sold for fresh use and milk. The orders provide another mechanism for collective action by eligible farmers under the supervision of the Secretary of Agriculture. Limited supply management and price discrimination are possible under this law. However, the lack of control of entry or control of farmer production has limited the capacity to achieve monopoly returns under the orders.

A host of federal price and production control programs also modify competition in farming.

ORGANIZATIONAL COSTS AND PROBLEMS

Before discussing some of the potential gains and consequences of collective bargaining, let me simply mention that organizational costs and problems exist. Collective bargaining cannot be done without cost. Recruitment is expensive. And recruitment of a sufficient number of farmers to effectively manage supplies and thereby gain a monopoly price for many commodities is probably impossible without additional facilitating legislation.

A particular difficulty is the free rider problem. If a bargaining association is successful in achieving a price increase and does not control the full supply or access to the market, then nonmembers, who have not shared in the associated costs, benefit more than members. This situation makes recruiting new members more difficult and expensive and tends to erode existing membership.

For the farmer, another cost is the freedom of choice he gives up by joining an association and delegating some of his management decisions.

I raise the issue of organizational costs and problems because they cannot be ignored. A consideration of organizational problems emphasizes that the policy issue must be in terms of the rules facilitating and regulating collective bargaining. Let us look at a specific proposal.

THE NATIONAL AGRICULTURAL BARGAINING BILL

I would like to concentrate on Title I of S. 2973 introduced by Senator Mondale, to be known as the National Agricultural Bargaining Act, if passed.

The Mondale bill has three titles. Title III makes illegal a set of practices which might be used by handlers to discourage collective bargaining activity by farmers. It is very similar to the original S. 109 recently passed in a revised form. Title II greatly expands the potential for marketing orders. All farm produced commodities would be eligible for a marketing order. The marketing order committees would have expanded powers for supply management and collective bargaining. A provision is included which seems to say that handlers of 50 percent of the volume of a commodity must agree to the order to make it effective or that the Secretary of Agriculture plays a major role in the supply management. Senator Mondale sees this as an alternative to Title I of the bill.

Title I points out that farmers do not have the opportunity to organize and bargain effectively for a just and reasonable return and are in this respect disadvantaged compared with industrial workers and those in many other enterprises and employment. It includes the following provisions for overcoming this disadvantage:

A National Agricultural Relations Board is established to provide the administrative and technical support needed for identifying bargaining committees and facilitating effective bargaining. The framework is provided for growers of a particular commodity or commodities to elect a marketing committee or to accept or reject establishing a marketing committee. Election is by a majority vote of farmers, and only farmers are eligible for committee membership. If producers elect to have a marketing committee, a committee to represent prospective purchasers is to be established. The bill specifies that the marketing committee and the purchasers committee shall bargain in good faith to negotiate minimum prices and nonprice terms of sale. The Board is to offer information and also conciliation and mediation services to the bargaining committees, if needed.

If agreement cannot be reached between the two bargaining committees, or if the purchasers refuse to negotiate the issues, the issues are subject to binding arbitration. The decisions from arbitration are subject to judicial review in federal district court.

The marketing committees are to recommend to the Board the injunctive or other related actions to be instituted to prevent buying and selling at terms other than established by negotiation and to es-

establish penalties for violation by producers, after approval by a majority vote of the producers.

Activities under this act are specifically exempted from any anti-trust law of the United States.

If total supplies of a commodity substantially exceed effective demand at prices established under the procedures of the bill, the marketing committee is to develop a plan of marketing allotments, with or without acreage or production limitations, to be submitted to producers for approval or rejection. If accepted, the Secretary of Agriculture is to put the plan into effect, including the establishment and enforcement of necessary and reasonable regulations.

STRUCTURE AND ROLE OF MARKET

American public policy concerning competition has been ambivalent. It has been public policy to maintain a fair competitive game, as expressed in the antitrust laws. However, the rules of fair competition were never intended, as far as I can tell, to create a purely competitive market. Policy has, in fact, fostered major deviations from pure competition.

Kenneth Galbraith, in *The New Industrial State*, paints a broad brush description of that part of the American economy dominated by the large corporation. He argues that modern technology requires large-scale organization and that large bureaucratic organizations have advantages in planning and financing and in research and development. The large corporation has a need and capacity to protect itself from the risks and uncertainties of a purely competitive market. It does this through contractual and bargained arrangements with suppliers, manipulation of demand, and with help from the government.

It is not only the existence of large corporations which sets the American economy apart from the structure of atomistic competition. Labor is highly organized and negotiates wage rates. Many public employees are organized and negotiate salaries. Lawyers and medical doctors have established fee schedules. Barbers and gasoline dealers have associations and seem to have agreed upon price schedules. The independent grocers belong to what amount to buying cooperatives. Almost everyone in the economy is in some way associated with others in an effort to modify the outcome of the market. This led Harold Breimyer, in his presidential address to the American Agricultural Economics Association in August 1968, to call the United States an associationistic economy.

In Title I of the Mondale bill, negotiation and *arbitration* supersede the market as a mechanism for establishing price and other terms of exchange between farmers and first purchasers. The structure of the market for a particular transaction is a buying and a selling cartel. The committees or cartels must consider the diverse interest of their members in the negotiation process. In this respect the structure differs from bilateral monopoly. The range in terms of trade would be set by negotiation with the exact terms within the range set by the independent arbitrator. The exact outcome is theoretically indeterminate.

It is impossible to generalize about the effect of collective bargaining on the structure of agriculture, aside from the exchange relationship. Some type of supply management will be required to obtain substantial price advantages for farmers. If elasticities of demand are significantly different between alternative markets, price discrimination could be used profitably without marketing quotas, at least in the short run. This would have some effect on the structure of processing and distribution, especially if rules had to be imposed to keep the product from moving from the high-price to the low-price market. Whenever supply controls are used to gain bargaining advantages, then the rules allocating access to the market have a critical effect on farm size and ownership patterns. For example, in Title I the quota program must be approved by a majority vote of all producers. For some commodities small producers would probably control the program and limit the quota going to any one producer, thus protecting the small farm. However, if the quota could be sold, larger farms would be stimulated. And, unless prohibited, higher prices would stimulate vertical integration. Thus we can only conclude that collective bargaining will influence the structure and control of farming but that the effect will depend upon the rules regulating the process. Thus the procedural rules become a major issue of public policy.

SOURCES OF BARGAINING GAINS

There are four classes of potential price gains for farmers from effective collective bargaining.

1. Farmers can bargain for part of any excess profits of the processing and distribution firms. However, the prospects are not great. The studies of the National Commission on Food Marketing found little evidence of excess profits. Most food processors and distributors seem to be operating at a rate of return somewhat below the rate earned by all manufacturing firms. At a North Central regional marketing seminar held in April 1968, John Moore estimated that bargaining which would have left food processors a 10 percent

return on investment in 1964 (all manufacturers received 14 percent in 1966) would have resulted in the following changes in prices received by farmers:

	<i>Percent</i>
Processed fruits and vegetables	-2.1
Broilers	-0.2
Beef	-0.1
Eggs	0.6
Cheese	1.2
Fluid milk	1.2
Wheat for bread	3.6

Only in the case of a very few selected commodities would the gains extracted from excess profits be expected to exceed the cost of collective bargaining.

2. Farmers could attempt to bargain to capture potential savings from lower cost operation in processing and distribution. The absence of excess profits is not conclusive evidence that prices paid to farmers could not be increased without higher retail prices. The buying firms may have organization slack. For example, they may have more employees than necessary or be paying higher wages or salaries than necessary. The industry may be engaged in practices which are competitively wasteful. For example, they may have duplicate assembly and delivery routes or may be engaged in promotional activities which "cancel out" for the industry as a whole. And firms may be operating considerably below optimum scale. We have many studies indicating that costs could be reduced in processing a number of farm products by operating fewer and larger plants properly located. It is conceivable that collective bargaining could force some consolidation and could provide discipline to an industry which cannot itself eliminate competitively wasteful practices.

No accurate estimate of the magnitude of potential savings from these sources is available. My own estimate is that they amount to much more than excess profits.

3. The bargaining association may be able to offer savings or other advantages to the buying firms. As the food sector becomes more industrialized, the value of improved coordinating services increases. The modern corporation desires to reduce risk and uncertainty. It often invests large sums in promotion. Plants operate with high fixed costs. As a result supplies meeting quality and timing specifications are valuable to the buying firm.

A bargaining relationship may also improve coordination by im-

plementing, what are in effect, forward price contracts. The contracts could be in terms of schedules of prices related to quantities marketed from fixed contracted acreages. Since farming continues to suffer from errors in price expectations, a mechanism for forward pricing offers some important potential gains to all participants.

Bargaining associations may be able to offer these and other services. Labor unions offer the service of disciplining members and handling grievances. Bargaining associations may be able to do the same. In addition, the association may improve coordination of the system by improving information, production decisions, and distribution of products among buyers. These kinds of benefits are emphasized by the Farm Bureau's American Marketing Association.

4. The largest potential source of gain from bargaining is higher prices passed on to consumers. Substantial gains from bargaining depend upon the capacity of the bargaining opponent to pass on the higher costs and the capacity of the bargaining association to manage supplies. Monopoly profits can be created by restricting and allocating supplies. The extent of the monopoly price gains will depend upon the demand function. If close substitutes are available or can be developed, this limits the potential monopoly profits.

Where the buyers can pass on the costs of higher bargained prices, their level of pain is substantially less and their resolve in bargaining is affected. If the bargaining committee can assure all buyers that no competitor will receive a lower price, the resistance to bargaining is greatly reduced. Collective bargaining may, in fact, be used to increase farm prices and processors' profits at the same time, increasing the total return by limiting supplies of commodities with inelastic demand. In this case the theoretical protection of countervailing power of buyer and seller bargaining breaks down. In fact, the bargaining committee and the buyers group may collude to exploit the consumer. Under the present competitive structure, food processors are generally unable to extract monopoly profits. The bargaining committee may provide the mechanism for achieving monopoly gains. Title I of the Mondale bill certainly sets up this possibility.

DISTRIBUTION OF INCOME

I have argued that collective bargaining, given the rules necessary to manage supplies, has the potential to significantly increase prices paid to farmers. But this tells us little of the effect collective bargaining may have on the level and distribution of income to farmers.

In the first place, the price gains from bargaining will vary considerably from commodity to commodity due to differences in industry structure, supply and demand conditions, and attitudes of potential participants.

We have little evidence of the effect of unionization on total wages. Since gains depend largely on the ability to restrict entry, union members would be expected to gain at the expense of some nonmembers denied entry to jobs. In industries such as clothing, where entry has been difficult to control, unionization seems to have had little effect on relative wages. In coal mining, on the other hand, wages of employed miners have been enhanced by unionization, but restricted entry has cost unemployed miners dearly.

Higher wages won by bargaining translates directly to higher income for the union wage earner. The relationship is not so direct in the case of higher prices. For example, if the bargaining committee negotiates higher prices through a price discrimination plan, without restrictions on total supplies, the price in the more inelastic market can be maintained at a high level. But supplies will be attracted by a higher blend price, lowering the price in the more elastic market and eroding the monopoly profits. Nevertheless, considerable income advantage may be gained in the process.

Where the total quantities marketed are restricted, the effect on income distribution will depend on the rules regulating access to the market. For example, if free entry is allowed, but total marketings are restricted, the size of the average quota will be reduced and the small farmer will probably benefit relatively more than the large farmer. In fact, a very large, low cost producer, with few alternatives, could suffer a net loss from "successful" bargaining with such rules.

If quotas are set on the basis of historical experience and can be sold, the anticipated monopoly profits will be capitalized into the value of the quota and the benefits will go to those with large commercial sales. If the quotas are not marketable, the anticipated return will tend to be capitalized into the restricted factors of production. The factor most likely to appreciate in value is land, and the factor least likely to appreciate is labor.

To those of you used to working with price-support policy, this must sound very familiar.

As with the price-support program, monopoly profits from collective bargaining will not solve the low-income problem in agriculture. Those who own little or produce little will receive little benefit. Benefits will probably go to the greedy, not the needy.

EFFICIENCY OF RESOURCE ALLOCATION

Does collective bargaining by farmers reduce the efficiency of resource allocation? A few years ago many economists would have argued that since collective bargaining is a deviation from the structural conditions of the perfectly competitive model, it would contribute to less efficient use of resources. The competitive model was accepted as a norm, and it was assumed that a change in policy which would create a structure more like the model would tend to improve use of resources. However, this is an unacceptable position for several reasons. Let me mention only one of them—the Lipsey-Landcaster theorem of second best. The theorem states that in a concrete situation characterized by any deviation from the conditions of perfect optimality, partial policy measures which eliminate only some of the departures from the optimal arrangement may well result in a net decrease in social welfare.

Given the structure of the rest of the economy, which is characterized by large-scale firms and associationism, there is no theoretical basis for arguing that prohibiting collective bargaining by farmers would necessarily result in a better allocation of the resources of the economy.

PERFORMANCE

In my opinion discussions of public policy dealing with economic organization should be centered on the relationship between alternative sets of rules and performance. By performance I mean the total flow of consequences from economic activity which affect the well-being of the participants. Performance clearly has many dimensions. And judgments have to be made on a variety of desirable and undesirable outcomes associated with any organization of economic activity. The concept of a simple optimum or ideal state has little relevance.

At the same time it is clearly beyond our capacity to predict the full flow of consequences from alternative ways of instituting the economy. We must select and concentrate on a few measures of performance which appear to be particularly relevant. Without attempting to be comprehensive, let me comment on the possible relationship of collective bargaining to some of the values and goals of our society. In the case of each goal the appropriate question is: Given the goal, is there a better way of achieving it?

I believe our society puts a high value on a fair game. Given the present structure of the economy, rules which would give farmers some additional capacity to organize for collective bargaining would,

in my opinion, make it a somewhat fairer competitive game. However, the fairness of the game will depend upon the specific rules and practices in bargaining.

Related to a fair game is the issue of concentration of economic power. Clearly it is necessary to concentrate the control of economic capacity to achieve economies of scale in production and distribution. But, since political power and economic power are related, judgment on desirable levels of concentration must be based on more than production costs. Rules for collective bargaining can result in undesirable levels of concentration of power. A private organization controlling the supply of food would have too much power. If industrialization continues in egg production and fifteen firms come to control 90 percent of egg production, a set of rules allowing these firms to create a cartel would probably be too much concentration of power. On the other hand, collective bargaining limited to a single commodity would be subject to discipline from the threat of substitute products, including new food analogs, imports, and vertical integration. The rules, however, must be structured to insure that such discipline is not removed.

Our society values innovation and progress. However, the source of many of the problems in agriculture is an inability to adjust to rapid technological change. Collective bargaining could be used to restrict innovation as the labor unions have in some industries. And collective bargaining, if used to protect high cost producers and limit the entrance of new producers, would inhibit progress. On the other hand, the bargaining rules and organization could be used to foster a progressive system. No firm conclusion can be reached.

Our society desires low levels of unemployment. Again depending on the rules and practice, collective bargaining could either limit or expand employment opportunities in farming.

As I talk to farmers many indicate that they want more from collective bargaining than better incomes. They want to feel they have some say in their own destiny. They want protection from what they consider impersonal and arbitrary conditions over which they have no control. They want to participate. Collective bargaining associations may meet this need, and the need seems to be an important one in our associationistic society. If farm income support programs are desired, there is much to be said for a program like Title I which puts basic decisions in the hands of participants and extracts it from the vagaries of the political process in the Congress, provided, of course, that sufficient safeguards for the public interest are built into the act.

Our society desires an abundant supply of high quality wholesome food at a low cost. Again, depending upon the specific rules and practices, collective bargaining can facilitate or obstruct attainment of this goal.

A major function of the economic system is, of course, to coordinate economic activity. By coordination I mean the system of information and control which directs resources to uses most consistent with the preferences of consumers. In our industrialized society we have major problems in vertical coordination because of the complex operations in production and distribution. Price instability and price cycles are symptoms of coordination problems. Collective bargaining can be used to improve vertical coordination. The question is whether it is the best means for this purpose. A private forward pricing system based upon deliverable future contracts might be developed to do the job more effectively than through bargaining associations. At any rate there is no evidence that a return to atomistic competition would provide better coordination than a system of collective bargaining. And collective bargaining could be instituted to provide better coordination than is possible with the administrative pricing system of the present farm price-support program.

In summary, collective bargaining can be instituted to give farmers additional control over the structure of farming. And it can be instituted to stimulate increased size or to limit size in farming.

From a strict point of view of welfare theory, given the characteristics of our economy, it cannot be said whether increased collective bargaining would improve the allocation of resources or not.

Collective bargaining can create wealth for farmers from four sources: (1) capturing excess profits of processing and distribution firms, (2) forcing elimination of waste in parts of the system, (3) contributing marketing services, and (4) extracting monopoly profits indirectly from consumers. Only the last source offers much hope of great riches. The wealth resulting from collective bargaining as well as the distribution of such wealth will depend upon the institution of the rules of collective bargaining. The distribution of wealth will likely be very uneven. It will not offer a long-run solution to the low-income problem in agriculture. And if the policy goal is a transfer of income to poor people in agriculture, there are more effective means of achieving that particular goal. A highly graduated negative income tax is an example.

CONCLUSION

If this discussion has created the impression that:

The rules and practices of collective bargaining govern the outcome and no easy generalizations can be made;

The potential consequences of collective bargaining are extensive and difficult to predict;

Collective bargaining offers neither salvation nor damnation for farmers;

Collective bargaining may not result in a less desirable allocation of resources;

Farmers can use collective bargaining to increase their wealth;

Collective bargaining is not the solution to the low-income problem in farming;

Collective bargaining has advantages over both existing programs and atomistic competition—if properly instituted;

Other policies may be more effective in achieving some of the goals sought by farmers through collective bargaining;

Collective bargaining has some real potential danger in facilitating the concentration of power, but if properly instituted, effective discipline can be imposed by competitive processes;

The policy issues are important in that nothing less than the organization and control of the economy is at stake;

Then you got the message.