The sketch on the cover is of the old Capitol at Vandalia, the third to be built there. The building, erected in 1836, still stands, preserved by the state. It was here that Lincoln served his first term in the legislature.
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(This circular is a revision of Circular 632.)
LAW
for the ILLINOIS FARMER

By H. W. Hannah and N. G. P. Krausz

To PROVIDE the greatest measure of justice for the greatest number is the purpose of law in a democratic society. But nothing is more complicated than the effort to see that justice is done. As population and means of communication increase and interests overlap, laws become more numerous and their administration more complicated. We live in a web of legal restrictions, which, however, we normally think very little about.

Probably the reason we give these restrictions little thought is that in reality they assure each of us freedom and protection. The first purpose of our laws is to protect what we regard as fundamental human rights, then to see to it that justice is done so far as possible in all our day-by-day dealings with each other.

This circular contains only a very small part of our total body of laws — merely some of those that concern farm people and those in related businesses. Furthermore it describes only Illinois law; it makes no attempt to review federal laws and regulations.

The information included here will not enable anyone to act as his own lawyer. The purpose of the circular is rather to give its readers two kinds of help: first, information concerning their rights and responsibilities; second, a better realization of situations that may contain legal dangers. Knowing when a situation is dangerous or likely to become so will enable a farmer to consult a lawyer in time to settle issues that could lead to costly and long-drawn-out disputes.

1 Professors of Agricultural Law and members of the Illinois Bar.
OUR PERSONAL AND OUR PROPERTY rights and responsibilities are defined by a body of law called the common law and by statutes.

The common law consists of a body of "unwritten" law; that is, law not written by legislative bodies but gradually developed by the decisions of courts over a long period—hundreds of years—and generally accepted in the English-speaking world. Our statutes are the written acts of our legislative bodies.

Laws having to do with personal and property rights may be called nonregulatory to distinguish them from laws that require certain things of businesses—that they be inspected or that they be operated according to certain rules.

REAL PROPERTY

The chief distinction between real property (real estate) and personal property is that real property is relatively immovable. The land and the improvements permanently attached to it—barns, fences, wells, tile lines, and like fixtures—are regarded as real property. Ownership of real property is usually called holding the title to it. "Holding title" usually means that the ownership is evidenced by an instrument that the law recognizes as a proper means of transfer, ordinarily a deed or a will; however, it is possible to hold title without having an instrument.

For further information concerning the distinctions between real and personal property, see pages 23-24.

Deeds, Abstracts of Title, and Land Registration

Warranty deeds. Next to having our personal liberties defined and protected, we are perhaps more interested in the laws that secure property titles than in any others. The security of title to real estate depends upon two things: the existing facts which affect the title and the covenants or promises the seller makes the buyer. After a buyer has taken title, he may find it faulty. But if he does and if the seller
has warranted a good title, the buyer can make him perfect the title. Or, if the buyer loses the property through the faultiness of the title, he can sue the seller for damages.

A seller may make two kinds of warranties, or promises — express and implied. *Express* warranties are those written into the deed. *Implied* warranties are those which are legally a part of the deed even though not specifically mentioned in it.

Years ago the Illinois legislature provided that deeds for the conveyance of land may be in substantially this form:

*(Form for deeding land)*

The grantor *(here insert name or names of seller or sellers and place of residence)*, for and in consideration of *(here insert consideration)* in hand paid, conveys and warrants to *(here insert grantee’s, or buyer’s, name or names)* the following described real estate *(here insert description)*, situated in the county of __________, in the State of Illinois.

Dated this ______ day of __________, A.D. 19____.

*(Signature of seller)*

*(Printed or typed name of seller)*

(Add as many lines for signatures as there are sellers.)

A law requires that any deed or instrument of conveyance or any instrument that requires recording shall have printed or typed beside or below all signatures the names of all parties signing each instrument.

The law further provides that the name and address of the person to whom the tax bill shall be sent shall appear on a new deed or instrument of conveyance.

This act also requires a newly executed instrument of conveyance or deed which describes the property by metes and bounds to have a general description locating the property in the proper quarter section or lot, or lot and block, preceding the metes and bounds description. The act provides that failure to comply with any of these special provisions will not invalidate the instrument.

This law also provides that every deed substantially in this form and duly executed shall be regarded as a legal conveyance, in fee simple, to the buyer (or grantee), his heirs, or to anyone to whom he may assign the property.¹ It further provides that the following covenants are implied by the seller (or grantor) in such a deed:

¹ With a few exceptions, all voluntary transfers of real estate, whether as gifts or for substantial consideration, must be evidenced by a deed except when property is disposed of by will or is inherited under the laws of descent.
1. At the time the deed was delivered the seller had an indefeasible estate (estate free of claims), in fee simple, with the right and power to convey (that is, to transfer) the real estate described.

2. The property was at that time free from encumbrances (claims or liens).

3. The buyer will have quiet and peaceable possession, and the seller will defend the title against all persons lawfully claiming it.

Quitclaim deeds. Quitclaim deeds are used mainly to clear titles to property. All who have even a remote interest in the property — often an interest too minor to be of any value — relinquish it by making a quitclaim deed to one person. That person then holds, if all interests are thus transferred to him, a clear title to the property.

A law passed by the Illinois legislature provides that quitclaim deeds made out in substantially the following form and duly executed shall be a sufficient "conveyance, release, and quitclaim" of all existing rights in the premises described in the deed:

(Form for a quitclaim deed)
The grantor (here insert seller's name or names and place of residence), for the consideration of (here insert consideration), conveys and quitclaims to (here insert grantee's or buyer's name or names) all interest in the following described real estate (here insert description), situated in the county of ________________________, in the State of Illinois.

Dated this ______ day of ________, A.D. 19______.

(Signature of seller) _____________________________

(Printed or typed name of seller) _____________________________

Such a deed as the above does not, however, convey any rights acquired in the property after the deed was executed, unless the deed specifically so states.

Abstracts of title. If you are buying farmland, you need to know at least two important things about it: (1) the real value of the land in terms of its earning power, and (2) the condition of the title. In most states the title to land is not made a matter of public record, but instruments affecting it are recorded in the county courthouse.

The only way you can know whether the seller can give you a clear title to the land is to get a good abstract of title. This is a summary of the essential facts in all conveyances (instruments or deeds conveying title to the property) or encumbrances in any way affecting the title. Although in Illinois the county boards of supervisors may
require the county recorder to keep abstract books, few county recorders have actually been required to do so. Abstracts are therefore usually prepared by private companies.\(^1\)

An abstract is not a guaranty of good title, though many people seem to think it is. It is simply a summary of every item on record affecting the title to a parcel of real estate. It may show the title to be very weak. But that is the purpose of an abstract — to show up any flaws and give the buyer a chance to have the seller clear the title.

When you get the abstract, the safest thing to do is to take it to a lawyer who has experience in preparing and examining real-estate documents. He will be able to pass judgment on the facts abstracted and detect any important omissions in the records.

The cost of having an abstract made and having it examined is sometimes high. A system of land registration or of public abstracting would relieve the individual of the cost of abstracting the records and examining the title. Under the present system of recording, however, anyone who intends to lend money on land or to buy land will find it good business to get an up-to-date abstract from a reliable company and have it examined by an experienced title examiner.

**Title insurance.** A title insurance policy provides the purchaser of real estate with security against any imperfections in his title that may later appear. The policy is usually issued for a single premium and remains in effect until the title is transferred to another. The amount of insurance taken usually covers the price paid for the property. If, however, vacant property is purchased and expensive improvements are to be made, the amount of insurance taken may also include the cost of those anticipated improvements.

A title insurance policy may be obtained from any of several companies operating in Illinois. The purchaser may apply for title insurance at any time after he takes title to real property, or he may request that the seller of the property furnish him with a title policy as a condition in the contract of sale.

**Land registration.** In Illinois it is possible for a county, under certain conditions, to institute the “Torrens system” of registering titles to land. The basic principle of this system, named for the Australian

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\(^1\) Making an abstract of title means first searching the records in the offices of the county recorder, county clerk, and circuit clerk for instruments affecting the title to the property — deeds, mortgages, releases, divorce decrees, etc. Then the essential facts in each instrument or record must be summarized. Each summary is numbered and placed in position according to date. All records, summarized, chronologically arranged, and stapled together, form the abstract.
who invented it, is the registration of the *actual* title to land, instead of, as under the old system, the *evidence* of such title. The Illinois law states the object to be "to create an independent system of registration of land titles, and cause all instruments intended for the purpose of passing or affecting any title to real estate to be filed and registered in that department and no other."

Many students of the problem feel that the Torrens system is a simple, economical way of handling land titles and that it should replace the present system. Others feel that there would be no advantage in adopting it. The development of photomicrography (a system allowing long documents to be photographed, reduced in scale, and stored as negatives in a small space) may simplify the present system of keeping records. Those in favor of land registration, however, maintain that the issuing of certificates of title to land by appropriate governmental agencies is a service to which the public is entitled.

**Wills, Estates, and Life Estates**

**Wills.** Good wills are not as hard to make as most people think. Bad wills are nearly always the result of hasty preparation, unclear language, failure to conform to certain simple legal requirements, or the maker's attempt to provide for too many possible events or conditions.

Under Illinois law a will to be valid must meet these conditions:

1. The maker must be of sound mind and memory and at least 18 years of age.
2. The will must be in writing and be signed by the maker, or by someone for him in his presence and by his direction.
3. Two credible adults must witness and sign the will in the presence of the maker. These witnesses must be ready to swear before the county court, when requested to, that they saw the maker sign

---

1 In Illinois, if half the legal voters of a county petition for the adoption of the Torrens system, the question whether it shall be adopted must be submitted to a vote. The number of people which must petition, however, is so high that it is very hard to get the issue voted on. In Cook county, where only 2,500 legal voters were required to petition and bring the issue to a vote, the plan was adopted many years ago, and a large part of the land in Cook county is now registered.

Under the Torrens system registering the title requires a court proceeding. Claims not settled in the proceedings are settled from an indemnity fund. Transfers and charges, tax sales, cancellation of certificates, and similar things which affect registered land are provided for.
the will or that the maker acknowledged to them that it was his act, and that they believed the maker to be of sound mind and memory.

It is not necessary to put dates and addresses in a will, though certainly inserting a date to show when the will was made is a good plan, and, as a matter of practice, addresses of the witnesses are usually added. The language should be so simple and direct that the will cannot be misinterpreted. Of course the safest thing to do is to consult a competent attorney about the wording of a will. The courts have had to interpret the meanings of certain phrases often used in wills; and those interpretations have come to be accepted in Illinois courts. There is some danger that the maker's intent may not correspond with these interpretations.

Wills may be used to dispose of all kinds of property, both real and personal, to create trusts, or to give many kinds of limited interests in property. The following will, consisting of one simple sentence, is all that is needed in order for the maker to leave his property to his wife.

**LAST WILL**

January 1, 1958

I give all my property, both real and personal, to my wife, Sarah.

(Signature) John Jones

Witness: (Signature) Richard Roe
Witness: (Signature) Mary Brown

Other clauses, however, providing for the revocation of prior wills, prompt payment of debts, defrayment of funeral expenses, and the naming of an executor, are normally included in a will. Also an attestation clause (a statement by the witnesses that the will was executed in their presence and in the presence of each other) is usually inserted by an attorney, just before the space for the signatures of the witnesses.

**Estates.** An estate is defined legally as "the interest which anyone has in lands, or in any other subject of property." This interest may vary from absolute ownership (a fee simple) to mere possession.

Whatever the legal definition, the average man thinks of an "estate" as the land and other property left by a deceased owner and not yet completely "administered," or land and other property held undivided by the heirs of a deceased owner.

When the heirs of an owner who has died hold farmland undivided, serious management problems are likely to arise. It is often hard for them to agree on how they shall rent the land, what improvements they shall make, and what, in general, to do as landlords. When this happens, it is usually best to hire a competent manager.
When one of the heirs stays on the farm, operating it as a tenant, questions arise as to what interest each heir should have and what expenses each should bear. Assuming that there are five heirs, the one operating the farm should get the tenant's share and also one-fifth of the landlord's share. In return for his landlord's share, he should bear one-fifth of the expense of improving the real estate, one-fifth of the taxes, and one-fifth of all other landlord expenses.

When several persons are common owners of a farm (usually as tenants in common), many legal complications can arise, especially if one of the persons dies leaving several children or if there are children of deceased children. Owners in common would often be wise to make a settlement, transferring the title to one heir or selling the farm to someone outside the family.

Life estates, remainders, and reversions. A good many people hold land who are entitled only to a life interest. Such people are technically known as life tenants. Actually they are not tenants within the common meaning of that term; they resemble owners more than tenants. During their lifetime they may rent the farm to others, farm it themselves and take all the income, or make nearly any use of it they see fit. They cannot, however, mortgage or sell the land because they are entitled only to the use of the property and do not have legal title. The fee, or title interest, belongs to some person who has been designated to take the land at the death of the life tenant or, if no one has been so designated, it belongs to the heirs of the one who created the life estate. Persons designated to take land at the death of the life tenant are called "remaindermen"; if no one is designated to take it, the "reversion" belongs to the creator of the life estate, his heirs or assigns. They are called "reversioners."

Life estates may be created by will or deed or may come about by operation of law. The dower interest the law gives a surviving husband or wife is an example of a life estate created by operation of law. When a person creates a life estate, however, he usually does it to assure a given person an income during life; but he may also wish to designate what shall happen to the land at the end of the life tenancy. Farm owners, for example, frequently deed the farm to their children, reserving a life estate in themselves. Or, a husband may make a will giving the land to his children, subject to a life estate in his wife.

Life tenants who are not related to the remaindersmen or reversioners, or who have no interest in them, often use the land in such a way as seriously to impair its value to the next taker. Although life tenants cannot wilfully destroy buildings, timber, or other parts of
the real estate, neither can the remaindermen compel them to use sound farming practices. For this reason many believe life tenancy to be a poor form of ownership.

No matter how long a tenant has rented a farm from a life tenant, he must yield possession of the property at the time the life tenant dies. It is, therefore, good practice for a person who rents a farm from a life tenant to get the signatures of the remaindermen to the lease.

When the death of the life tenant does terminate a farm lease, the person leasing the land is entitled to harvest any crops that may be growing on it even though the lease has expired due to the death of the life tenant. However, he must still pay rent. By Illinois law, if the life tenant dies on or after the day when rent is due, the entire rent is payable to the life tenant's estate. If the life tenant dies before that day, the rent is to be proportionately divided between the life tenant's estate and the remaindermen.

**Settling estates of those who have died.** When a person dies, the property he leaves, both real and personal, must be legally disposed of.

Most of the law concerning the administration of estates was consolidated into the Probate Act by the Illinois legislature in 1939. This act specifies the way estates are to be settled. When the person who has died has left a will, the will must be presented for probate by the person who has it in his possession. The probate court, usually the county court, then issues letters-testamentary to the executor named in the will, or to another in accordance with provisions of the law. When there is no will, the person appointed by the court is known as an administrator. When both testate property (property included in the will) and intestate property (property not included in the will) are involved, the court may issue letters to an administrator with the will annexed.

Whether the person who takes over the management of an estate is an executor or an administrator, he is charged by law with the preservation and management of the estate during the period of administration, the collection and payment of debts, and with making a final accounting and settlement. Many other specific duties are prescribed by law but these are the principal ones.

Executors and administrators should be selected carefully. Unless an executor is appointed by the terms of the will to serve without security on his bond, he must post such security. An administrator must always post bond and security. When estates are not settled quickly and the property put in possession of those who are to take it, the honesty, interest, and managerial ability of the executor or ad-
ministrator becomes highly important. When several heirs retain undivided interests in the property after the estate is settled, the possibility of bad and disinterested management is increased still further.

The legal procedures involved in settling estates are so complex that executors and administrators should have legal assistance.

Both executors and administrators are entitled to a reasonable fee for their services. The amount they receive is determined by the court.

The Probate Act contains a provision for the simplified settlement of estates when the personal estate is less than $3,000. The simplified procedure can be used, however, only when conditions specified in the act are met.

**Property Not Disposed of by Will**

When an owner of property dies without a will, the property descends to the heirs, subject to the dower rights of a surviving spouse (husband or wife). The law governing the disposal of such property is called the law of descent. Property not disposed of by will is known as intestate property; one who leaves such property is known as the intestate. When an intestate's spouse survives, the spouse may choose to take dower or refuse it. (A dower interest is a life interest in the real property.) Each state has laws regulating descent and dower; the following discussion concerns the law in Illinois.

**When a spouse and children survive** and the spouse does not elect dower, the spouse takes one-third of the personal property of the decedent absolutely and one-third of the real property absolutely. The children take two-thirds of the personal property and two-thirds of the real property. If a child has died and left children, the children take their deceased parent's share.

When the **spouse elects dower**, he or she takes one-third of the personal property and dower in the real property. (The dower is a life interest in an undivided one-third of the real property held by the decedent during marriage.) The children take two-thirds of the personal property and all the real property subject to dower. If a child has died and left children, the children take their deceased parent's share.

This part of the law operates in this way: If a man who owns a 160-acre farm in fee simple dies without a will and leaves a wife and four children, the children will each be entitled to 40 acres subject to their mother's dower interest. Her interest amounts to a life estate in an undivided one-third of the farm. But she does not have to take her
dower interest; she can take one-third of the 160 acres, or about 53 acres, absolutely. The four children will then get about 27 acres each.

When a spouse but no children survive, the spouse takes all the personal property and one-half the real property absolutely, or can elect to take dower. When parents, brothers, or sisters survive the decedent, they take equal shares in one-half the real property, or in all the real property subject to dower. If one parent of the decedent is dead and the other living, the living parent takes the deceased parent’s share. Likewise, the children of a deceased brother or sister take their deceased parent’s share equally.

When no parents, or brothers or sisters, or the children of brothers or sisters survive the decedent, the spouse takes all the personal property and all the real property absolutely.

When children but no spouse survive, the children take equal shares in the estate. If one of the children of the decedent has died leaving children, those children take their parent’s share equally.

When neither a spouse nor any children survive, the parents, brothers, and sisters of the decedent take equal shares in the estate. A surviving parent takes a deceased parent’s share. The children of a deceased brother or sister take their deceased parent’s share equally.

When no spouse and no children, no parents, brothers or sisters, or the children of brothers or sisters survive the decedent, the grandparents on both sides of the family share the estate. If there are no surviving grandparents or great-grandparents, collateral heirs such as aunts, uncles, cousins, etc., of the nearest degree of relationship take equal shares in the entire estate.

When there are no collateral heirs, the real property “escheats,” that is, goes to the county in which the land is located; the personal property escheats to the county of residence of the decedent.

Effects of law may prove harmful. In situations such as that referred to above in which a man dies without a will, leaving a wife and four children, the estate usually has to be divided. Its breakup may have several harmful effects. One of the children may try to buy out all the others and thus become heavily indebted. Or the children may sell their portions to adjoining owners and thus end what might have continued to be a productive farming unit. Partitioning the property between the widow and the children may be costly and slow, eventually burdening the land and perhaps subjecting it to unwise use while it is an unsettled estate.

Because of lack of competent and interested management, a deci-
sion of the heirs to remain as tenants in common and have the farm operated as an estate may not be a happy one.

Harmful effects of this law avoided by a will. An owner of property can prevent the difficulties that often arise under the law of descent by making a will or otherwise arranging for the disposal of his (or her) property at his death. Most farm owners want to leave their property in a manner that will be to the best interests of their families. One way to do this is for the owner to reach an understanding with the family concerning the wisest and most economic disposition of the property in the event of his death. It is then for the owner to take the necessary legal steps to carry out the understanding. At this point most owners will need an attorney’s assistance. (For various ways of holding title and advancing family interest in farm property, see pages 20-23.)

Taxes on Real Property

In Illinois farmers pay two kinds of taxes based on the value of their property: real-estate taxes and personal-property taxes. The amount they pay is determined by two things: the assessed valuation of their property and the rate (percent) of the tax levy. The total rate at which property is taxed is made up of various taxes authorized by law and levied for the support of schools, roads, and other specified purposes. These rates are uniform in the same taxing district.

By law any citizen of Illinois may request a copy of the description, schedule, and statement of property assessed in his name and the valuation placed on it. Such a request should be directed to the county assessor or supervisor of assessments. With this information a taxpayer has some basis for deciding whether his property has been equitably evaluated.

If, in comparison with the taxes of your neighbor, your taxes are not fair, it is because the value of your property, particularly your real estate if you are a farmer, has been assessed too high. Real estate and improvements are assessed in Illinois once in every four years. This assessment is known as the Quadrennial or General Assessment.

If you are not satisfied with the evaluation put on your property, you may apply in writing to the Board of Review of your county, asking for a revision of the assessment. The appeal or complaint must be filed by August 1 to affect the assessment for the current year.

If you fail to pay your taxes, the state may foreclose and sell the property. You may redeem the property within the period specified by law. If you do not, the property passes to the holder of the tax-sale certificate.
Boundary Lines

Disputes over property lines are sometimes hard to settle. The law prescribes this way for arriving at an agreement:

... whenever the owner or owners of adjacent tracts of land shall desire to establish permanently the lines and corners thereof between them, they may enter [into] a written agreement to employ and abide by the survey of some surveyor, and after said survey is completed, a plat thereof with a description of all corners and lines plainly marked thereon, together with the written agreement of the parties, shall be recorded in the recorder’s office of the county where the lands are situated; and the lines and corners of said survey so made and recorded shall be binding upon the parties entering into said agreement, their heirs, successors, and assigns, and shall never be changed.

This law also provides that when one owner refuses to have a survey made, the owner of the adjoining land may have a commission of surveyors appointed and the boundaries established.

The following laws are also of interest to landowners:

1. A law providing for the examination and registration of all surveyors.

2. A law permitting an owner to perpetuate facts relating to natural boundaries (streams, trees, rocks), by a petition to the Circuit Court.

3. A law providing that any person who knowingly damages any property of another (including boundary markers) without his consent, if convicted, is subject to a fine not to exceed $500 or one year imprisonment, or both.

Owner’s Right to Support of His Land

If you make an excavation near your property line that lets your neighbor’s land cave in, your neighbor is entitled to be paid for the destruction of his “lateral support.” If a coal company tunnels under your land and causes it to sink, you are entitled to damages for the loss of your “subjacent support.”

Lateral support is the support to land from the land which lies next to it.

You as farm owner have a right to lateral support from all owners whose land adjoins yours, even though part of the adjoining land is a road owned by the public. To what extent the right to lateral support would apply to damage caused by unchecked erosion on the adjoining land is an unsettled question. But the right of lateral support is effective against positive acts such as excavating or road grading. The damages recoverable are sometimes very small; but when a large area
is affected, or buildings which for a long time have stood near the property line are caused to fall, substantial damages may be recovered.

**Subjacent support** is the support to land from the land which lies under it. The right to subjacent support is important in agricultural areas where there is deep coal mining. Unless coal companies have contracts with the surface owners which excuse them from furnishing adequate support, they must use a reasonable degree of care to see that their tunnels are well enough propped to prevent the land from "sinking."

**Protection Against Trespass**

Many years ago the legislature passed the first general law against trespass. In amended form, it reads as follows:

Whoever enters upon the land or any part thereof of another after receiving immediately prior to such entry notice from the owner or occupant that such entry is forbidden or remains upon the land of another after receiving notice from the owner or occupant to depart shall be fined not to exceed $100 or imprisoned ... not to exceed 10 days.

A person has received notice ... if he has been notified personally, either orally or in writing, or if a printed or written notice forbidding such entry has been conspicuously posted ... at the main entrance to such land. ...

This law gives farm owners and occupants protection against negligent hunters and pleasure seekers.

**Attractive Nuisance**

Landowners or tenants may be held liable for injury to trespassing children who are injured by dangerous agencies on the land. The most common example of an attractive nuisance is a farm pond. The theory is that a person owning or controlling land that has a pond or any other agency very attractive to children is negligent unless he takes some precaution to protect children from trespassing or being injured. The doctrine of attractive nuisance is especially likely to be applied if the owner knew or should have known that children frequented the vicinity and were likely to be attracted to the pond or other agency. The danger must be one that a child, because of his immaturity, is not able to recognize.

**Fishing, Hunting, and Trapping Rights**

Although in Illinois the law holds that the ownership of fish and game rests in the state, the legislature felt that the people living on the land should have certain hunting and fishing rights that others do
not have. It therefore passed several laws on this subject. The law on fishing reads as follows, and there are similar laws governing hunting and trapping.

The owners residing on, or tenants of, farm lands, and their children, actually residing on such lands, shall have the right to catch or take with a hook and line, fish of the kind permitted to be taken or caught under the provisions of [the Fish and Game Code] from waters lying upon or flowing over such lands, of which they or their parents are the bona fide occupants or tenants, without procuring licenses . . . providing such fishing shall be done during the lawful season.

Any owner or tenant who intends to hunt, fish, or trap under these laws should clearly understand two things:

1. Only occupants of the land are excused from procuring a license. Even the children of an occupant must live at home to enjoy this privilege. An owner who does not live on his land must get a license to hunt, fish, or trap on his own land.

2. The law simply excuses occupants from getting a license to hunt, fish, or trap. It does not excuse them from other provisions of the Fish and Game Code, nor from getting a license if they want to hunt, fish, or trap on land belonging to anyone else.

Boys and girls under sixteen years of age do not need a license to fish with hook and line. They cannot, however, hunt and trap away from home without a license.

Another law has to do with a farmer’s right to protect his crops and livestock from wild animals and birds. In order that he might exercise this right without incurring a penalty under the Game Code, the legislature enacted the following law:

The owners and tenants of lands may destroy any wild bird or wild animal, other than a game bird or migratory game bird, when such wild bird or wild animal is destroying property upon his or her land, but no poison or poisonous substance shall be used.

**Laws Concerning Trees**

Questions are often raised about the rights which owners of adjoining property have in trees growing on a boundary line. The general rule is that the owners are tenants in common; that is, each of them owns an undivided interest in the tree. A rule giving each of them the part of the tree on his property would allow either virtually to destroy the other owner’s part without his consent.

When fruit trees grow on one man’s property and overhang the adjoining property, the general rule is that the overhanging fruit belongs to the owner of the tree. The owner of the adjoining property,
however, may trim the branches or roots of any tree overhanging or
encroaching upon his land, provided that he trims only the part on
his side of the property line. The law makes special provision for
hedge fences growing on division lines (see page 50).

The earliest Illinois law on trees imposed a fine for going on other
people's property and cutting trees of any of a number of species. The
same penalty was imposed for cutting trees on property belonging to
churches and schools. Such destruction of property is now a misde-
meanor under the criminal code.

The law imposes a penalty for allowing trees to obstruct highways
or large streams important to drainage and for destroying trees used
as boundary markers. It is also unlawful either to destroy or plant
trees along state highways without the consent of the Department of
Public Works and Buildings.

The native oak is by law the state tree. By law also the Governor
issues a proclamation each spring setting a date for Arbor Day. In-
dividuals and public agencies of various kinds are urged to take part
in tree-planting ceremonies on this day.

Besides the laws here discussed, there are many on forestry, forest
preserves, and protection against forest fires.

**How to Buy Farm Property**

Buying a farm is a costly venture. If you are buying one and want
to be sure that it is worth what the seller is asking for it, you will
either make a thorough appraisal yourself or have one made. In such
an appraisal should be included the soil, the improvements, the ex-
pected income and expenses, the location and home uses, and all other
factors affecting value. If after the appraisal is made, you are sure
that it is worth what you will have to pay for it, you will have to take
some or all the following steps:

1. **Find a credit agency to finance the purchase.** Choose an agency
that will lend you the money you need on an amortized payment plan
(a plan that provides for the reduction of the debt by pre-arranged
and equalized installments), and that will charge not more than the
going rate of interest. You will do well to get as long a term and as
low an interest rate as you can.

2. **Draw up a contract with the seller.** You and the seller will both
sign this contract. Among other things, this contract should clearly
specify the following conditions of sale:
   (a) The amount of the purchase price and how it is to be paid.
   (b) That insurance policies in force on the property shall be trans-
ferred to you, and that any payment for losses occurring following the date of the contract shall be payable as the interests of the parties appear.

(c) Whether crops not yet harvested or divided, agricultural conservation payments not yet paid, or cash rent not yet due are to go to you or to the seller, or how they should be handled. (Provisions covering these points will depend somewhat on the time of year the farm is sold.)

(d) Whether you or the seller are to pay current taxes, assessments, and insurance premiums. (These may be divided between you and the seller, the amounts each of you are to pay depending on the amount of the current term of each item that has elapsed at the time of the sale date, or of taking possession, or of taking title. Sometimes the buyer simply agrees to pay all future installments. As a general rule, taxes assessed for the current year are paid by the one who gets the crops.) However, under the 1954 Internal Revenue Code, the property tax is divided between purchaser and seller as of the date of sale, irrespective of the provisions in the contract.

(e) That the seller shall pay all past assessments, taxes, or obligations of any kind against the land, prior to final settlement.

(f) That the seller shall provide an abstract containing all entries up to the present transaction and showing a clear and merchantable title.

(g) That the seller shall deliver to you a warranty deed free of exceptions or conditions at the time you make your final settlement with him.

(h) Any special things which the seller agrees to do before delivery of possession, such as repairing a building or well.

3. Reach an agreement with the credit agency specifying: (a) the amount you are to borrow; (b) the interest rate; (c) the period for repayment; (d) the number, amount, and date of your annual installments; (e) your repayment privileges, particularly the amount of principal you can repay in any one year; (f) appraisal fees or other loan charges; (g) any special provisions to apply if you fail to repay the loan.

4. Have a warranty deed executed by the seller. (a) See that this deed is placed in the hands of an escrow agent at the time you make the contract. (The lending agency often acts as escrow agent.)

An escrow agent is a person to whom a deed, bond, or other written instrument is delivered; he holds it until the performance or fulfillment of some condition. The deposit places the deed or bond beyond the control of the grantor but generally no title passes until the fulfillment of the condition.
(b) See that the deed specifies in whom the title is to vest (if joint tenancy is desired, be certain to use the statutory phrase, "not in tenancy in common, but in joint tenancy with right of survivorship").
(c) See that it is signed by the seller and his or her spouse (husband or wife) and contains a properly executed waiver of dower and homestead rights, and is acknowledged before an authorized person.

5. **Have the abstract examined.** An attorney should be employed to do this.

6. **Have any defects in title cleared.** It is the seller's obligation to do this before a final settlement is made.

7. **Have the deed recorded.** Do this as soon as it is received.

8. **Check the mortgage and notes.** See that they are in accord with the original agreement concerning the terms of the loan. A trust deed is often used in place of a mortgage.

9. **Consider these additional points.** Some of the following points should be cleared early in your planning, some later:
   (a) Who is now occupying the farm? Is he a tenant, what are his rights? Does he have a written lease? When can his lease be terminated and you take possession? What are his rights in crops and improvements now on the land? (He may own hog houses, hen houses, brooders, temporary fencing. Find out.)
   (b) If you are buying the farm through a real-estate firm which offers to find you a loan, be sure that the service offered is competent, that the companies or individuals the real-estate firm chooses are thoroughly reliable, and that the costs are not out of line with those that other companies or individuals would charge.
   (c) Be sure that there are no valid liens, judgments, or other obligations against the property that would not appear in the abstract.
   (d) Find out if anyone has an easement to the use of the land as a roadway or for other purposes.

**Family Interest in the Ownership of Farm Land**

The legal interest an owner has in farm land or other real estate may be one of several kinds. He may hold the land in fee simple (the highest kind of ownership). He may have a life interest in it, or he may be entitled to take it only on the death of the life tenant. He may

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1 A *lien* is a legal claim or charge against specific property to secure payment of some debt. 2 A *judgment* is an obligation created by the decree of a court. 3 An *easement* is the right of the owner of one tract of land to make some use of a tract belonging to another.
also have one of several other kinds of legal interest in it, some of which, especially those dependent on future events, make ownership insecure and uneconomic. Likewise some kinds of ownership are not so well adapted to some situations as are others.

Suppose a young farmer and his wife, without children, have inherited a farm or part of a farm, or that they bought a farm before they had children. They farm it themselves. Since successful farming is a joint enterprise involving willing and intelligent cooperation between husband and wife, they will be equally interested in the ownership and use of the land. And they will want to make sure that, if either should die, the one who remains can use or dispose of the assets with as little interference and expense as possible.

Disadvantages of fee-simple ownership. In a case like the above, either the husband or wife could take ownership in fee simple, but, even if there are no children, such ownership would be open to at least three objections should the owner die: (1) the estate would have to be administered, a costly operation at best; (2) there would be a period while the estate was being settled when the surviving spouse would not have unhampered use of the property; and (3) by the laws of descent in some states, at least part of the land would go to the decedent’s parents or brothers and sisters.

Advantages of joint tenancy. In this case a joint tenancy would probably be better than ownership in fee simple. Should one or the other die, title and ownership of the property would immediately pass to the other spouse and the farm would not be a part of the estate to be administered. ¹ By joint tenancy is meant an undivided ownership of property by two or more persons, each having the right to take immediately all the property or his increased interest in it on the death of one of the joint tenants.

Illinois requires that a specific statement that a joint tenancy (not a tenancy in common) is intended appear in the deed. If such a statement does not appear in the deed, the conveyance will be called a tenancy in common. A tenancy in common differs from a joint tenancy in that it does not carry the all-important right of survivorship, so that when a tenant-in-common dies his share must be set aside and administered.

If this man and his wife should have children, a joint tenancy may still be the best type of ownership for them so long as the children

¹ It would, however, be subject to estate and inheritance taxes. For a discussion of these taxes, see Illinois Circular 728, “Inheritance and Gift Taxes on Illinois Farm Property.”
remain dependent. But when the children become older, it may be best to make some other arrangement. If there are boys interested in farming, it might be desirable when they are through school to include them as joint tenants. If the farm is small and more than one son is interested, it might be better to include one son as a joint tenant and help the others get established in business or on another farm. If the sons are not interested in farming and there are daughters who are, a similar arrangement could be made for them.

A conveyance to one son with charges on the land in favor of the other children is another possibility. The charges should be reasonable, so they will not burden the land. They can be evidenced by a series of notes of successive maturity dates made out to the other children and making the land security for their payment.

**Advantages of life estates and remainders.** Farm owners who want to settle the title to the farm before their death and make sure that it passes on to the one interested in operating it often give that person a remainder and keep a life interest themselves. This gives the present owner the continued use and income from the farm for his lifetime. When he dies, all rights to the farm pass immediately to the remainderman without administration.

When life estates are created voluntarily in this way, the life interest is not likely to be harmful to the interest of the remainderman. As a matter of fact, the remainderman will probably be on the farm as a tenant of the person who holds the life interest long before that person's death. (For times when a life estate may be a poor form of ownership, see Life estates, remainders, and reversions, pages 10-11.)

**Advantages of trusts.** A landowner interested in having his descendants receive an income from the property after his death often feels that no one in his family has the interest or ability to handle the farm either as a landlord or an operator. In such case he can convey the land to trustees to manage and arrange that they pay the income to named beneficiaries.

A farm owner who is responsible for the support of small children, a wife, aged parents, or other relatives may find it desirable to make a will which at his death will create a trust for the benefit of his dependents. If he lives and some of the children become interested in farming, he can alter the will and create a joint tenancy or a remainder in favor of the interested children.

**Four steps to take to arrange a safe and satisfactory title for a farm family.** Many arrangements other than those named are possible.
The object of any arrangement, however, should be to make sure that the land is not tied up during a long and perhaps costly settlement of the estate; that what was once a productive farm unit is not destroyed by partitioning; and that the heirs are protected. But no matter what title arrangements are made, every owner of farm land should:

1. Get an up-to-date abstract for the property.
2. If the title is not clear, do whatever is necessary to clear it.
3. Decide, with the help of members of the family and other interested and competent people, what form of present and future ownership will best conserve the farm as a unit of production and also serve the best interests of the family.
4. Have the necessary legal documents prepared and signed.

**PERSONAL PROPERTY**

Personal property is any kind of property that is not real property. Land and the improvements permanently attached to it are real property. Money, stocks, bonds, household goods, livestock, farm machinery, clothing, jewelry, etc., are all personal property. For many purposes the law treats personal property, or "chattels," quite differently from real property. Following are some of the differences it makes:

1. Your personal property is *not subject to some of the income tax laws* that govern the taxation of real property.
2. If you die without leaving a will, your personal property will pass first to the *administrator of the estate*. After all debts and other obligations imposed by law have been satisfied, the remaining personal property, if any, passes to your heirs. Real estate (real property) passes directly and immediately to your heirs.
3. Your rights in personal property are determined by the *law of the state in which you reside*; your rights in real estate are determined by the *law of the state in which the property is situated*.
4. You can transfer personal property with fewer legal controls than those that govern real property. Real property must be conveyed in writing and in accordance with the statutes governing its mode of transfer.
5. The usual documents used to make personal property the *security for a debt* are security instruments and the forms required to

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1 For a discussion of situations which may arise when arrangements for disposal have not been made, see *Property Not Disposed of by Will*, pages 12-14.
perfect a statutory lien. The documents usually used to secure real estate are the mortgage deed and the trust deed.

6. The types of legal action which you can take to recover personal property or to secure damages for the loss of it are different from those you would use to recover real property or to secure damages for its loss.

7. If you are a tenant, you can take from rented premises the removable fixtures that belong to you providing you remove them during your tenure; you cannot remove improvements or fixtures which are regarded as "affixed to" or a part of the real estate.

8. The law does not generally recognize future estates or interests in personal property; it recognizes them in real property.

**INSTRUMENTS OF CREDIT AND SECURITY**

**Interest Rates**

**Statutory rate.** According to common law, if you are lending money and fail to make an agreement with the borrower about the rate of interest the loan is to carry, you can collect no interest. To do away with this rule, the Illinois legislature established a statutory rate of not more than 5 percent to apply only when borrower and lender have not definitely contracted for or agreed on a different rate.

**Legal rate.** The legislature established 7 percent as the legal rate of interest. The interest agreed upon is part of a contract. Any agreement to charge a higher rate of interest (except as discussed below) causes forfeiture of any interest due under the agreement. The law also demands that a contract in which the interest is to be 7 percent be in writing. An oral agreement or an unsigned writing will bear only 5 percent, the statutory rate.

The courts have held that it is usurious, therefore unlawful, to charge a commission for making a loan which, when added to the interest rate, amounts to more than 7 percent a year on the money advanced. There are, however, four special exceptions to the 7 percent limit:

1. A corporation may agree to pay more than 7 percent interest on a loan.

2. Anyone may charge more than 7 percent interest on a loan of
not less than $5,000, if it is repayable on demand and secured by warehouse receipts, bills of lading, certificates of stock, certificates of deposit, bills of exchange, bonds, or other negotiable security pledged as collateral and if the loan is evidenced by writing.

3. A company organized under the Small Loans Act may make loans of $800 or less and charge as much as 3 percent interest a month on the first $150, 2 percent on the next $150, and 1 percent on the balance.

4. Anyone may charge 7 percent interest on the entire amount of the loan until the last installment is paid if: (a) the loan is $7,500 or less and the agreement is in writing; (b) the loan is not secured by real estate; (c) the repayment period is not more than 60 months; and (d) repayment is to be in two or more substantially equal installments. If the debt is repaid before maturity, the lender must refund any excess interest.

The law prohibits small-loan companies from encouraging borrowers to split or divide loans, to collect service charges and advance payments, and to compound interest. It also provides that companies may not obtain a higher rate of interest by permitting husbands and wives to have separate contracts for loans at the same time.

The law also contains detailed provisions for the licensing and bonding of small-loan companies and requires them to keep certain records. (For a further discussion of small-loan companies, see Small loans, page 27.)

**Short-Term Credit**

On July 1, 1962, the new Uniform Commercial Code became law. The law removes the technical distinctions between chattel mortgages and conditional sales contracts, but their functions remain undisturbed. The law does not change the type of property that may be used as collateral to borrow money.

Both chattel mortgages and conditional sales contracts are now called "security interests." A security interest is a legal right in personal property or fixtures to secure payment or performance of an obligation. To be valid, a security interest must be in writing, must be signed by the debtor, and must describe the collateral. When the security interest covers crops, oil, minerals, or timber, a description of the land is necessary.

To be effective against innocent third parties, a security interest
must be filed. It is usually filed at the County Recorder’s office. Security interests in motor vehicles, however, are filed with the Secretary of State. The security interest is then valid for 60 days after the maturity of the loan. It may be extended for a maximum of five years at a time.

**Protection of buyers.** A buyer receives clear title if he is buying merchandise from a dealer. He takes the merchandise free of a security interest even if he knows a lien exists. For example, a person buying a refrigerator from an appliance store takes the merchandise free of any security interest. A buyer from a farmer selling farm products is an exception; the buyer is subject to any recorded security interest in the property or any lien of which the buyer has knowledge.

The law recognizes three general classifications of business transactions in which a buyer in good faith is protected from unrecorded security interests given by his seller to third parties.

1. **Buying from a businessman, but not buying an item in which the businessman ordinarily deals.** The buyer is subject only to a recorded security interest in the item. As an example, a person buying a refrigerator from a lumber dealer who does not ordinarily sell appliances is subject to any recorded security interest in the refrigerator but not to an unrecorded interest.

2. **Buying consumer goods, but not from a businessman.** A person who buys consumer goods is subject to a recorded security interest if he uses the item for personal, family or household use, or farming operations. The buyer is subject to any unrecorded security interest only if he buys for business use.

3. **Buying farm machinery from anyone other than a dealer.**
   a. A person who buys farm machinery for his own farm use that costs less than $2,500 is only subject to a recorded security interest. A person who buys farm machinery for any purpose other than his own farm use is subject to any recorded or unrecorded security interest.
   b. A person who buys farm machinery that costs more than $2,500 is subject to all recorded security interests but is not

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1 In certain cases a security interest in consumer goods and farm machinery may be effective against third parties if it is not filed. An unfiled security interest may also be effective against third parties in certain transactions not ordinarily engaged in by farmers.
subject to an unrecorded security interest if his seller has had possession of the item for 10 days or more.

Security interests on crops not yet planted are valid if the crop can be matured within 12 months after the date of the security agreement. A farmer can give a valid security interest in a crop to be planted within 3 months even if a security interest in a prior crop is unpaid. In order for the second security interest to be valid the prior crop mortgage must be due six months before the new crop is planted, and the second security must be given to enable the farmer to plant the crop.

A debtor who defaults after paying 60 percent of the cash purchase price (60 percent of the value of the loan if the loan is made to buy items for personal, family, or household use) does not forfeit all right to the goods. The lender must sell the goods and refund any surplus to the debtor. If the debtor defaults before paying 60 percent of the cash purchase price, the lender may keep the goods.

To sell or dispose of mortgaged property without consent of the creditor is a criminal offense punishable by 1 to 10 years imprisonment.

**Small loans.** Farmers in Illinois use millions of dollars' worth of short-term credit every year. Some of this credit they obtain from companies specializing in small loans.

**Small Loans Act.** The provisions of the Small Loans Act subject small-loan businesses to certain regulations. The law allows these companies to charge up to 3 percent a month on the first $150 of the unpaid principal of loans not larger than $800. They may charge 2 percent a month on the next $150 and 1 percent on the balance. This means that they may charge 33 percent interest yearly on $300, 35 percent on $150 or less, and between 33 and 36 percent on an unpaid principal balance of $150 to $300. Monthly payments on the principal reduce the amount on which interest must be paid for any succeeding month. (See page 25 (3) for further discussion of small loans.)

**Interest too high for farmers.** Small-loan companies have a place in the credit field. Still it is not good business for farmers to use credit that may cost them as much as 36 percent a year when they can borrow money for less. Moreover, a farmer who is in a business with a good turnover should try to pay cash for small items and use his short-term credit only in substantial amounts, at reasonable interest rates, for buying livestock, grain, or equipment. A dairy, poultry, or mixed livestock and grain farm usually has a large enough turnover to permit such money management.
Long-Term Credit

Mortgages. Farms are sometimes bought for cash. Most buyers, however, can pay only part of the purchase price and must borrow the rest. Money loaned on land is usually secured by a first mortgage.

A mortgage has been loosely defined as "a deed with a defeasance clause." This means that the borrower (mortgagor) makes a deed conveying legal title to the lender (mortgagee) on condition that when the amount specified has been paid, the deed will become void. The statement of this condition is the "defeasance clause."

In order to protect the mortgagor, Illinois courts have held that a deed without this clause in it may still be a mortgage if there is adequate proof that both parties intended it to be. It is important, however, that the mortgagor be sure he signs a mortgage, not a deed.

Mortgage form. To encourage the earmarking of instruments intended as mortgages, the Illinois legislature passed a law providing that mortgages may be in substantially this form:

The mortgagor (insert name or names) mortgages and warrants to (insert name or names of mortgagee or mortgagees) to secure payment of (insert nature and amount of indebtedness, date payment is due, rate of interest, and whether secured by note or otherwise) the following described real estate (insert legal description) situated in the county of ________, in the State of Illinois.

Dated this ______ day of ________________ A.D. 19____.

(Signature) __________________

Mortgages do not have to be in this form. Many agencies, however, now use a mortgage designated as the "statutory form," which incorporates the legislative provisions.

Trust deeds. Mortgages are commonly thought to be the instruments most generally used in making farm land the security for a loan or indebtedness. As a matter of fact, deeds of trust are widely used in place of mortgages. A deed of trust is:

An instrument in use in many states, taking the place and serving the use of a common law mortgage, by which the legal title to real property (land and improvements) is placed in one or more trustees, to secure the repayment of a sum of money or the performance of other conditions.

A trust deed differs from a mortgage principally in the fact that a third party is brought into the transaction for the sole purpose of holding title until the seller or lender has been paid. When the notes
which the trust deed secures have been paid, the trust ends, a release is executed and recorded, and the legal title passes to the buyer.

Trust deeds are subject to foreclosure, redemption, and other legal processes in the same way as are mortgages. In Illinois notes secured by trust deeds are recognized as legitimate investments for guardians and conservators.

It is important that a trust deed state that it is security for a specific indebtedness (the amount, dates payable, rate of interest, and names of the parties are necessary), and that it is for the use or benefit of the legal holder of the indebtedness.

Trust deeds require the same signatures and acknowledgments as other deeds of real estate.

Trust deeds have uses other than that of securing indebtedness. For instance, they are frequently used to establish and endow charitable, educational, and religious organizations.

**Contract purchase of farms.** The use of the installment contract has long furnished one means of buying city property. The contract reserves the title in the seller until he is paid. An independent agent, usually a bank, keeps the deed until the contract has been performed, at which time the deed is delivered to the purchaser. The agent is known as an escrowee or escrow agent.

Farm land is not usually sold in this way. When a man buys a farm, he usually receives a deed and gives the seller a mortgage. He may sometimes, however, use a trust deed to secure the unpaid balance. In certain parts of the state there seems to be an increase in the use of the installment contract as a means of buying farm land. The contract defers delivery of the deed until a stated amount of the purchase price has been paid or a given number of installments made. ¹

Though such contracts can be adapted to the sale of farm land, they are often used by an owner simply as a means of getting more rent. Suppose you want to buy a farm and you sign a contract agreeing to pay the seller a specified yearly installment plus interest. The amount is often more than a fair rental. You also agree to keep up or to make improvements on the farm and to pay taxes and insurance. You may have made a small down payment besides. The seller holds the title and does not give you a deed until you have paid a given number of annual installments — perhaps five. If you complete the contract, it will have been a very favorable arrangement for the seller.

¹ For more information about installment contracts, see Illinois Circular 823, "Installment Land Contracts for Farmland."
If you are not able to meet some installment, you can be put off the farm, and your payments will then go as rent. In the meantime you have paid the taxes, made improvements, and taken care of all farm expenses, including what would have been the landlord's share. If you made a down payment, the seller keeps it, too.

This method of selling land can be fairly used, but a seller sometimes uses it to encourage an unsuspecting tenant, who is anxious to buy a farm, to commit himself beyond the ability of the farm to pay. It is especially likely to be used by unscrupulous sellers in disposing of farms that appear to be much more productive than they are.

**RIGHTS OF LANDLORD AND TENANT**

**Agreements Between Landlords and Tenants**

Every tenant in Illinois who rents farm land holds the farm under some kind of agreement. It may be an oral or a written agreement, long or short, adapted or not adapted to the farm and, as a written instrument, valid or invalid. In short, as a means of aiding the parties to it, it may be good, bad, or indifferent.

**Legal essentials of a written lease.** The most common agreement between landlords and tenants is a lease. To be legal a written lease must meet five requirements: (1) it must be signed by both parties; (2) it must specify a definite period during which the farm is to be leased; (3) it must contain a description of the property; (4) it must name a specific lessor (landlord) and lessee (tenant); and (5) it must provide for the payment of rent. A desirable farm lease contains, of course, more than these bare essentials.

**Oral agreement.** In the eyes of the law, if you rent a farm and do not have a written lease, you are a tenant from year to year. As a year-to-year tenant, you have only such rights as you are able to prove. Many oral agreements do not easily admit of proof.

**One-year leases.** A good many tenants, at the time they rent a farm, execute a one-year lease. If you are a tenant with such a lease, you must have it renewed in writing at the end of the year; otherwise you may find that your landlord can require you to move on less notice than that established in your original lease, or that issues which the original lease covered are not now covered since without renewal of the lease in writing you have become a year-to-year tenant. From your standpoint as a tenant, a fair lease in writing is highly desirable.
Notice to vacate land. Under a written agreement, a tenant is entitled only to the period of notice specified in his lease. If you are a tenant and have accepted the terms of a written agreement, one of which requires you to vacate the land immediately upon notice, you are bound by your agreement. If you do not have a written agreement, or if your written lease has expired and you are holding the land as a year-to-year tenant, the law in Illinois requires the landlord (or his agent) to give you 4 months' notice in writing. If, for example, the term ends on March 1, as the terms of most farm tenants do, notice would have to be given you before November 1 of the preceding year.

This law does not mention livestock-share leases. To be certain that notice of termination of a livestock-share lease is effective, notice should be given 4 to 6 months before the end of the lease year.

The statute provides that notice may be given in substantially the following form:

To (name of tenant): You are hereby notified that I have elected to terminate your lease of the farm premises now occupied by you, being (describe the premises), and you are hereby notified to quit and deliver up possession of the same to me at the end of the lease year, the last day being (insert the last day of the lease year).

(Signature)

The period of notice provided by law does not always protect you (as a tenant) since it may be given after you have done your fall plowing and seeded wheat or spread limestone or fertilizer. By law you cannot recover in money for your work or seed or fertilizer, but you are permitted to harvest the wheat or other fall-seeded grain.

The best protection for both landlord and tenant is a good written lease, covering the essential points in the operation of the farm and specifying a long enough period of notice to give both parties a chance to make adjustments, preferably a period of six months to a year.

(For more information about the law on farm tenancy, see Illinois Circular 818, "Farm Tenancy Laws in Illinois.")

Landlord's lien. (For discussion, see pages 36-37.)

Tenant's Right to Take Removable Fixtures

Whether a tenant has a right to remove certain kinds of improvements erected at his own expense—hog houses, temporary fences, or cribs—is a question which often arises between farm landlord and
tenant. Often neither has given any thought to the question until the tenant, having to move, proposes to take the improvements with him and finds that the landlord claims they are part of the real estate and must be left.

**Conditions tenant must meet.** An Illinois law clarifies to some extent the right of each. It provides that:

... subject to the right of the landlord to distrain [hold] for rent, a tenant shall have the right to remove from the demised [leased] premises all removable fixtures erected thereon by him during the term of his lease, or of any renewal thereof, or of any successive leasing of the premises, while he remains in possession in his character as tenant.

This means that if you are a tenant and are to be entitled to your privileges under this law, you must meet three conditions:

1. You must not owe the landlord back rent; if you do, the landlord may distrain (hold) the improvements.
2. You must have put the improvements on the land yourself.
3. You must remove them before your term expires; if you do not, you will not be on the land as a tenant, and you cannot, therefore, by law remove them.

This law does not cover specifically those cases in which the tenant brought improvements with him. The courts have indicated, however, that the term “erected” includes improvements brought onto the farm as well as those a tenant actually erected or built there.

**What are removable fixtures.** The usefulness of the above law depends a great deal on the interpretation of the phrase “removable fixtures.” The Illinois courts have held that a corn elevator set in a concrete foundation and a crib built on posts sunk in the ground are not removable fixtures, but that a blacksmith shop on skids is. The general rule is that a fixture is removable when the parties intend it to be and when it can be removed without material injury to the land or other buildings. As a matter of fact nearly any structure not fastened permanently to another building or put on concrete foundations can be removed. Such buildings would include individual hog houses, brooder houses, and similar structures.

Any question whether such things as fences, windmills, cribs, bins, or lean-to sheds can be removed should be settled in a lease. If you are a tenant without a written lease, or if the structure you are going to build is not covered by it, before you begin to build you should get a written agreement from the landlord allowing you to remove it or promising to pay you its fair unexhausted value when you leave.
Landlord's Right to Harvest Crops

Poor health, discouragement, poor crops, or better immediate prospects elsewhere sometimes lead a tenant to move before the term for which he has rented a farm has expired. Occasionally a tenant leaves before harvest without having made any arrangements to take care of the growing crops. When this happens the landlord's security for rent is endangered, and so the law protects him with this provision:

When a tenant abandons or removes from the premises or any part thereof, the landlord or his agent or attorney may seize upon any grain or other crops grown or growing upon the premises or part thereof so abandoned, whether the rent is due or not. If such grain or other crops or any part thereof is not fully grown or matured, the landlord or his agent or attorney shall cause the same to be properly cultivated and harvested or gathered, and may sell and dispose of the same, and apply the proceeds, so far as may be necessary, to compensate him for his labor and expenses, and to pay the rent: Provided, the tenant may, at any time before sale of the property so seized, redeem the same by tendering the rent due and the reasonable compensation and expenses of the cultivation and harvesting or gathering the same, or he may replevy [retake] the property seized.

In interpreting this law the Illinois courts have held that it does not give the landlord the right to mature and harvest crops growing at the regular termination of the lease, but gives him the right only when the tenant leaves before the termination of the lease. Though the act specifies that the landlord is to retain only rent, labor, and expenses out of crop sales, the courts have held that he is also entitled to damages for nonperformance of agreements in the lease. When however, the tenant redeems crops matured and harvested by the landlord, the landlord is entitled, according to the law, only to rent due and to reasonable compensation and expenses for cultivating and harvesting.

The law makes no provision for livestock which a tenant abandons.

FARM MANAGER'S RELATIONS TO OWNER AND TENANT

If you own a farm and hire a manager for it, the manager is legally your agent and the general laws of agency apply to your relations (there are no specific state laws concerning farm managers). As your agent he can make you liable on contracts executed in the regular course of the farm business.
Owners often give their farm managers these powers: to insure buildings and other property belonging to the owner and to pay the insurance premiums; to sell grain and livestock belonging to the owner; to buy as much seed, feed, fertilizer, livestock, and materials as is necessary to meet the owner's obligations under the lease; to plan and supervise the putting up or the repair of buildings and improvements; to hire skilled labor for building, painting, ditching, fence building, or other work for which the landlord is responsible; to pay taxes on the farm property; to collect the rent and pay it to the owner; to find or to change farm tenants; to enforce the landlord's lien for rent; to evict tenants who refuse to move after due notice; to work with tenants in planning crop, livestock, and soil maintenance and improvement programs for the farm.

Through negligence or neglect of duty, your farm manager may make you liable in personal injury cases. If, for example, he fails to have a dangerous well-top or a weak floor repaired, and someone comes to the farm and falls into the well or steps through the floor and is hurt, you may be liable for damages. Any provision in a lease agreement which exempts the landlord from this liability is void.

If you are a tenant operating under a manager, you may deal with the manager instead of the owner in all matters except those in which you have been told by the owner that the manager does not have the power to act for him. Before you pay the manager the rent or other money due the owner, or before you accept a lease signed by a manager, be sure you know what his authority is.

**FARM PARTNERSHIPS**

The use of livestock leases and profit-sharing plans between father and son or employer and employee have lately been increasing. Such leases or agreements are often called "farm partnerships." They are partnerships in the sense that they are joint and cooperative arrangements between an owner and his tenant, or a father and his son, for carrying on the farm business and for receiving farm income proportionate to each's contribution of land, equipment, livestock, feed, seed, fertilizer, machinery, labor, and operating expenses.

The general assumption is, however, that few of these arrangements are partnerships in the legal sense. Whether or not they are legal partnerships is important because if an owner and his tenant or a father and his son are in partnership, either of the partners can make contracts for the business, sell partnership property, or create
partnership debts without the consent of the other. Moreover, the partnership would require a separate income-tax return and, should one of the partners die, there would have to be a partnership accounting.

The Illinois legislature in 1917 passed the Uniform Partnership Act, a standardized law now in effect in several states. This act defines a partnership as "an association of two or more persons to carry on as co-owners a business for profit." It also says what is not a partnership: joint ownership of property, common ownership of property, or part ownership does not of itself establish a partnership; the sharing of gross returns does not of itself establish a partnership; the receipt by the landlord of a share of the profits, if received by him as rent, does not of itself establish a partnership.

By definition, therefore, many enterprises in which a tenant or a son contributes only labor would not be partnerships. Whether or not a partnership exists between the parties depends partly on their intention. One who has to deal with a farm owner or a tenant is not, however, bound by the intentions of the parties, but may judge from their actions and the business setup whether there is a partnership. Each case must be considered by itself.

An Illinois appellate court held a livestock-share arrangement to be a partnership. In that case, however, there appeared to be an intention to create a partnership. Then, too, the Uniform Partnership Act had not yet been adopted.

If the parties do not wish to create a partnership, they should: (1) draw up a lease which states that no partnership is intended and specifically designates the landlord's share as rent; (2) agree that mutual consent is necessary for major purchases and sales, or specify who shall have authority to handle various kinds of transactions. These arrangements are not absolute insurance that the arrangement will not be considered a partnership, but they will add weight to the view that it is not.

**AGRICULTURAL LIENS**

A lien is a claim against specific property for the payment of a debt arising out of some service rendered to the property. The Illinois legislature has enacted laws giving people who render certain services a lien against the thing on which the service was rendered, until the charge is paid. If the charge is not paid, the lien may be foreclosed and the property sold to satisfy the debt. A mechanic, for
example, has a lien for work he has done on an automobile or tractor and a lumber dealer for the lumber bought to build a house or a barn.

Because of their nature, some of these liens have been called agricultural. In Illinois there are several such liens. Stable owners and those who keep, yard, feed, or pasture domestic animals for others have a lien against the animals for feed and labor. Laborers, including farm hands, have preferred or prior liens for wages in cases in which the employer becomes insolvent. The owners of stallions and jacks registered with the State Department of Agriculture have a lien for the service fee against the mare or jennet and the progeny. To get the benefit of this lien, the owner of the stallion or jack must file a claim for lien (in writing and under oath) with the county recorder within twenty-four months after the service.

When the commissioner of noxious weeds has to go on a man's land and destroy the noxious weeds, the township or county has a claim against the land for the expense of destroying the weeds. If the owner of the land does not pay the expenses, the township or county can foreclose the lien and, if necessary, sell the land. Similarly, taxes, drainage assessments, and other public charges against property constitute liens against such property until they are paid.

Landlord's Lien

Most states have a landlord's lien which gives the owner of the land a claim against the crops of his tenant for rent. The present Illinois law concerning a landlord's lien provides that:

Every landlord shall have a lien upon the crops grown or growing upon the demised [rented] premises for the rent thereof, whether the same is payable wholly or in part in money or specific articles of property or products of the premises, or labor, and also for the faithful performance of the terms of the lease. Such lien shall continue for the period of six months after the expiration of the term for which the premises are demised, and may be enforced by distraint [holding] as in this Act provided.

As interpreted by the courts, this law has the following meanings:

1. The landlord's lien applies only to crops grown during any one year for the rent for that year. Fall-seeded crops, such as winter wheat, are exceptions, the court having held that since they grow in two different years they are subject to the rent for those two years.

2. The lien applies only to crops grown on land for which the landlord is entitled to rent.

3. The lien applies only to crops, not to other property of the tenant.
4. Since the lien is not against the tenant, but against the crops, it attaches even though the grain may have been sold; the third party (usually an elevator) is subject to the lien unless it can be shown that the elevator operator had no reason for thinking the grain was grown on rented land. Many landlords furnish lists of their tenants to local elevators simply as a matter of protection.

5. The landlord's lien is superior to chattel mortgages (security interests) or other claims against the crops.

**Threshing, Bailing, and Shelling Lien**

Under an Illinois law the owners of threshing machines, clover hullers, corn shellers, and hay balers have a lien against the crop threshed, hulled, shelled, or baled. The lien attaches when the service is rendered and lasts for eight months. It is security either for the contract price of the job, or if no agreement was made, for a reasonable price.

These are the important facts concerning this lien:

1. It is good for eight months even though the owner of the grain, hay, or clover seed retains full possession and control over it.

2. It is not valid against a purchaser unless the lien holder gives the buyer written notice of his lien before the buyer has made a final settlement with the seller.

3. There are no Illinois decisions on the application of this law. Lien laws, however, are strictly construed. If the Illinois courts adopt a strict interpretation, it is doubtful if the owners of mechanical corn pickers are entitled to a lien for custom work. It is also true that combine and pick-up balers were not in existence when the law was passed. The present language of the act, however, is such that the courts would be likely to consider that the owners of such machines were entitled to liens. Whether the courts will so hold is still problematical.

4. To enforce this lien, the holder must give the owner 10 days' written notice that he intends to sell the property at a stated time and place. If the owner does not settle with the lien holder, the property may be sold and the lien satisfied. Any returns that remain after the lien is satisfied go to the owner.

**Mechanic's Lien**

Under Illinois law, builders, contractors, laborers, and material-men have a claim for services performed or materials supplied, both
against the buildings and against the owner’s interest in any land connected with the buildings.

The lien attaches to the property on the date of the contract for service or materials. The basis of the lien is the existence of a contract. The contract, however, does not have to be in writing. To be effective against other creditors, a mechanic’s lien must be either foreclosed or filed with the clerk of the circuit court within four months after the contract is completed. Lumber dealers, for example, and materialmen, architects, carpenters, painters, and contractors and their laborers are entitled to the lien.

The law generally applies to buildings and permanent fixtures. Putting on roofing and porches, adding rooms, installing baths and like improvements and repairs entitle the materialmen and contractors to a lien. The Illinois courts have held, however, that building fences, furnishing fence posts, and moving buildings do not constitute the kind of service and material intended in the act and that the lien does not apply in these instances.

Any property against which a mechanic’s lien has been foreclosed may be redeemed by paying for the services or materials for which the lien exists plus the costs and interest.

It is important that a farm buyer find out if any unsettled mechanic’s liens exist against the house, barn, or other farm buildings. If such claims exist, and if the seller does not pay them, the buyer will either have to pay them or suffer a foreclosure against his property.

A mechanic’s lien is against real property. It should not be confused with a lien granted garagemen and others for labor on or storage of chattels.

Storage and Repair Lien

Concerning storage and repair liens, the Illinois statutes make this provision:

... every person, firm, or corporation who has expended labor, skill, or materials upon any chattel, or has furnished storage for said chattel, at the request of its owner, reputed owner, or authorized agent of the owner, or lawful possessor thereof, shall have a lien upon such chattel beginning on the date of the commencement of such expenditure of labor, skill and materials or of such storage for the contract price for all such expenditure of labor, skill or materials, or for all such storage, or in the absence of such contract price, for the reasonable worth of such expenditure of labor, skill, and materials, or of such storage, for a period of one year from and after the completion of such expenditure of labor, skill or mate-
Garagemen and automobile mechanics form the largest class of persons benefiting from this law. A farmer who has had work done on his automobile or tractor subjects it to the lien.

After a chattel has been returned to the owner, the lien lasts for only 60 days, unless within the 60 days the lien claimant files a notice of claim with the county recorder.

**Agister's Lien**

English law very early recognized that those who pasture or feed the livestock of others have a right to keep such livestock until they have been paid for the pasture or feed. The person entitled to such a lien is called an *agister*. An Illinois law provides that "agisters and persons keeping, yarding, feeding, or pasturing domestic animals, shall have a lien upon the animals agisted [pastured], kept, yarded, or fed, for the proper charges due for the agisting, keeping, yarding, or feeding." The Illinois courts, interpreting this law, have established three important facts:

1. To be entitled to an agister's lien, the person claiming it must have the animals in his charge and under his control. An elevator company or feed company is not entitled to a lien simply because it supplies feed to another on credit.

2. There must be at least an implied agreement for the pasturing, feeding, or care before the lien can attach. One who wrongfully keeps the livestock of another is not entitled to a lien.

3. An agister's lien does not take precedence over a chattel mortgage unless the chattel mortgagee (one who lent money) consents to an arrangement whereby persons other than the mortgagor feed and care for the animals. A mortgage executed, however, while the animals were under agistment would be subject to the lien.

To enforce this lien, the one entitled to it, while still in possession of the animals and after requesting reasonable or agreed compensation from the owner, may give 10 days' written notice to the owner, stating the time and place at which the property will be sold. After due publication of notice, as required by law, the animals may be sold and the amount claimed for feed, keep, or pasture recovered, together with the costs of the proceeding. The remainder, if there is any, is paid to the owner.
CONTRACTS AND WARRANTIES

Contracts

What a contract is. Simply defined, a contract is “an agreement, upon sufficient consideration, to do or not to do a particular thing.” Thus there are two absolutely necessary elements: agreement between the parties and adequate consideration.

Agreement between the parties. There must be a mutual understanding or a “meeting of the minds” before a contract can exist. If the parties are mistaken as to what was intended, there is no contract. Such agreement is usually reached through a process of offer and acceptance, oftentimes including counter offers and much altering of conditions before an agreement is finally reached. Questions which concern delivery, quantity, weight, price, quality, payment, or any other things that may affect the agreement should be settled.

Adequate consideration. To be enforceable, a contract must provide that the parties exchange something of value. The thing of value may consist of money, labor, goods, or a promise to do or not to do some specific thing. A contract may come into existence when each party has promised something of value to the other, or when one party actually performs his part of the agreement in return for a promise from the other.

A valid contract is enforceable at law. If one party fails to carry out its terms, the other may sue for damages or, in some instances, he may force the party who is not carrying out the terms to perform them. Forcing the performance of the terms is called specific performance.

Some contracts must be in writing. Most contracts which a farmer makes need not be in writing to be enforceable, but there are three important exceptions: (1) transfers of real estate and farm leases must be in writing; (2) a contract that is not to be performed within one year after it is made must be in writing and signed; (3) a contract to sell goods valued at $500 or more or a sale of such goods is enforceably only to the extent the buyer has accepted the goods, or for that part of the goods the buyer has paid for, or if the contract is in writing and signed.

Contractual rights of a wife. By common law, when a man and woman married, they became as one. The “one” was the husband. He controlled his wife’s person and property rights, was entitled to any

1 For discussion of wage contracts, see pages 42-43.
money she might earn from outside employment, and represented her in suits and actions at law.

In Illinois and in other states, these common-law principles have been replaced by statutes giving women equal property rights with men. Illinois law gives married women the following rights: to own, purchase, sell, mortgage, or otherwise deal with her own personal and real property; to sue and to be sued without joining her husband with her; to defend in her own right if she and her husband are sued together; if she is deserted by her husband, she can prosecute or defend in his name any actions he might have prosecuted or defended; to be immune from her husband's creditors except in so far as his obligations are for family expenses and the education of their children; to enter into contracts; to “receive, use, and possess her own earnings, and sue for them in her own name, free from the interference of her husband or his creditors.”

The law, however, does limit the right of husband and wife to contract with each other by providing that “neither husband nor wife shall be entitled to recover any compensation for any labor performed or services rendered for the other, whether in the management of property or otherwise.” Interpreting this portion of the law, the courts have held that a wife is not entitled to compensation for nursing her husband during illness, nor is the husband entitled to compensation for labor performed on his wife's farm.

**Warranties**

A product sold by a merchant or dealer is accompanied by an implied warranty that it will do the thing it is supposed to do, or is fit for the use it is intended for. This is an established principle of law. Therefore if you buy a hayrake and find that you cannot use it because it has a mechanical defect, you can return the rake and get your money back. As a matter of business practice, sellers oftentimes “make the buyer whole” by replacing defective parts or by allowing him credit for further purchases.

Two important kinds of warranties—express and implied—accompany the sale of personal property (chattels). An express warranty results from plain statements the seller makes about the goods. An implied warranty results as a matter of law from the nature of the transaction and of the subject matter. When you buy a brooder stove, there is an implied warranty that it will burn satisfactorily and create enough heat for the amount of space that such stoves normally heat.
There is no warranty that it will do something which such stoves do not ordinarily do unless the seller expressly so warrants.

A merchant or dealer, trying to make a sale, often makes representations which, while not true, are not stated expressly enough to constitute a warranty. His representations, called “puffing,” do not become a part of the contract of sale. Express warranties are not often made. Implied warranties, however, accompany nearly everything a farmer buys or sells and are therefore more significant.

The following implied warranties are especially important to farmers: that livestock feed is fit for farm animals to eat; that if planted under normal conditions, seed will grow; that farm implements will perform satisfactorily the operations for which they are designed; that serum and virus are effective for the use for which they were made.

**Consumer fraud act.** This act makes it unlawful to use deception, fraud, false pretense, false promise, or to omit, conceal or suppress any material fact with the intent that others rely on such concealment, omission, or suppression in connection with the sale or advertisement of any merchandise. The Attorney General of Illinois is charged with the responsibility of administering the act. He may have any person who has engaged or is about to engage in such acts enjoined from doing so. The court may also make such orders or judgments as are necessary to restore to any person money or property which has been acquired by him by means of any practice declared unlawful by this act. An amendment to the Illinois Business Corporation Act provides that domestic corporations who have willfully and substantially violated the provisions of this act may be dissolved involuntarily by a court decree based on a complaint filed by the Attorney General. Further, any out-of-state corporation that willfully and substantially violates the provisions of the act may have its license to do business in Illinois revoked.

**FARM LABOR**

**Farm Wage Contracts**

The thoroughness with which farm employers and farm laborers discuss the terms of employment varies considerably. From a legal standpoint such agreements have at least two important characteristics: (1) nearly all of them are oral, and (2) most of them do not specify the length of time the laborer is to work.
Term of employment is important. If a wage contract specifies an indefinite term of employment or a term that will end within a year from the time the contract is made, the contract is valid whether it is in writing or not. But if the term of employment agreed upon is for a year or more, the agreement to be enforceable must be in writing and signed by the employer and employee.

The Illinois courts have held that when a man is employed for an indefinite time, the agreement constitutes a hiring at will. In controversies, facts may be introduced to show that he is employed by the day or by the month. Illinois decisions nevertheless indicate that he is hired at will and that he may quit or be discharged at any time without incurring any liability or acquiring any rights because of the quitting or the discharge.

The application of this rule has sometimes been unjust to married farm laborers, because it has forced them to move out of their homes without sufficient notice. A simple written wage contract that states the length of time for which a man is hired and that provides that notice to quit be given a definite time in advance of the end of the contract would give a married farm laborer the protection he needs. When, however, a definite term has thus been agreed upon in writing, it is binding upon both employer and employee.

Wage rate. When a farm laborer is employed at no specific wage, the prevailing rate in the community for the kind of work he does will apply. Sometimes, however, the employe agrees to let the employer pay what he thinks the services are worth. Courts have generally held that such an agreement is invalid because the amount to be paid is not definite. This means that a laborer could not rely on his contract to recover wages. He would be entitled, however, to a reasonable wage for labor actually performed.

Other forms of payment. Questions about garden space, meat, milk, bonuses, and other forms of payment should be well settled between the parties. Agreements concerning room, board, laundry, chores, and Sunday work should be made with single men.

Employer’s Liability

Farm owners and operators ask many questions about their liability for injuries to farm laborers or other laborers they employ, particularly as to the liability they may incur under the provisions of the Illinois Workmen’s Compensation Act.
Agricultural exemptions. The Workmen's Compensation Act is a law making industrial employers generally responsible for injuries occurring to their employees during their hours of employment and laying down certain conditions concerning liability insurance. An agricultural exemption in the act reads:

... nothing contained herein [that is, in the section which makes the act apply automatically to certain hazardous occupations] shall be construed to apply to any work, employment or operations done, had, or conducted by farmers and others engaged in farming, tillage of the soil, or stock raising, or to those who rent, demise, or lease land for any such purposes, or to anyone in their employ, or to any work done on a farm or country place, no matter what kind of work or service is being done or rendered.

This language would seem to exclude a farm employer from liability for any kind of work done on a farm. The Supreme Court of Illinois, however, in a decision involving the exemption, held that the words, “any work done on a farm or country place” must be limited by the context of the act to mean work which is in its nature a part of farming. The court has held that persons employed to haul fertilizer to a farm, till farmlands, and hull clover were engaged in farm work and that their employers, therefore, were not subject to the provisions of the Workmen's Compensation Act.

The line of demarcation, however, between what is in its nature a part of farming and what is not has by no means been settled. The court has held that a farmer operating a sawmill on his farm was subject to the act where the sawmill employees were concerned, since in operating a sawmill he was engaged in an occupation other than farming. In another case a farmer who employed a carpenter to build a corncrib was held exempt from the act. The court here held that the man was still a farmer, not a building contractor. This decision lends weight to the view that so long as a farmer does not himself engage in other occupations, but only hires his building, ditching, painting, or other services done, he will not come under provisions of the act. This view is backed up by the last clause of the act, “... no matter what kind of work or service is being done or rendered.”

A farmer should, however, for his own protection, make certain that independent contractors who employ laborers, such as carpenters and painters, are covered by liability insurance.

Common law liability. Under certain conditions a farmer may, however, be liable for injury to his farm hands or to others even
though he does not come under the provisions of the Workmen's Compensation Act. If it can be shown that the injured party is not barred from recovering damages by what the law has designated as contributory negligence (negligence on the part of the injured party), or by his assumption of risk, or by facts that show that the injury was due to the negligence of fellow workers; but that the injury was due to negligence on the farmer's part, the farmer is liable for damages.

The real purpose of the Illinois Workmen's Compensation Act is to remove such defenses as contributory negligence, assumption of risk, and injury by fellow workers and make it easier for a workman to recover damages. An employer not under the act may still be liable for injury to his employes, but he is not so likely to be because the defenses named above can then be used. In any case, it is wise for an employer to maintain liability insurance.

**Illinois Labor Legislation**

The position of farm labor under the principal Illinois labor laws is as follows:

**Acts applying to farm labor.** "An act to promote the welfare of wage earners by regulating the assignment of wages" provides that no assignment of wages earned or to be earned shall be valid unless it meets certain requirements of this act, among which are that it shall be in writing, signed by the wage earner, and that it shall be given to secure an existing debt.

"An act to include in judgments for wages the services of the laborer's horse or team" provides that when a horse or team is furnished by a laborer and is necessary to his work, he may include the value of services in an action for his wages.

**Acts not applying to farm labor.** The provisions of some of the principal Illinois labor acts specifically exclude farm labor. An act which makes *eight hours a legal day's work* specifically excludes farm labor; the Illinois Health and Safety Act and the Workmen's Occupational Diseases Act both specifically exclude farm labor in the language used in the Workmen's Compensation Act (pages 43-45); the Unemployment Compensation Act provides that "the term employment shall not include agricultural labor; domestic service in a private home... service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of 21 in the employ of his father or mother..."
Farm Drainage

Certain common-law principles concerning the drainage of land were early established by Illinois courts. One of these principles is that when one tract of land is naturally so situated that it drains across a lower adjoining piece of land through natural depressions, its owner is entitled to this drainage and the owner of the land below cannot lawfully prevent the natural flow of water.

This common-law principle, however, did not meet the needs of a growing agriculture. So the courts evolved a broader rule, which considerably increased the number of farms that could legally secure adequate drainage; the rule is this:

An owner whose land is so situated that it naturally drains across a lower adjoining piece of land through natural depressions may increase the amount of flowage from his land by artificial ditches constructed on his own land, provided that the artificial ditches drain only the natural basin from which water could have flowed onto the lower land and discharge the water onto the lower land at the natural discharge point. Also, in improving the drainage on his own land, an owner cannot cause water to back up onto higher land.

Drainage Districts

Much of the land in Illinois is too flat to drain well naturally. In the central part of the state the prairie could not be farmed until the land had been tiled and ditched. To put in enough tile and ditches to handle the water meant crossing the land of many owners. The legislature made possible the construction of drainage works which cross property lines when it passed two acts on drainage, the Levee Act and the Farm Drainage Act. These acts have since been combined into a single act, the Illinois Drainage Code.1

Drainage districts are formed on the petition of either a majority of the adult landowners who own one-third of the land in the area to be drained, or on the petition of one-third of the adult landowners who own more than one-half of the land to be drained. This type of organization makes it possible to include in the district lands belonging to an unwilling minority. It is the only feasible type of district organization for drainage work on a large scale.

1 This law, passed in 1955, is found in Ill. Rev. Stat., ch. 42, secs. 1-1 to 12-24 (1961).
The petitions are directed to the county court. If the court approves the petition, it appoints commissioners to make a survey. Their report compares the costs and benefits of drainage. After the report is filed, the court sets a date for the hearing. Any interested person may appear at the hearing and file his objections. Assessments made for the operation of drainage districts are, like taxes, liens against the lands benefited.

Other methods of organization are provided in the law. Since the organization of drainage districts is a very exacting process, it should be handled by persons familiar with the law and its operation.¹

**Limits to Right to Build Dams**

In Illinois the common law on damming or impounding (collecting and holding) water is that anyone who dams up or impounds water does so at his own risk. If his action subsequently causes damage to others, he will be liable for such damage. The rule holds whether he dams stream water or surface water.

A stream-bank owner has the right to dam a stream or make other uses of it so long as he does not unreasonably interfere with the lawful use of the water by downstream owners, divert the course of the stream around downstream owners, or cause water to back up on lands of those above him.

A landowner may dam, divert, or store surface waters or the water of irregular streams for water conservation and use, or soil conservation and improvement, so long as he does not violate any of the common-law rules of drainage. Certain laws apply generally to the construction of dams; they contain the following provisions:

1. Under the Soil and Water Conservation District Law directors of districts may, by enacting land-use regulations, make landowners carry out certain engineering operations, including the construction of terraces, terrace outlets, check dams, dikes, ponds, and ditches.

2. The Illinois Drainage Code provides for and regulates the construction of levees or embankments by providing for the formation of drainage and levee districts.

3. A dam or other obstruction cannot be put in a navigable stream without the approval of the state. However, in an Illinois case which went to the United States Supreme Court, the Court held that the con-

¹For more information about drainage districts, see Illinois Circular 751, "Illinois Farm Drainage Law."
struction of a dam in a navigable stream was not objectionable if as a matter of fact the stream was not used for navigation.

4. Waters within or bordering on a city or village are under the jurisdiction of the municipal government and this jurisdiction extends three miles beyond the city limits. The municipal government may change a watercourse, construct dams, or perform other acts necessary for the welfare of the inhabitants.

5. A county may remove driftwood and other obstructions from natural watercourses. The law does not specifically give a county authority to dam streams, but if the circumstances warranted, the authority might be inferred.

6. Owners of dams must provide fishways.

FENCES

What Are Legal Fences?

According to the provision of the state law a legal fence is a 4½-foot inclosure in good repair that will keep livestock off adjoining land and highways.

It may be constructed of rails, timber boards, stone, hedge, barbwire, woven wire, or whatever the fence viewers of the township or precinct consider the equivalent. A second provision, however, gives the voters at the annual township meeting the right to determine what shall constitute a legal fence in their township; and in counties not under township organization the county board shall have the right to regulate the height of fences.

The laws regarding legal fences apply only to fences which keep livestock off adjoining lands or highways.

Electric Fences

Whether an electric fence can be considered a legal fence depends upon those portions of Illinois law which give discretion to fence viewers, township voters, and, in counties not under township organization, to county boards. But whether electric fences are legal, either by interpretation or amendment, should be decided wholly by the answer to the question: Can they safely keep livestock from trespassing?

Electric fences, however, are used largely as movable fences within the farm itself. Therefore, whether they constitute a legal means of withholding livestock may not be so important as whether the owner
of an electric fence can be held liable for the death or injury of persons or of animals belonging to others. When injury to others is clearly caused by the owner's negligence (that is, when he has failed to see to it that his fence is properly constructed and installed) and when the injured parties themselves are not at fault, it is probable that the owner can be held liable for damages.

**Responsibility for Division Fences**

Illinois law provides that when the lands of two or more owners adjoin, each owner is responsible for making and maintaining a just proportion of the division fence. Each owner ordinarily assumes responsibility for a designated portion of the fence, usually one-half and usually the half on his right as he faces the division line from his own property. Such division is custom, however, not law.

When owners cannot agree on the portion of the fence each should maintain, the township fence viewers can mark and define the portion to be built and maintained by each. In counties organized by townships, the board of auditors serves as fence viewers. In counties not under township organization, fence viewers are appointed by the county board.

When a person who has allowed his land to remain unfenced afterward fences it, using the fence of another, he must pay the owner of the fence his just share of the value of the fence as it stands. If they cannot agree on the value of the fence or the share which each owner should bear, they may call in the fence viewers, or the wronged person may bring an action before a justice of the peace.

The courts have held that an owner whose land adjoins that of another cannot avoid maintaining his share of the partition fence unless he chooses to let his lands lie without cropping them or using them for other farm purposes. An action may therefore be taken to compel a negligent adjoining owner to build or repair his share of a division fence. When repair is urgent, one owner may give the other ten days' written notice that repairs are necessary. If the repairs are not made within the ten days, the complaining owner may do the work himself and recover from the other the expense of repairing the fence and other costs incurred.

An owner has the right to remove his portion of a division fence only if: (1) he gives the owner of the adjoining land one year's written notice, and (2) after he has removed the fence, he allows his land to lie open and unused for agricultural purposes. The owner of the adjoining land, however, may buy the other's interest in the fence.
**Trimming Hedge Division Fences**

To protect the land against injury from overhanging hedge trees, Illinois law provides that the owner of a hedge division fence must trim it to 4 feet in its eighth year. At least once every two years thereafter, he must cut it back or trim it to a height of not over 5 feet. The law further states that the provisions of the act do not apply to any hedge fence (not over 60 rods long) which protects an orchard, or buildings, or otherwise acts as a windbreak.

If an owner fails to cut his hedge, the owner of the adjoining land whose soil it injures may, if his own hedge is properly thinned, cut the hedge and recover the cost from the negligent owner.

All hedge along a highway must be trimmed annually to a height of 5 feet. Osage hedge, however, must be trimmed to 4 feet. Trimming is to be done before October 1. The landowner may obtain a permit to grow hedge to any desired height for not more than one-fourth of the frontage along the highway to serve as a windbreak.

The law on hedge fence applies only to division fences and fences along highways. A farmer can have all the hedge fence he wants so long as it does not overhang or adjoin his neighbor's land.

**LIVESTOCK, DOGS, VICIOUS AND WILD ANIMALS**

**Damage by Trespassing Livestock**

One law provides that if domestic animals break through a good fence into another's property, their owner is liable for all damages they may do. This law also provides that the owner of animals running at large contrary to law is liable for damages whether the property they damage is fenced or not.

This law further provides that trespassing animals may be taken up and retained until their owner makes good the damage done. The person taking them up, however, must notify the owner within 24 hours, or if the owner is unknown, he must post notices at some public place near the premises. The Illinois courts, interpreting this law have laid down the following principles:

1. A may recover damages from B, who owns the adjoining land, if B's livestock break through B's part of the division fence, even though A's part of the division is defective.
2. If B's livestock break through A's part of a division fence, to recover damages A must show he was not negligent in keeping his part of the fence repaired. Unless he can prove that he was not negligent, A cannot even hold the trespassing animals.

Another Illinois law prohibits the owners of domestic animals from permitting the animals to run at large. If an owner does not use reasonable care in restraining his animals and allows them to roam the countryside, he will be liable in damages to anyone injured, fence or no fence. The law also provides for a pound where animals that are permitted to run at large may be retained and, if not claimed, sold by the poundmaster.

Trespassing bulls. A trespassing bull may do considerable damage, particularly if it serves cows that belong to someone else. If the bull is an inferior animal or if it is of a breed or type different from that of the cows it serves, the owner whose cows have accidentally been bred to it may suffer considerable loss. Whether the owner of the cows can recover damages depends upon the facts in each case. The following statements give the principles on which the courts have acted:

1. An owner who knows that his bull is in the habit of breaking out will, in nearly all cases, be liable for the animal's trespass. Maintaining good division fences is not a sufficient exercise of care to avoid his liability for damages. His only insurance against liability may be a strong bull pen. Most courts would consider that service to cows was an aggravation of the trespass and would allow damages.

2. When an owner has no knowledge that his bull has ever broken out, and when he has not been negligent in maintaining his part of a division fence, the Illinois courts have held that he is nevertheless liable for damages if the animal breaks through his part of the fence. He is liable, too, if the bull gets on other people's property through anything except a division fence, regardless of the condition of the fence.

3. When the bull gets through the part of the division fence belonging to the owner of the adjoining land, and when the fence is not in good repair or reasonably strong at the point where the bull breaks through, the owner of the bull cannot be held liable.

Thus the probability that the owner of a trespassing bull will be held liable for damages is quite high. The owner of a bull will therefore find it best to do whatever is necessary to prevent the animal from trespassing. The promptness with which the owner of a trespassing bull goes after it may affect the extent of the owner's liability.
Right to Stray Animals

*Estray* is the legal term for a domestic animal of unknown ownership, running at large. The law does not apply to dogs, cats, and poultry.

A householder may take up a stray animal found on or about his premises. But within five days he must post notices of his possession in at least three public places in the township. He may then use the animal for his own benefit.

A stray animal, except a cow in lactation, must not be used until notice has been posted. The notice must describe the animal, must state before what justice of the peace and at what time (not less than 10 nor more than 15 days from the posting of the notice) the taker-up will apply for appraisal of the animal. If the owner appears and claims the animal, the taker-up is entitled to payment for keeping, feeding, and advertising. If the stray animal dies or gets away, the taker-up is not responsible.

If the owner of a horse, mule, or ass, or a head of cattle that is an estray does not appear within a year, claim the animal, and pay for the charges and expenses, the animal becomes the property of the taker-up. However, the taker-up must notify the justice of the peace who heard the appraisal proceedings that one year has elapsed and that the owner has not appeared. If the animal was appraised at more than $25, the county clerk is also entitled to this notice. If the owner of a hog, sheep, or goat does not appear within three months, claim the animal, and pay for the charges and expenses, the animal will likewise become the property of the taker-up.

**Responsibility for Animals on Highway**

When a person runs into an animal on the highway, and he is injured or he damages his vehicle, he often attempts to hold the owner of the animal liable. What damages, if any, he can collect in a particular instance cannot be predicted with accuracy. These general rules, however, apply:

1. A farmer who is *negligent in maintaining his fences* and who allows his animals to roam the highway can be held liable for damage that the animals cause those who use the road.

2. A farmer who keeps his fences in good repair but who has animals that *he knows habitually break out* may be held liable for damage that these animals cause those using the road.
3. A farmer who keeps his fences in good repair and whose animals do not habitually break through the fence and onto the highway can be held liable for damage if he knew an animal was out and on the highway and made no reasonable effort to get it in or if he was negligent in any other way.

4. A farmer who drives animals along or across the highway, particularly a paved highway, can be held liable for damage that the animals cause if he can be proved negligent. To avoid being held negligent, he must use whatever care is necessary to keep the animals under control. If animals are being driven at night or when the visibility is poor, it will require more care to warn motorists properly and to keep the animals under control. The amount and nature of the traffic will also affect the care which the owner will need to take. When the road is jammed with traffic, it may be negligent to try to drive a herd of cattle across it no matter how much caution is exercised.

Illinois law is not clear concerning a farmer’s liability when he is not negligent in any way. It would seem reasonable for the courts to hold that where there is no negligence there is no liability.

Sheep-Killing Dogs and Biting Dogs

Sheep-killing dogs. In many Illinois communities the large numbers of stray dogs which roam the countryside and molest flocks virtually prevent sheep raising. Sometimes not the strays, but the neighbor’s dog is responsible for the damage. In either case flock owners often turn to the law and its enforcing authorities for help.

There are four distinct forms of legal protection against dogs. First is the license requirement. The purpose of licensing dogs is to make dog owners more responsible for the dogs they keep, and to build up a county indemnity fund for flock owners who suffer loss because of dogs. The fund may also be used to compensate for losses of other domestic animals. The indemnity for sheep is the fair market value of each injured or killed animal. To secure the indemnity, the owner must present his claim to the township supervisor and follow a definite procedure prescribed by law. In counties not under township organization the claim should be presented to a justice of the peace.

Another law allows the owner of domestic animals to kill dogs not accompanied by their owners when the dogs are discovered in the act of chasing, wounding, or killing domestic animals.
An owner of sheep may put out poison for dogs on his own premises if he does so with reasonable care and with good intentions.

The owner of animals injured or killed by dogs also has a right of action against the dog's owner for all damages caused.

Although these measures have done some good, they are not very effective when the number of stray dogs becomes as large as it is in many areas. In such localities either individual cooperation of farmers or rigid measures by local authorities are apparently the only solutions.

**Biting dogs.** The law makes the owner of a dog responsible for any injury the dog does to a person. An act passed in 1949 states, "If a dog, without provocation, attacks or injures any person who is peacefully conducting himself in any place where he may lawfully be, the owner of the dog is liable in damages to the person so attacked or injured to the full amount of the injury. The term 'owner' includes any person harboring or keeping a dog."

When a watchdog is kept within a restricted area and warning signs are posted at entrances to the area, anyone who does not heed the signs cannot ordinarily complain if he is bitten. The common law does not interfere with the keeping and training of watchdogs if the dog is taught to discriminate between social or business callers and trespassers.

**Vicious and Wild Animals**

The owner of a bull, horse, boar, rooster, or of any animal capable of inflicting injury and of a known vicious nature is liable for the damage the animal may do. If the animal, however, has never shown any viciousness, the owner is not liable until it does.

Also, anyone who keeps a wild animal of a recognized dangerous nature—a bear or a lion, for instance—keeps it at his own risk.

**UNLAWFUL TO HAMPER TRAVEL ON HIGHWAYS**

To enable people to travel on public highways safely and without undue annoyance, the Illinois legislature has enacted certain laws. These laws state in considerable detail what people cannot do in, on, or near a highway.

1. Placing loose earth, weeds, sod, or other vegetable matter, or any other material, on a road in such a manner as to interfere with
the free flow of water from the dragged portion of the road to the
side gutters or ditches is unlawful. (The law does not apply to work
done by road officials.)

2. Planting willow trees on the margin of roads is declared a public
nuisance.

3. Hedge fences along the line of a public highway must be kept
trimmed annually to a height of 5 feet or less. Road commissioners
may, however, at their discretion, permit a farmer to keep one-fourth
of the total length of hedge along the highway untrimmed, as a wind-
break for livestock.

4. Destroying or defacing official guide boards, posts, signs, and
notices is punishable by fine.

5. Depositing “weeds, trash, garbage, or other offensive matter or
any broken bottles, glass, boards containing projecting nails or any
other thing likely to cause punctures” is punishable by fine. Putting
broken glass on a highway is a misdemeanor. And going onto high-
ways with cleated implements is unlawful.

6. Allowing grain to spill on a highway is unlawful.

7. Placing obstructions across a road, encroaching on a road with
a fence, plowing or digging on a road, turning a current of water on a
road so as to cause washing, and leaving hedge cuttings along a road
for more than 10 days are acts punishable by fine.

8. It is unlawful for itinerants to hitch or turn loose any stock,
cows, horses, or other animals on the highways for the purpose of
feeding them; to camp on any public highway for more than 12 hours
in any one township or road district; to camp opposite a school, ceme-
tery, or church, or within 100 yards of a residence without the con-
sent of the proper persons.

WILDLIFE, SOIL AND WATER CONSERVATION,
AND FIRE PROTECTION DISTRICTS

Wildlife Districts

Wildlife habitat management areas. Landowners who want to
aid in the conservation of wildlife may cooperate with the Depart-
ment of Conservation by leasing land for wildlife habitat management
areas. Such an area must consist of at least 600 acres of contiguous
land and must be leased for five years or more. The Department of
Conservation may cooperate with the landowners in improving wild-
life cover. At least two-thirds of the area must be open for public hunting during the regular season. No hunting is permitted on the remaining land. The act also provides rules for hunting on the land, removing surplus game, protecting the farm premises from hunters, and supervising the project. The Department may reimburse the farmer at an agreed upon price for any hay or other crops the farmer leaves standing for the benefit of game.

**Controlled shooting areas.** The law permits and regulates hunting clubs. The hunting season for such clubs extends from October 15 to March 15. Among the Department of Conservation's licensing requirements for upland game shooting are the following:

1. The shooting area must be not less than 320 acres nor more than 1,280 acres of contiguous land, and the land must be controlled for five years or more.

2. Every controlled shooting area must release at least 250 Bob-white quail, Chukar partridges, or pheasants each season.

3. All game killed must be banded on the same day with special bands provided by the Department of Conservation.

4. The hunting club must not kill more than 80 percent of the game released, except that a club may kill 100 percent of the Chukar partridges and certain other birds which are not native.

**Soil and Water Conservation Districts**

The law concerning soil conservation districts establishes a procedure whereby landowners can organize a district for the systematic promotion of better land use and soil and water conservation and to prevent erosion, flood-water, and sediment damage. The law is administered by the State Department of Agriculture.

**Organizing a district.** To organize a district any 25 or more landowners whose lands lie within the proposed district and who own 10 percent of the land by area must file a petition with the State Department of Agriculture asking that the district be organized. The Department conducts a hearing, then a referendum. If those within the proposed district show enough interest and if the organization seems feasible, the district is established as a public corporation. When more than 55 percent of the landowners sign a petition, the State Department may dispense with the referendum.

An important function of the district is to afford a legal medium through which other agencies, particularly federal agencies, can work directly with farmers.
Duties and powers of directors. A district is governed by a board of five directors, elected from among the landowners and occupiers within it. Elections are required to be held each year on or before March 1, and two directors elected in odd years, three in even years. Directors can, however, be nominated and elected at a yearly meeting on or before March 1 if the State Department of Agriculture approves a petition requesting authority so to elect.

The directors, on behalf of the district, may enter into agreements with federal, state, or other agencies. Under the agreements, soil conservation surveys and land-use recommendations will be made; detailed plans may also be worked out with those owners in the district who wish to cooperate. The law provides that if and when the directors believe that some control of land use is necessary, land-use regulations may be formulated and submitted to a vote. If three-fourths of all landowners having land within the district vote in favor of the regulations, they become effective. The directors have no power to levy taxes or assessments.

Copies of the Soil and Water Conservation Districts Law may be had from the Director of the State Department of Agriculture (Springfield).

Soil conservation subdistricts. In order to take advantage of federal aid for watershed protection and flood prevention, Illinois adopted a law in 1955 that allows soil-conservation districts to form subdistricts within watershed areas. The subdistricts have the power to levy a tax at a maximum rate of 12½ cents per $100 valuation. This money may be spent to develop and execute plans and programs relating to any phase of flood prevention or flood control, and to prevent or reduce damage from erosion, flood waters, and sediment. Federal funds are available to the subdistrict on a matching basis (over half of the costs are expected to be paid from local funds) if certain requirements are met, for example: (1) furnishing the land and (2) obtaining from landowners of half of the land an agreement to carry out a soil-conservation program.

The governing body of the subdistrict consists of the directors of the soil and water conservation district (or districts) in which the subdistrict is formed. To form a subdistrict, these steps are necessary:

1. A petition must be signed by a majority of the landowners who own a majority of the land, then filed with the district directors.

2. Within 30 days after receiving the petition, the directors hold a hearing at which land may be added or excluded.

3. The directors give notice and hold an election in the proposed subdistrict within 30 days after the hearing.
4. If approved by majority vote, the directors file a certificate of organization with the county clerk and Department of Agriculture.

**Fire Protection Districts**

**Organizing a district.** An Illinois fire protection districts law provides that 50 or more legal voters living within the limits of a proposed district (a majority if there are fewer than 100 voters in the proposed district) may petition the county court to have the question of the organization of a fire protection district submitted to a referendum vote. The court must call a hearing at which those interested may appear and express their opinions. Then a referendum is held. If the majority of the votes cast are favorable, the district is organized. Additional lands may be annexed by subsequent proceedings.

Disconnecting territory from a district is possible if there is no bonded indebtedness and if the territory would receive greater fire protection benefits from another district or a city or village. The assessed value of the remaining district, however, must be sufficient to provide adequate fire protection.

**Duties and powers of trustees.** After the district is organized, the county court appoints three trustees who administer the affairs of the district. The trustees may formulate and publish ordinances to cut down the number of fire hazards in the district, employ a firefighting force, and purchase fire-fighting equipment. The trustees may raise money by taxation and by issuing bonds. The power to tax is limited to 11/4 mills for each dollar of assessed, equalized valuation of property in the district.
Part II

REGULATORY LAWS

The laws discussed in this Part are called regulatory laws; that is, they require farmers and others engaged in particular kinds of enterprises to meet specific standards or to follow definite procedures. They are usually designed to protect the public. They often provide for inspection. Some state agency, frequently the State Department of Agriculture, is responsible for making the inspections and for enforcing the laws.

SALE OF FEEDS, FERTILIZERS, AND SEEDS

Commercial Feeds

Illinois farmers every year buy several million dollars' worth of commercial feed for livestock and poultry. Most of this feed is sold by reputable firms. If the protein it contains is of good quality and costs no more per unit than the protein in such standard supplements as tankage and soybean oilmeal, it will help farmers get economical livestock gains.

Two abuses have arisen in the sale of commercial feeds which have made public protection necessary. The worst abuse occurs when firms or individuals intentionally misrepresent the composition and feeding value of their feeds in order to sell them for more than they are worth. The second abuse occurs when firms or individuals are careless about handling and mixing feeds. In either case, the price is too high and the health of the livestock may be endangered.

Labeling commercial feed. The Illinois Commercial Feed Act requires every lot of commercial feed distributed within the state to bear a plainly printed statement certifying the net weight, the name or brand, the name and address of the manufacturer; the name of each ingredient used; the minimum percent of crude protein, crude fat, phosphorus, and iodine; the maximum percent of crude fiber; and the minimum and maximum percent of calcium and salt. When feeds are distributed in bags or containers, the label must be attached to the container. When feeds are distributed in bulk, the label must be furnished to the purchaser at the time of delivery.
The legal definition of commercial feeds includes all materials which are distributed for use as feed or for mixing in feed, except unmixed seeds or grain, unground hay and unmixed straw, stover, silage, cobs, husks and hulls, and unmixed chemicals.

**Customer-formula feed.** Customer-formula feed is a mixture of commercial feeds mixed according to the instructions of the final purchaser or contract feeder. At the time a customer-formula feed is delivered, the purchaser must be given an invoice showing the name and address of the mixer, the name and address of the purchaser, the date of sale, the brand name and number of pounds of each commercial feed used, and the number of pounds of any other feed ingredient added.

**Drugs.** The State Department of Agriculture may require that a feed containing dangerous drugs be safe when used according to directions. It may further require that a feed be conspicuously labeled to warn the feeder and that the label state the percentage of the drug in a prominent place.

**Weed seeds.** Regulations forbid the sale of any feed containing more than 3 percent weed seeds. All weed seeds contained in feeds must be treated so as to render them incapable of germination.

**Enforcement.** Every brand of commercial feed must be registered with the State Department of Agriculture before the brand may be distributed in the state. The label which is to be attached to the feed must be submitted to the Department of Agriculture which is authorized to sample commercial feeds or customer-formula feeds and analyze them. When an analysis reveals any misbranding or adulterating, the results of the analysis are forwarded to the distributor and the purchaser. Any company guilty of mislabeling, adultering, or operating without a license is subject to penalty.

**Seller's liability.** A farmer whose livestock is injured by impurities, poisonous substances, or mechanical objects in the feed sometimes raises the question of the seller's liability. The law states that when a farmer buys feed from a man in the business of selling it, the sale is accompanied by an implied warranty that the feed is of merchantable quality and fit for the purpose sold. If it is not, and the buyer's

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1 The law defines weed seeds as the seeds of all plants generally recognized as weeds within this state, including primary noxious weeds (Canada thistle, perennial sowthistle, field bindweed, leafy spurge, Russian knapweed, Johnson grass, and hoary cress) and secondary noxious weeds (curled dock, wild garlic, dodders, bullnettle, buckhorn, quackgrass, wild mustard, oxeye daisy, giant foxtail, and wild carrot).
livestock die, or if they get sick or are so injured by the feed that their value depreciates, the farmer can recover damages against the seller. In such cases it must be proved that the feed was imperfect at the time it was bought.

Feed is often carelessly handled on the farm: it is sometimes contaminated by other substances or spoiled by improper storage. Thus two practices will give a farmer reasonable protection: buying from a reliable dealer and being careful about handling, storing, and feeding.

Further information about the regulation of the sale of commercial feeds may be secured from the State Department of Agriculture, Springfield, Illinois.

**Commercial Fertilizers**

The analysis, labeling, and sale of commercial fertilizers and custom-mixed fertilizers in Illinois are regulated by law. The law regulates all materials recognized as plant nutrient elements, except unprocessed animal and vegetable manures and the following natural products: agricultural limestone, marl, sea solids, burnt or hydrated lime, and sewage sludge.

**Guaranteed analysis required.** All bulk, bagged, or custom-mixed fertilizer distributed in Illinois must be accompanied by a label showing the net weight, the brand and grade, guaranteed analysis, and the name and address of the registrant. Custom-mixed fertilizer distributed in bulk must, in addition, show the weight and guaranteed analysis of each commercial fertilizer used in the custom mix. No superphosphate containing less than 18 percent available phosphoric acid, nor any mixed fertilizer or custom mix in which the sum of the guarantees for the nitrogen, available phosphoric acid, and soluble potash is less than 20 percent, may be distributed in the state. Specialty fertilizer (distributed primarily for nonfarm use) may contain less than 20 percent nutrients.

**Labeling, licensing, and registration.** The seller must put the above information on each bag, barrel, or package of the fertilizer. If shipments are made in bulk, the information must be attached to the invoice.

Each brand and grade of commercial fertilizer must be registered for a fee of $5 for each grade. Each custom mixer of fertilizer in Illinois must register and pay a registration fee of $25. There is also a license fee of 10 cents a ton on each ton of fertilizer sold. These fees are paid to the State Department of Agriculture.
Plant food deficiency and short weight. The State Department of Agriculture may sample, inspect, analyze, and test commercial fertilizers and custom mixes to determine if the fertilizer is in compliance with the law. When any violation is found, the custom mixer or person registering the fertilizer is subject to a fine of not less than $100 nor more than $200 for the first offense, besides being required to reimburse the customer.

If the official analysis of any fertilizer sold falls short of the guaranteed analysis, a penalty of three times the value of the deficiency is assessed against the manufacturer or mixer and paid to the farmer who used the fertilizer. If the State Department of Agriculture finds that any fertilizer in the possession of the consumer is short in weight, a penalty of four times the value of the shortage is assessed against the manufacturer or mixer and paid to the consumer.

Further information concerning this law may be obtained from the State Department of Agriculture, Springfield.

Agricultural Seeds

Must be labeled. The sale of agricultural seeds in Illinois is governed by an act to “regulate the selling, offering or exposing for sale of agricultural seeds.” The law covers all commonly used seeds, including hybrid corn and vegetable seeds. It requires an annual permit to sell agricultural seeds. A permit is not required for the farmer who produces the seeds and sells them on the premises where they were grown, but he is subject to other provisions of the law. The purpose of the permit requirement is to allow inspection of agricultural seeds to prevent the sale of seed containing a high percentage of weed seeds. The law provides that the containers in which agricultural seeds are offered for sale must bear a plainly written or printed tag or label containing the following information:

1. The commonly accepted name and type or variety; if there are two or more seeds each of which is in excess of 5 percent of the weight, the label must carry the words mixture or mixed.

2. The lot number or identification.

3. The origin (where produced) of specified seeds such as alfalfa, red clover, and field corn (except hybrid corn); if their origin is unknown, the fact must be stated.

4. The percentage, by weight, of all weed seeds.

5. The names and approximate number per ounce of specified kinds of weed seed or bulblets that are present in more than the specified amounts.
6. The percentage, by weight, of agricultural seeds other than those required to be named on the label.

7. Percentage by weight of inert matter (matter which cannot grow).

8. Percentage of germination (germination test), percentage of hard seed, and calendar month and year tested.

9. The name and address of the person who labeled the seed or who offers it for sale within Illinois.

Those who sell vegetable seed must label the kind and the variety and include the name and address of the person who labeled the seed or offers it for sale within Illinois. If the seed does not meet the standards for germination set by the State Department of Agriculture, the percentage of germination and of hard seed and the month and year it was tested must be given.

Other requirements. The law also makes it illegal to sell agricultural or vegetable seed in Illinois unless the tests required have been made within nine months of the sale, excluding the month in which the tests were made. It is also illegal to use false labels or false advertising. The sale of agricultural seed or of mixtures of agricultural seed containing any noxious weed seeds (Canada thistle, perennial sowthistle, field bindweed, leafy spurge, Russian knapweed, Johnsongrass, and hoary cress) is prohibited. This regulation does not apply to vegetable seeds.

Enforcement. The State Department of Agriculture is responsible for enforcing this act and making official seed analyses.

LAWS CONCERNING ANIMAL DISEASES

Rabies

The State Department of Agriculture has the power and the duty to prevent the spread of rabies among dogs and other animals. Whenever a case of rabies occurs in a locality, the Department can order that all dogs in the locality be kept in an inclosure from which they cannot possibly escape, or that they be kept muzzled and on a chain or on a leash made of some indestructable material.

The Department may further order all dog owners or keepers to take such preventive measures as it may judge necessary to prevent the spread of this disease. It also has the power to determine the extent (or area) of the locality and the length of time that the preventive measures it orders shall remain in effect.
The expense of any action that the Department of Agriculture takes must be borne by the owner or keeper of the dog. Any officers who fail to carry out the provision of this act are subject to penalty.

An Illinois law concerning the liability of the owner or keeper of a rabid dog provides that unless he knows it is rabid, he can be held liable only for the direct acts of destruction or damage that the dog may cause, not for any damage from disease spread by the dog.

The owner of animals destroyed because of the rabid condition of the dog may, however, be indemnified from the county dog-license fund, as in other cases. The owner must submit proof, of course, that the animals were so destroyed.

**Rabies law (1953).** A rabies-control law provides that all dogs not confined at all times to an enclosed area shall be inoculated once a year. The law gives considerable authority and responsibility to county boards of supervisors (commissioners in counties not having townships). Each board has the following duties:

1. To appoint a licensed veterinarian as a rabies inspector.
2. To authorize and appoint deputy inspectors.
3. To fix the compensation of the inspector and deputies.
4. To fix the fee to be paid by the owner for having his dog inoculated, and the proportion of that fee to be paid to the county for the County Rabies Fund.
5. To remove the inspector or deputies for cause.
6. To make an annual report to the State Department of Agriculture, showing the number of rabies cases and dogs inoculated, and the fees and penalties collected.

The inspectors and deputies appointed by the county board have these duties:

1. To enforce the act.
2. To inoculate dogs.
3. To issue certificates of inoculation (one copy for the owner, one for the file, and one for the county board).
4. To issue serially numbered tags to owners that bear the same numbers as those on the certificates.
5. To pay over a part of the fees collected to the county treasurer.
6. To impound dogs running at large that have no evidence of inoculation.
7. To give a notice of 7 days to known owners of impounded dogs to claim their dogs, after which time to dispose of the dogs or turn them over to a humane society.
8. To confine for 10 days dogs that have bitten people.

Although the enforcement authority is broad, the initial duty of having a dog vaccinated is placed on the owner. If an owner fails to do this and allows his dog to run at liberty, he may be fined as well as required to pay for the vaccination.

**Hog Cholera**

It is the duty of the owner or person in charge of swine who knows or suspects that hog cholera or any other contagious disease is present in the herd to use "all reasonable means" to prevent its spread. If a hog dies of cholera or is slaughtered because of it, it is the duty of the owner or person in charge either to burn the carcass immediately or bury it at least 2 feet deep. It is illegal to convey diseased swine, or swine known to have died of or been slaughtered because of any infectious or contagious disease, along any public highway or other public grounds or across any private lands.

Violators of the law covering hog-cholera control may be fined from $25 to $50 and held liable in damages to anyone suffering loss resulting from the violation.

In the only Illinois decision which construes this law, an appellate court held that the purpose of the act was to give those who suffered from the wrongful spread of hog cholera a new legal right and to check the spread of it by making the violators of this law subject to criminal prosecution.

Since July, 1957, the sale or use of virulent live virus to prevent hog cholera has been prohibited in Illinois. Since January 1, 1960, no feeder pig that has been vaccinated with virulent hog cholera vaccine may be imported into Illinois. Violators of this law may be fined from $100 to $200.

Widespread vaccination now holds hog cholera in check. If, however, people let up on vaccinating for a while, as they sometimes do, the disease may again spread over an area. In any event, this law applies.

**Contagious disease among swine.** The law provides that no swine shall be brought into the State for purposes of feeding or breeding, or both, without a permit from the Department of Agriculture. Before a permit is issued, the department must be satisfied that there are no reasonable grounds to suspect the existence of hog cholera or any other contagious or infectious disease of swine and that the person applying for the permit has not previously violated the act.
Application for the permit may be made by either the shipper or the receiver of the swine. The permit is valid for 72 hours after issued and must accompany the shipment of swine along with a certificate of health from the state of origin. The certificate of health shall be signed and issued by an approved, accredited veterinarian of the state of origin. The certificate shall indicate the number and description of the animals in the shipment. The receiver of the swine shall receive a copy of the certificate.

Within five days of delivery of the swine, the applicant who received the permit must return the permit to the Department of Agriculture together with the names and addresses of the persons accepting delivery and the number of swine received. All swine transported under such a permit are subject to examination.

Swine brought into the state for immediate slaughter (within seven days) may enter accompanied only by a consignment slip showing the point of origin, the number of animals, the destination, the date of shipment, and identification of the vehicle transporting them.

**Feeder swine law.** This law provides the standards for the importation of swine for feeding purposes. It provides that before any feeder swine are admitted into Illinois they must have been (1) vaccinated with anti-hog cholera serum and modified live virus hog cholera vaccine more than 14 days before entry, or (2) vaccinated within 24 hours of loading or entry and held in quarantine at destination for 14 days. Entry is possible without vaccination if a special permit is obtained from the Department of Agriculture, and if the animals are vaccinated within 48 hours after entry and held in quarantine for 14 days.

Swine must be accompanied by an official health certificate issued by an approved, accredited, or federal veterinarian. The certificate must show that the swine are free from symptoms of any contagious, infectious, or communicable disease, are from a nonquarantine area, are not affected with or have not been exposed to vesicular exanthema, and have not been fed raw garbage. The consignee must be furnished a copy of the health certificate.

The act does not apply to hogs brought into the state for these purposes: (1) immediate slaughter or resale for immediate slaughter; (2) breeding; (3) sale at a licensed community sale or marketing center under state or federal supervision; (4) exhibition as provided by law, (5) feeding, if brought directly from an out-of-state producer (but not for resale); and (6) feeding, if the swine were purchased
directly from a licensed community sale or marketing center if such place is licensed by the state of origin or is under federal supervision.

There is now a minimum penalty of $100 for violation of the feeder swine law. The penalty for a second offense is from $200 to $500, and for a third offense, a fine of $200 to $500 plus 60 days in jail.

**Licensing feeder swine dealers.** Any person who sells or offers to sell feeder swine in Illinois must obtain a license issued by the Department of Agriculture. Anyone who sells only feeder swine which he has produced and raised himself is exempt from this law. Licenses must be displayed at the place of business and renewed annually. The fee is $10 for the initial license and $5 for renewal. Factors considered in issuing licenses are personal character, integrity, financial responsibility, and experience. A bond of $5,000 is required of each dealer.

Licenses may be revoked for giving false information when applying for a license, willful violation of this law, conviction of crime, or making false promises through advertising or salesmen. Penalty for violation is not less than $100 nor more than $500.

**Brucellosis**

**Cooperative plans for testing and accrediting.** By Illinois law the State Department of Agriculture is made a cooperating agency with the U. S. Department of Agriculture for the eradication of brucellosis. A cattle owner may get his cattle tested for this disease by applying to the USDA or the State Department of Agriculture. When an owner applies for the test, he enters into an agreement with the U. S. Department of Agriculture and the State Department of Agriculture to do certain things. By following the procedure prescribed by the Department, an owner may get his herd accredited as abortion free.

**Payment of indemnities.** If the owner consents, infected animals may be destroyed. For a purebred animal, an owner is entitled to a maximum indemnity of $50 from the State Department of Agriculture and $50 from the U. S. Department of Agriculture. For a grade animal, he is entitled to a maximum indemnity of $25 from each of these agencies. The payment of the indemnity by the State Department of Agriculture, however, is contingent upon the availability of funds for the purpose and upon payment by the U. S. Department of Agriculture of a sum equal to the amount the State Department is to pay.

**Quarantine of infected animals.** The infected animals which are not destroyed are subject to the quarantine rules and regulations of the State Department of Agriculture and cannot be disposed of ex-
cept in compliance with its orders. To enforce these rules and regulations, employees of the State Department of Agriculture may enter, during usual working hours, "any premises, barns, stables, sheds, or other places where cattle are kept."

**Shipping and sale of animals.** According to the law, "Female cattle of the beef breeds under 18 months of age for feeding and grazing purposes only may enter the state or may be shipped from public stockyards within the state without test for brucellosis. Such cattle are under quarantine. . . . They may be held in quarantine without test during their feeding and grazing period, which period shall not exceed 12 months from date of entry." Upon application to the Department, the period may be extended up to 90 days. At the expiration of the period, the cattle must be sold for immediate slaughter or tested at the owner's expense. Female cattle of the beef breeds that are 18 months or older may enter the state or be shipped from public stockyards for feeding purposes under the following conditions: (1) if they have a certificate of health stating that they have reacted negatively to the test for brucellosis within 30 days prior to entry, or are less than 30 months old and have been officially vaccinated as calves; (2) if a permit is secured for the shipment of such cattle under quarantine for immediate test within 10 days.

Before accepting any cattle for shipment within the state, except to public stockyards, the truck operator or transportation company must be furnished with a certificate of health or with a permit.

Female cattle and bulls more than 6 months old cannot be sold within the state except for slaughter unless: (1) they were tested for brucellosis within 60 days before the date of sale and the test was negative; (2) they are less than 36 months old, were vaccinated when they were between 4 and 8 months old, and have an official certificate of vaccination; (3) they are in a herd that at the time of sale is certified to be free from brucellosis; or (4) they come under the Department regulation which allows for the sale of untested female cattle of the beef breeds which are less than 18 months old solely for feeding and grazing purposes.

**Other control plans recognized.** The law provides that "the owner of any herd of domestic cattle who desires to cooperate with the department in the elimination of brucellosis under some plan or program other than the test and slaughter plan, may do so . . . but shall have his entire herd tested for brucellosis, in accordance with the require-
ments of such plan and other relevant provisions of this act.” The Department may discontinue and refuse to recognize any plan for the elimination of brucellosis in a county other than the test and slaughter plan, if it finds that less than 3 percent of the dairy and breeding cattle older than 4 months are infected. Registered purebred reactors may, upon application to the Department, be retained under quarantine.

A 1947 amendment provides that any county may adopt the county area plan to eradicate the disease. This is authorized by the Animal Disease Act.

**Ring test.** The amended law permits the ring test for detecting brucellosis. Animals classified as suspicious or suspect may be retained in the herd and their milk marketed if they were properly vaccinated when they were between 4 and 8 months old.

**Bovine brucellosis retest for reactors.** The Bovine Brucellosis Act was amended in 1959 to provide for notifying the owner of any cattle that were shown to be reactors to the agglutination test for brucellosis. Thereafter, the owner may submit, within 15 days of the original test, a written request to the Department of Agriculture to have his entire herd retested. Upon approval by the Department, the herd may be retested at the owner’s expense, the results thereof to be binding and final.

**Dairy and breeding cattle.** A 1957 amendment to the law allows cattle from modified certified brucellosis-free areas to enter the state or to be moved from any modified certified free area or certified brucellosis-free herd within the state without a test for brucellosis. The certificate of health accompanying dairy or breeding cattle must indicate that the herd from which the cattle originated had no reactors on the last complete herd test and must show such cattle to be negative to the brucellosis test within one year of date of shipment. The act formerly included only cattle from certified brucellosis-free herds.

**All herd owners cooperating after 1957.** The law was amended to require all herd owners of dairy or breeding cattle to submit their cattle to test upon the request of the Department and to provide that, after July 1, 1957, all such herd owners cooperate in an eradication plan, if the milk is to be legally offered for sale. For herd owners who are producing Grade A milk, the same amendment became effective after July 1, 1955.

For further information on regulations for the control of brucellosis, write the Department of Agriculture, Springfield.
Tuberculosis in Cattle

State-federal program. A program to eradicate tuberculosis in cattle is carried on cooperatively by the State Department of Agriculture and the federal government. All owners of dairy or breeding cattle in Illinois must submit their cattle to a tuberculin test upon request of the State Department of Agriculture. They must also provide the facilities necessary for making the tests and give such assistance as the Department may require. The direct expense for making the tests is paid by the Department. Cattle that react positively to the test (have tuberculosis) must be branded and tagged immediately. The owner must then keep the cattle until they are destroyed or their sale and transfer are approved.

A 1947 amendment to the Illinois law permits any county to adopt the county area plan for eradicating this disease. (Details of this plan may be obtained from the Department of Agriculture, Springfield.) Counties which adopt the plan are authorized to employ a veterinarian and assistants.

Payment of indemnities. When cattle which have tuberculosis are destroyed, the federal government and the state pay the owner the difference between the salvage value and the fair appraised value of the animals. The portion the state pays is limited; it is also contingent upon the availability of funds for the purpose. The state may pay as much as $50 for a grade animal and $100 for a purebred one. To have an animal more than three years old appraised as a purebred, the owner must present a certificate of registration.

To be entitled to compensation an owner must meet several requirements: (1) he must be a resident of Illinois or an Illinois taxpayer; (2) he must have complied with the law on the subject; (3) if the animal was imported into Illinois, he must show that it was tested at the time it was brought into the state and was found free of tuberculosis; (4) he must furnish proof that animals added to his herd were added in compliance with the provisions of the law; (5) he must dispose of the animal within 30 days after it has been adjudged infected; (6) he must satisfactorily disinfect any infected premises; and (7) he must have the condemned animals appraised as provided by law.

Other provisions. Important to cattle owners are these other provisions of the law covering the eradication and control of this disease.

1. Owners of herds which have been found by the Department to be tuberculosis-free are entitled to a certificate showing that fact.

2. Cattle which show physical evidence of tuberculosis or which are known to have been tested and to have reacted positively cannot
lawfully be sold except for slaughter at establishments where federal meat inspection is maintained.

3. For feeding or grazing, female cattle of the beef breeds less than 18 months old may be shipped into the state from a modified area or from a public stockyards without a tuberculin test, but they must be held in quarantine until released by the Department. They may be held in quarantine without test during their feeding and grazing period, which cannot, without an extension of 90 days, last longer than 12 months from the date of entry. Steers from modified areas or stockyards are not subject to quarantine.

4. If a release permit is secured, such cattle may be shipped for immediate test by an accredited veterinarian.

5. Cattle from state and federal accredited herds and from modified accredited areas may be shipped into Illinois without undergoing quarantine if they have a certificate of health. All cattle shipped into Illinois, except those consigned to a recognized slaughtering center for immediate slaughter, must be shipped with certificates of health.

6. No person can legally offer milk for human consumption or for processing into products for human consumption unless the herd producing that milk has been tested for and found free of tuberculosis. Violators are subject to a maximum fine of $500.

**Meat and Poultry Inspection**

All establishments where animals and poultry are slaughtered or prepared for food must be licensed. The law establishes standards for sanitation, requires proper facilities, and requires that animals and poultry must be inspected before and after slaughter. Any animal or any part not wholesome or fit for human food must be condemned.

**Exemptions.** The inspection does not apply to animals and poultry slaughtered by the owner for personal or family use.

Retail butchers are exempt if the only processing performed is the cutting up of meat and poultry which have been inspected by the state or federal inspection service.

Producers of the animals or poultry are exempt provided: (1) the producer is engaged in producing agricultural products; (2) the number of animals or poultry is in keeping with the size or volume of the farm; and (3) all processing operations are performed by the producer on the farm where the animals or poultry were grown. To remain exempt the producer must not: (1) actively engage in buying or trading animals or poultry; (2) actively engage directly or indi-
rectly in any business which includes the slaughter of animals or poultry for food; (3) actively engage directly or indirectly in canning, curing, pickling, freezing, salting meat or poultry, or preparing meat or poultry products for sale; or (4) slaughter animals or poultry not owned more than 30 days.

All fresh meat or poultry from animals slaughtered by exempt producers must be clearly marked as prescribed by the Department of Agriculture with the name and address of the producer.

Establishments inspected by the federal inspection service are exempt.

Establishments inspected by any city are exempt if the city's inspection is equal to the state requirements.

Enforcement. Any meat or poultry not in compliance with the law may be seized and condemned. Any person violating the act may be fined from $100 to $500. For a second offense the fine is $200 to $1000 or one year imprisonment, or both.

**LICENSING AND REGULATING DISPOSAL PLANTS AND COMMUNITY SALES**

**Animal Disposal Plants**

All rendering or animal disposal plants in Illinois must get a license every year from the State Department of Agriculture. The Department must inspect these plants and enforce the regulations provided by the law.

Buildings and carcasses. These are the regulations concerning plant buildings and the disposal of carcasses:

1. All rendering and animal disposal plants must have either concrete floors or floors of some other nonabsorbent material, have adequate drainage, be thoroughly sanitary, and adapted to carry on the business.

2. All carcasses must be processed or disposed of within 48 hours of delivery at the plant.

3. Except for proper escapes for live steam, all cooking vats must be airtight.

4. Carcasses must be skinned and dismembered within the plant.

5. Uncooked carcasses or portions of carcasses must not be fed to livestock.

6. Such portions of carcasses as are not entirely disposed of by
cooking or burning must be disposed of by burying or in such other manner as the Department may provide.

7. Portions of carcasses disposed of by burial must be buried so that no part of the body is nearer than 4 feet to the natural surface of the ground. Every part of the carcass must be covered with quicklime.

Transporting diseased animals. Regulations concerning the transporting of animals that have died of disease are very stringent:

1. Carcasses of animals that have died of disease must be hauled in a covered vehicle bed or tank so constructed that no drippings or seepings can escape from it.

2. Vehicles loaded with the carcass of an animal that has died of disease must be driven directly to the place of disposal. The driver may, however, stop on the highway for other carcasses, but he must not drive into the yard or premises of any person without first obtaining that person's permission.

3. The driver or owner of a vehicle used in conveying animals which the driver or owner has reason to believe died of disease must immediately after unloading the animals disinfect the vehicle bed, tank, wheels and all canvassing and covers with a solution of at least one part of creosol dip to four parts of water or with some other equally effective disinfectant.

4. The Department may prohibit the removal of any animal which has died of a highly contagious, infectious, or communicable disease. Such animals may be ordered burned or buried at the site where they died.

Responsibility of owners of dead animals. Persons who owned or cared for an animal that has died must dispose of the carcass within twenty-four hours. Such carcass may be disposed of by cooking, burying, burning, or by sale to a person licensed to dispose of dead animals.

Further information concerning the enforcement of this law may be obtained from the State Department of Agriculture, Springfield.

Community Sales of Livestock

A community sale, according to Illinois law, is "any sale or exchange of livestock or other personal property held by any person at an established place of business or premises where the livestock or personal property is assembled for sale or exchange and is sold or
exchanged at auction or upon a commission basis at regular or irregular intervals but more frequently than three times a year."

So far as the sale of livestock is concerned, the purpose of the law is, first, to prevent the spread of contagious animal diseases and, second, to make sure that the operator of a community sale pays the sellers of livestock fully and promptly.

**License necessary.** The operator of a community sale must get a license from the State Department of Agriculture which must be renewed annually. He must furnish acceptable bond or show sufficient bank deposits to indemnify livestock owners against fraudulent dealing, withheld payments, and other irregularities. Operators are required to keep records of the receipt and disposition of all livestock.

**Inspection of premises and livestock.** Animals known to be infected with or to have been exposed to any contagious or communicable animal disease cannot be consigned to or sold through any community sale. The law on brucellosis imposes restrictions on the transfer of cattle. These restrictions apply to cattle, swine, and sheep sold at community sales. To help enforce this provision and other sections of the law relative to sanitation and animal disease, the operator of a community sale must employ an approved supervising veterinarian to inspect the premises and all livestock offered for sale.

**Animals for slaughter exempt.** This act does not apply to the business of buying or assembling livestock for prompt shipment to or slaughter in any livestock market that is subject to the Federal Packers and Stockyard Act or to any market regularly inspected by the Bureau of Animal Industry of the U. S. Department of Agriculture.

**Vaccination.** Unless accompanied by a certificate of vaccination, all swine sold through a community sale for feeding or breeding purposes must be vaccinated against hog cholera before leaving the sale. The purchaser must be furnished a certificate of vaccination at the time of purchase. The certificate must identify the swine by breed, color, weight, and right ear identification tag.

Swine which react to the test for brucellosis must either be returned to the consignor or sold for immediate slaughter.

**Weighing.** The weight of all livestock sold by weight at a community sale or market center shall be determined at the time such livestock are sold or the ownership is transferred. The act also requires that all scales used for this weighing shall be so located as to be easily accessible for testing by the Department of Agriculture.

**Further information** concerning the law governing community sales may be had from the State Department of Agriculture, Springfield.
OTHER REGULATORY LAWS

Use of Crop Sprays and Herbicides

The use of certain herbicides has raised a serious problem of damage to neighboring crops. In one case crop dusting by airplane carried 2,4-D three-fourths of a mile and severely damaged a crop. Certain vegetable and fruit crops are extremely susceptible to 2,4-D damage. In response to the need to protect areas where sensitive crops constitute a principal source of income, Illinois has passed a law permitting the Department of Agriculture to regulate or forbid the use of 2,4-D in these areas. Upon petition of the county board or ten or more commercial producers of fruit or vegetables in an area, the Department of Agriculture may hold a public hearing. If the evidence at the hearing shows that the use of 2,4-D within the area has caused actual damage to commercial production of fruit and vegetables, and that the commercial production of fruits and vegetables constitutes one of the principal sources of agricultural income, then the Department of Agriculture may issue an order regulating or forbidding the use of 2,4-D. The order may not be effective for more than two years and must fix the boundaries of the area. This law does not affect any person's liability for damages to the property of another caused by the use of 2,4-D.

Unless forbidden by law, farmers have a right to use the many beneficial dusts and sprays to protect crops. Care must always be used, however, to avoid damage to neighboring crops, bees, and livestock. The law concerning damages caused by dusting and spraying is uncertain. But because of the risk of using these materials in an area close to sensitive crops or livestock, liability may be imposed even though the user is not negligent or only very slightly negligent. A farmer will probably be liable for damages even if the spraying is done by a commercial operator.

Destruction of Noxious Weeds

Certain very hard-to-control weeds have been declared by the Illinois legislature as noxious weeds. Canada thistle, perennial sow-thistle, leafy spurge, Russian knapweed, hoary cress, Johnson grass, giant foxtail, and European bindweed are included in this group. Ragweed is also included when it is found within the corporate limits of a city, village or town.

The law makes it the duty of all landowners to destroy all noxious weeds growing on their land before the weeds bear seed. It is the duty
of the township weed commissioners to enforce the provisions of this law and to destroy all noxious weeds which the owners themselves refuse to destroy.

An addition to the law provides for the establishment of a county weed-control department and a county weed-control commissioner. Such a department may be created upon petition of 25 legal voters from each of at least two-thirds of the townships or road districts in the county or 5 percent of the legal voters at the last general county election, whichever is fewer. When the county board receives the petition, it can establish such a department by resolution. The law sets up in detail the powers and the duties of a weed-control commissioner.

If the commissioners destroy the weeds, their work is charged against the owner's property. Moreover, the owner can be fined as much as $300 for refusing to destroy his weeds. Railroad companies may also be fined for not destroying noxious weeds growing on their rights-of-way.

The Department of Agriculture can investigate areas where leafy spurge or hoary cress are reported present or growing. The Department shall cooperate with the owner in eradicating them. It may agree to pay a fair portion of the cost of treatment and even to pay a fair rental for the land that is involved. If the owner refuses to cooperate, the law authorizes the Department to institute eminent domain or condemnation proceedings and take possession of the land until the weeds are eradicated.

The law also provides that anyone who brings in the seeds of Canada thistle, perennial sowthistle, European bindweed, Russian knapweed, or leafy spurge and allows them to be disseminated may be fined up to $100. The owner or occupier of land may also be fined $100 for allowing any of these plants to go to seed.

Highway commissioners are required to keep down weeds along the highways and are subject to penalty if they do not.

For an explanation of the law on weed seeds in agricultural seeds, write to the State Department of Agriculture, Springfield.

**Analysis of Well Water**

To further the public interest in safe water, the state has made certain services generally available. A chemical analysis of water in any well will be made by the State Water Survey, Urbana, and a bacteriological examination will be made by the State Department of Public Health, Springfield. Anyone who wants a test made should send for a sample container.
Protection Against Nuisances

A nuisance is any act which unlawfully causes inconvenience, damage, injury to health, or offense to the senses. According to present law, it is a public nuisance to do these things:

1. To cause or suffer the carcass of any animal or any offal, filth, or noisome substance to be collected, deposited, or to remain in any place to the prejudice of others.

2. To throw or deposit any offal or other offensive matter, or the carcass of any dead animal, in any water course, lake, pond, spring, well, or common sewer, street, or public highway.

3. To render impure the water of any spring, river, stream, pond, or lake to the injury of others.

4. To obstruct or encroach upon public highways, private ways, and ways to burying grounds.

Though the law specifies other public nuisances, these are the ones most likely to affect farmers.

Illinois courts have declared a rendering works to be a nuisance when it did not control the offensive odors it created. They have also held that, though every owner should enjoy reasonable use of a stream, he has no right to destroy its use to those below him. Putting a gate across a highway and building or fencing out into the road are clearly nuisances. Other acts which have traditionally been regarded as public nuisances may still be so even though not enumerated in the law.

When some one individual is the only one who suffers from the act of another, the act does not amount to a public nuisance. It may, however, amount to a private nuisance. The sufferer may then enjoin the doer or secure damages. An example is the damming of a stream in such a way as to cause it to back up on the lands of another.

Accurate Weights and Measures

General law. The Illinois law on weights and measures provides:

. . . the weights and measures received from the United States under joint resolution of Congress approved June 14, 1836, . . . and such new weights and measures as shall be received . . . and [those] supplied by the State in conformity therewith and certified by the national Bureau of Standards, shall be the State Standards of weights and measures.

The law enables cities to set up a supervision and inspection service. It also specifies that when not otherwise provided by law, the Director of the State Department of Agriculture shall test and inspect all weights and measures anyone uses in dealing with the public. Those found violating the standards established by law may be prosecuted.
Specific laws. Aside from the general law on weights and measures, there are some specific laws. Among their provisions are the following:

1. Commodities sold in package form must have a weight, measure, or numerical count conspicuously marked on the package to show net quantity.

2. Butter, oleomargarine, and bread must be sold by weight.

3. Milk bottles and barrels for fruits, vegetables, and dry commodities must meet certain standards specified by law.

4. The basic unit for measuring liquids must be the gallon.

5. The yard is the unit of length from which all other measures of extension are derived. A chain for measuring land must be 22 yards long, a rod 5 1/2 yards, a mile 1,760 yards. "The acre for land measurement shall be measured horizontally and contain 10 square chains . . ."

6. A cord of wood must contain 128 cubic feet.

7. A bushel of alfalfa seed must weigh 60 pounds; bluegrass seed, 14 pounds; carrots, 50 pounds; coal, 80 pounds; ear corn, 70 pounds; shelled corn, 56 pounds; lime, 80 pounds; Irish potatoes, 60 pounds; sweet potatoes, 50 pounds; barley, 48 pounds; soybeans, 60 pounds; clover seed, 60 pounds; oats, 32 pounds; rye, 56 pounds; timothy seed, 45 pounds; and wheat, 60 pounds.

8. By agreement milk may be bought and sold from farm bulk tanks by use of a dipstick gage. In the event of a dispute the Division of Foods and Dairies of the Department of Agriculture will check the accuracy of the gage. The person requesting the test is charged a fee.

These weights and measures and many others designated in the law are standard. They apply whenever the parties to a contract have not agreed to some different weight or measure.

Obligation to Give Statistics

The State Department of Agriculture is obliged by law to "collect, compile, systematize, tabulate, and publish statistical information relating to agriculture," cooperatively with the U. S. Department of Agriculture.

Every year the State Department of Agriculture sends to each county clerk certain blank books which it is the duty of the local assessors to fill out and return. The law requires that "each owner of farmland or his agent or tenant shall report to the assessing officer any information required pertaining to information sought by the State Department of Agriculture, pursuant to this Act." Refusal to disclose the required information is a misdemeanor, punishable by fine or imprisonment, or both.
In 1939 this law was supplemented to include "data and information on the production and marketing of dairy products." Since then dairy plant owners or operators have been required to fill out and return blanks that were prepared and sent them by the State Department of Agriculture.

The information obtained under these laws is for public use only after it is compiled in such ways as to destroy the identity of the individual reports. The State Department of Agriculture, in cooperation with the U. S. Department of Agriculture, has for several years published an annual report, *Illinois Crop and Livestock Statistics*.

### Insurance Companies and Contracts

Farmers are increasingly large buyers of various kinds of insurance. How much insurance a farmer should have, what he should have it on, where he ought to get it, and what kind of policy he would find desirable are problems that he must settle for himself. But protection against weak or unscrupulous companies and faulty or unclear contracts is something that has required state action.

The Illinois legislature as early as 1869 attempted to curb some of the injurious practices that then existed by enacting a law regulating insurance companies. Since that time the insurance laws of the state have been repeatedly amended and enlarged. In 1937 the legislature adopted the Illinois Insurance Code. The Code divides all insurance into three classes: (1) life, accident, and health; (2) casualty, fidelity, and surety; and (3) fire and marine. A company doing business in this state must be classified in one of these three groups and its operations, including its organization, its financing, and its investments, are subject to the regulations contained in the code. The following section of the act is of particular interest to policy holders:

No company transacting the kind or kinds of business enumerated in class 1 [life, accident, and health] ... shall issue or deliver in this state a policy or certificate of insurance, attach an endorsement or rider thereto, incorporate by reference by-laws or other matter therein or use an application blank, in this state until the form and content of such policy, certificate, endorsement, rider, by-law or other matter incorporated by reference or application blank has been filed with and approved by the director [of insurance]. ... It shall be the duty of the director to withhold approval of any policy, etc., ... if it violates any provisions in this code, ... contains exceptions and conditions that unreasonably or deceptively affect the risk purported to be assumed ... 

When well administered, such a provision adds greatly to the safety of insurance contracts: a purchaser buys less at his own risk, and an insurance company will be able to find fewer reasons for avoiding policies on slight grounds.
Government, like private enterprise, must have a place to carry on its business. For farm people the county is the most important local unit of government. The center of governmental activity in the county is the courthouse.

The county board of supervisors or county commissioners are charged with the duty to erect, to keep in repair, and to maintain a county courthouse for the use of the courts of record, the county board, the states attorney, the county clerk, the county treasurer, the recorder, the sheriff, and the clerks of courts, and to provide suitable furniture for these officers. The sheriff is charged by law with the custody and care of the courthouse. He assigns space to the various officers, grants permission for the use of rooms, employs janitor and other service, and cares for the building generally.

When not all the space in the courthouse is needed for regular county officers, the board of supervisors may lease rooms to public agencies (state, towns, courts, and other municipal or public corporations). Space, however, cannot be leased for private enterprises. For example, an Illinois appellate court has held that the county board did not have authority to lease space for a private abstract business.

People are interested in the county courthouse, chiefly for these reasons: (1) circuit and county courts are held there; (2) public sales of property for delinquent taxes are made there; (3) the administration of estates and the probate of wills are handled there, in the county court; (4) county officers have their offices there; and (5) many public records are kept there, the records of most general interest being those having to do with drainage districts, deeds, mortgages, chattel mortgages, taxes, mechanics' liens, marriages, deaths, and births.

Records in the Different Offices

In the county recorder's office the following records are to be found:

1. Deed records: these contain the recorded deeds to all property lying within the county.

2. A grantor's and grantee's index giving the names of all persons conveying or taking real estate and the volume and page where they will be found in the deed records.
3. Records (similar to deed records) of mortgages, releases, trust deeds, and chattel mortgages.


In the county clerk's office are kept records having to do with the administration of estates; probate of wills; tax assessments, payments, and sales; marriages, deaths, births; land drainage; and many others.

In the office of the clerk of the circuit court are decrees of the court, many of which affect personal and property rights of county residents.

**Public Has Right to Examine Records**

Illinois law makes clear the right of the public to examine and copy various kinds of records kept in the county courthouse. This is a quotation from the law:

All records, indices, abstracts and other books kept in the office of any recorder, and all instruments deposited or left for recordation therein shall, during the office hours, be open for public inspection and examination; and all persons shall have free access for inspection and examination to such records, indices, books and instruments, which the recorders shall be bound to exhibit to those who wish to inspect or examine the same; and all persons shall have the right to take memoranda and abstracts thereof without fee or reward.

The courts have held that any member of the public is entitled, during regular office hours, to inspect and examine records, indexes, books, and instruments on file without regard to his motives and that he can expect public officials to give him a reasonable amount of assistance in finding what he wants. Officials, however, are not obligated to make extracts or copies for him. Some counties offer an extracting or duplicating service for a stipulated fee. In those counties, anyone who pays the required fees is entitled to the service.

Records of vital statistics (births, deaths, marriages, and divorces) are not available for public inspection, but the county clerk may issue a certification of the record for a proper purpose.

**DEFINITIONS**

**Assignment** — a transfer by one person to another of some interest in property. Generally refers to an unexpired term under a lease, or to something less than the whole interest in the property.

**Amortization** — a term usually applied to the reduction of a debt by prearranged and regular installments over a fairly long period.
Conveyance — transfer of legal interests in real property.
Decedent — a deceased person.
Deed — an instrument used in conveying the title to land.
Easement — a right acquired by an owner of one tract of land to make some use of an adjoining tract, such as the use of a roadway.
Encumbrance — a right possessed by another person that reduces the owner's equity in real property but that does not prevent him from passing title.
Enjoin — prevent.
Escrow agent — one who assumes custody of a deed pending a land buyer's payment of the purchase price.
Execute — to do all that is necessary to perfect a legal document such as a deed, a mortgage, or a lease.
Fee simple — a type of ownership of real estate. An owner in fee simple is entitled to the entire property, with unconditional power of disposition during his life; at his death intestate (without a will) the property descends to his heirs and legal representatives.
Joint tenancy — ownership of property by two or more persons each of whom has a right of survivorship. Right of survivorship is the right of the surviving person or persons ("tenant" or "tenants") to take the deceased person's share immediately (see pages 21-22). In Illinois such ownership can be created only by language which declares the conveyance is not intended to establish a tenancy in common.
Judgment — a decision of a court in a particular case.
Lien — a legal claim against specific property for some service or benefit rendered to such property.
Misdemeanor — a minor criminal offense punishable by a fine or a county jail sentence.
Oral — spoken, as distinguished from written. Some kinds of legal agreements are valid though only spoken or oral, some are not valid unless written.
Reversion — the interest in an estate possessed by the grantor or his heirs after a life interest has been conveyed. The term applies to real property.
Security interest — a legal right in personal property or fixtures to secure payment or performance of an obligation.
Tenancy in common — undivided ownership of real estate by two or more persons. Upon the death of a tenant in common his share in the real estate passes by inheritance (if he dies intestate) or by will. There is no right of survivorship.

Trust — an interest in real or personal property conveyed by one party to another to hold and manage for the benefit of those named in the conveyance.

Vacate — a term with two principal legal meanings: (1) the setting aside of some legal act; (2) moving from or leaving a house or farm.
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Readers desiring additional information on agricultural law may obtain single copies of the following publications from the University of Illinois, College of Agriculture at Urbana or from a county farm adviser:

Compensation for Illinois Farm Land Taken by the Public. Circular 717.
Inheritance and Gift Taxes on Illinois Farm Property. Circular 728.
Illinois Farm Drainage Law. Circular 751.
County Zoning. Circular 776.
Partnerships in the Farm Business. Circular 786.
Corporations in the Farm Business. Circular 797.
Legal Descriptions of Illinois Real Estate. Circular 800.
Insurance for Farmers. Circular 832.
Farm and Property Trusts. Circular 842.

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