

Will Your Farm or Ranch Stay in the Family?

By MAX MYERS

The author, an agricultural economist, has based this article on a study of 200 farm families and the experiences of 222 lawyers in handling farm estates.

"I HAVEN'T THOUGHT about it... But maybe I should!" That was the common reply when almost 200 farm families were asked about the disposition of their farms.

Entirely too many farm owners—most of them in fact—die before they get around to making a decision as to who gets the farm. The families, the farms and the public will benefit if farm transfer arrangements are made more carefully and sooner.

For Future Generations

Many farmers want to keep their farms in their own families for future generations. There are sound reasons to support this desire for those on adequate and efficient farm units. One of these reasons is that a farm transferred within the family can more easily be transferred as a "going concern."

One has only to look around the average farming neighborhood to realize that relatively few farms stay in the same family for successive generations and that even fewer farms are transferred as complete, operating businesses. Often the retiring farmer sells his stock and equipment at public auction, takes his valuable management knowledge off the farm and lets a new operator learn by trial and error.

There are numerous reasons why farms do not stay "in the family." These include the lack of heirs, or the unwillingness of heirs to farm, inadequate size of farm business, lack of capital and reluctance to discuss the disposition of property or to take any action until after the death of the owner.

What to Do About It

There are, however, many families with a suitable business which they wish to transfer to the next generation. What can they do about it?

No two farm-family situations are exactly alike. Therefore no one definite plan can be laid down for use by all farm owners. The study of many farm-family situations and the experience of many attorneys, as

brought together in this report, seem to indicate that the following points are important:

1. It is rather generally believed that there are benefits to individuals, families, communities and the public if successful farm businesses are handed down as going concerns through the right kind of farm families.

2. Some farms probably should not be kept in the family. Unless the business is adequate in size and efficiency to support a family, and sometimes two families, there is little reason to make the effort necessary to keep one of the children on it. To do so is to try to swim upstream against the current of a desirable trend toward fewer, larger farm businesses.

Who Will Take Over?

3. If a given farm business is adequate and if it is desired to keep it in the family, then the next question is that of deciding who is willing and able to take over from the present owner.

For families with children this may raise the problem of creating in at least one of them an interest in farming and in the continuation of the home farm business. This interest cannot be created overnight just when the parents wish to retire. It is something that starts in childhood, possibly with small shares in farming such as 4-H and FFA projects. It is frequently developed further with share-operating agreements as the youngster reaches maturity.

The continuation of such interest is frequently tied to an understanding by the young man or woman of how the home farm is to be passed on and to whom. Farm couples who have no children of their own to take over the business sometimes work out similar arrangements with other young people.

Discuss Future Plans

4. The family should be able to discuss future plans for the farm business and the eventual disposition of the property, to discuss this sensibly and with a realization that different members have different interests. This should be done early. Some decisions should be made be-

fore all the children choose other paths and leave home.

It seems preferable that these decisions and the necessary legal arrangements be made before the parents expect to leave this world or even to retire. This does not necessarily mean that title to property has to be transferred early, but some definite plans should be made. Such planning and action can forestall friction and uncertainty within the family. It can take into account the effects of taxation and make it possible to avoid losses to the family or the farm and unnecessary expenses to the future estate.

5. There are various alternative methods or legal devices which can be employed to put the family's plans into effect. These devices differ and are suited to different situations.

Principle Alternatives

The principal alternatives which lie before the farm owner who is considering the disposition of his property are these:

1. The law of inheritance (or descent)—The owner may make no disposition or plans. After he dies intestate (without a will), the courts will make disposition of the property to the heirs.

2. A will—He may bequeath the property in a will and specify who gets what and on what terms.

3. Joint tenancy—He may hold the property in joint tenancy with right of survivorship so that when he dies the property will pass to the other person or persons named in the title.

4. Gifts of property—He may give his farm away before he dies or he may give future title but retain life use of it.

5. Sales of property—He may sell the farm, either outright or with various restrictions.

6. Incorporation—He may incorporate the farm business and then dispose of shares in the corporation by methods listed above.

Interests to Reconcile

Several sets of interests must be

reconciled in order to accomplish a successful family transfer of a farm business. These interests include the following:

1. The needs of the parents (landholders) for security of income as long as either lives. This is particularly important when the farm is their only property.

2. The desire of the young man and his family for security of expectation, that is, the certainty that they will own the farm if they work on it and improve it.

3. The interests of other heirs in the family, who under the American way of doing things, expect to receive equal or equitable treatment.

The interests of the farm should not be deteriorated in the process of farming or of transferring the farm. The community and the general public also have an indirect interest in the farm—an interest in efficient, continuous production of foods.

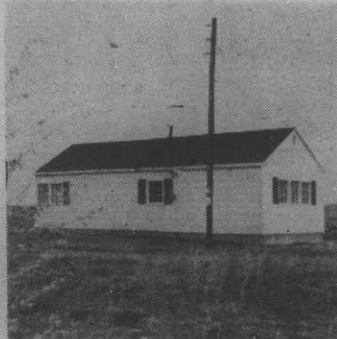
The importance of each of these interests will vary from family to family and from time to time. The problem, then, is to select arrangements which will fit the particular combination of circumstances in the individual case.

Choice of Method

It is difficult to rank one method as better than others, but certain generalizations can be made. For the farm owner who must depend on the income from the farm as long as he lives, the disposition by means of a will is probably most suitable. In situations where it is more important to give the next generation certainty that they will get the farm, it is probably most satisfactory to sell the farm to them when the owner is ready to retire. In both these situations, however, a case can be made for the use of a deed with a retained life interest to the parents. The land owner should decide what he wants to do.

A matter as important as the arrangements for transfer of farm property should never be undertaken without competent legal advice and assistance. A lawyer can advise the farm owner as to the effect of various plans and methods on the farmer's particular situation. Once the owner has decided what he wants to do the attorney can tell him how to do it legally.

Homesteaders Settle Down



—Montana Farmer-Stockman Photos

The tent pictured above was the home of Mr. and Mrs. Alex Brug as they started in the summer of 1947 the difficult job of making a farm and home of their homestead on the Shoshone reclamation project in Park county, Wyoming. Now they live in the comfortable home shown at the right. Brug built it himself from one of the barracks from the Heart Mountain internment camp that were given to each homesteader. Brug now has a herd of 14 Milking Shorthorn cows and a few hogs. The farm is entirely fenced in and is producing grain, hay and pasture for his small dairy operation.

Drain Ditch Saves Crop Land



—Montana Farmer-Stockman Photo

Drain ditches like this on the H. H. Bellefluer farm, Flathead county, can be well worth while when they make possible excellent grain fields seen in background. This land was used only for grazing horses, and equipment couldn't be used on it before it was drained. With soil conservation district help, some 5 miles of drain ditches were dug on the farm. Some, like the one in the foreground of this picture were dug deep with a dragline while others were put in with a regular ditcher pulled by a track-type tractor. About a section of land was drained and Bellefluer says the next year's crop paid for the work.