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Author(s): Carole Frank Nuckton and B. Delworth Gardner

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Foreign Investment in U.S. Agricultural Land— Issues and Perspectives*

Carole Frank Nuckton and B. Delworth Gardner

Introduction

In 1791 Alexander Hamilton said: "Instead of being viewed as a rival (foreign investment) ought to be considered as a most valued auxiliary, conducing to put in motion a greater quantity of productive labor, a greater portion of useful enterprise, than could exist without."¹ Indeed, the policy of our new, developing nation was to encourage investments emanating from the then developed countries. The United States became a haven for those with a strong desire to own land—for non-resident investors as well as for immigrants who wished to make their homes here.

By the beginning of World War I, foreigners owned 30 to 35 million acres of American land—mostly ranch and farmland.² Between the world wars investment activity for foreigners in the U.S. land market slowed. After World War II, foreign funds in the U.S. were directed more into urban development projects than into farmland. It is in the 1970's that the foreign investment pace has quickened markedly in American real estate of all kinds, including, once again, our farmland.

B. Delworth Gardner is Professor of Agricultural Economics at the University of California, Davis, and Director of the Giannini Foundation, University of California, Berkeley and Davis. He received his Ph.D. from the University of Chicago and has served on the staff at Colorado State University, Brigham Young University, Utah State University, and as a Visiting Scholar, Resources for the Future, Washington, D.C.. In addition he has served as a consultant in Bolivia, Iran, India and Ecuador.

Carole Frank Nuckton is a Research Associate, Department of Agricultural Economics, University of California, Davis. She received her B.A. in Philosophy from Stanford University, M.A. in Philosophy from California State University, San Jose, and an M.S. in Agricultural Economics from the University of California, Davis.

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Some Dimensions of Land Purchases by Aliens

Recently, headlines have highlighted agricultural land purchases by foreigners in tones suggesting resentment and even fear. Emotive words have been employed: e.g. "Acre Takers,"³ "The Foreign Land Grab,"⁴ "Invasion of the American Heartland . . . Foreign Investors are Gobbling up Choice U.S. Farms."⁵ The latter quote implies that the situation in contemporary America identical to that of the Island Nauruans, who once maintained a high standard of living by actually selling off chunks of their homeland—a highly rich phosphate—to Australia and New Zealand. Apparently, there is much more concern about alien purchases of our farmland than there is about foreign control of "such American-as-apple-pie nameplates as Brylcreem and Pepsodent toothpaste, French's mustard and Peter Paul candy bars, Libby's string beans and Kool cigarettes, SOS soap pads and Clorox bleach, Capitol Records and Bantam Books, *The New York Post* and *Parents Magazine*, Stouffer's restaurants and Travelodge motels, Airwick and Alka-Selzer."⁶

The press has publicized many of the more notable farmland transactions, often leaving the impression that the alien land-purchase phenomenon has reached crisis proportions. The following table summarizes some of the information collected from several sources. This sample of transactions suggests that West Europeans may be the most active foreigners in the land market, but the Arabs and some Asiatics are also making purchases.

Further bits of scattered information gleaned from here and there give a glimpse of what has been going on:

1. Amrex, a San Francisco brokerage firm, reported that half of its agricultural land transactions

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NOTABLE RECENT LAND ACQUISITIONS			
<u>Landowner</u>	<u>Acreage</u>	<u>Location</u>	<u>Price</u>
1. An Italian family	2,120	San Joaquin Valley California	\$5.5 Million
2. An Italian group via Liechtenstein Corp.	5,500	A Delta island, Sacramento Valley California	\$5.8 Million
3. An Italian family	N/A ^{a/}	A Merced County peach orchard, California	\$2,594/acre
4. Crown Prince Franz Josef II of Liechtenstein	9,000	Arkansas	N/A
5. SAFINCO, an Arab holding company	25,663	U.S. open land	N/A
6. Ferruzzi family, Ravenna, Italy	27,000	Louisiana	N/A
7. Transatlantic Consultants, Munich	17,000	Georgia	N/A
8. Knaus family West Germany	3,700	Wayne County Illinois	N/A
9. Prince Lichtenstein of Austria	10,000	Red River, Texas	N/A
10. Lehndorff Vermogens Vermatting, a Hamburg based holding company	14,000	Midwest	N/A
11. Metternich family West Germany	2,135	Iowa	N/A
12. Busoni family Italy	12,000	Illinois	N/A
13. A Western European	1,215	Midwest	\$1 Million

^{a/} Not available.

NOTABLE RECENT LAND ACQUISITIONS			
<u>Landowner</u>	<u>Acreage</u>	<u>Location</u>	<u>Price</u>
14. An Italian	315 (Citrus)	N/A	\$1.4 Million
15. Italian investors	5,000	San Joaquin Valley delta region, California	\$12 Million
16. French investors	5,500	San Joaquin Valley delta region, California	\$6.8 Million
17. Taiwan/Hong Kong Chinese group	N/A	Town of Locke and surrounding orchards Sacramento River Delta, California	N/A
18. A Western European	1,215	Southern Missouri	Nearly \$1 Million

(about 50 million dollars worth) were made with aliens in 1977.⁷ It also revealed that 32 French investors had been ready to purchase land in the California wine country, but cancelled orders when elections in their country did not result in a Communist-Socialist takeover.⁸

2. Some 50 foreign branch banks are now operating in Chicago and handle investments from overseas.⁹

3. Oppenheimer Industries, Inc., in Kansas City, a brokerage and management firm, reported that sales to foreigners have more than doubled in the past few years and now account for one-third of their annual volume.¹⁰

4. The 1976 annual report of Northern Trust, another management firm, indicated that it manages 460,000 acres in 35 states for foreign interests.¹¹

5. The European Investment Research Center of Brussels estimated that Europeans spent \$800 million on American farmland in 1977.¹²

The foregoing factual information leads many to the conclusion that ownership of land by foreigners is a serious national problem that requires strong remedial action. Is this conclusion warranted?

Despite all the publicity it is highly probable that foreign ownership of U.S. agricultural land is not

yet a significant portion of total holdings. USDA data show only about three percent of our farmland changes ownership each year; over half of these transfers are to resident farmers for expansion of operations, and 80 percent of land sales are farmer to farmer. So at first glance, it appears that land purchases by foreigners would have to accelerate sharply before they would dominate the market and produce the ominous warning of Christopher Stern:¹³ "Then American agriculture, the nation's greatest single source of power, would pass from the hands of American citizens."

On the other hand, there is some danger in being too sanguine on this issue. The reason is that it is very difficult to determine and document the extent of foreign land holdings. What we know for certain is very meager. In 1975, the Department of Commerce surveyed some 6,000 foreign individuals and companies with investments in the U.S. and found that their acreage totaled about 4.9 million. Even if this were all cropland—which it isn't—it represents less than 1.3 percent of the nation's cropland base of 385 million acres. As Wunderlich suggests,¹⁴ even if we double the 4.9 million acres to allow for uncounted parcels and other measurement errors, the total amounts to less than one percent of our private land holdings.

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This estimate yields a “ball park” figure, but obviously not a very accurate one. After the U.S. General Accounting Office (GAO)¹⁵ conducted a survey in 25 counties in five states, including California, its 1978 report was entitled “Foreign Ownership of U.S. Farmland—Much Concern, Little Data.” This is an apt description of where we stand.

One of the critical information problems is that county records are unreliable for pinpointing ownership. Most states do not require that the citizenship of the purchaser be specified. In many transactions the alien may wish to remain anonymous, and there are vehicles aplenty for making the wish a reality. Some utilize illegal means to acquire the foreign currency needed to make the land purchase. Others simply want to avoid being identified as having wealth, especially in their home countries. Still others are afraid of various kinds of discrimination in the U.S. if they are identified as foreign citizens. True ownership can easily be disguised in trusts, partnerships, corporations, and proxy U.S. individual owners. Tranquility Modesta, Ltd., for example, has only one stockholder—Qilar Costa of Uruguay.¹⁶ How can anyone tell who really owns the land from the county record of a corporate name? An illustration of how complex a transaction can be and how great the effort to remain anonymous might be, is provided by the sale of a 2,500 Kansas farm: “an unnamed West German investor contacted a Canadian realty firm, which contacted a Wyoming broker, who contacted a Chicago bank, which employed a statewide Kansas broker, who in turn found a local broker.”¹⁷ As another example: “a West Coast broker told of visiting an elite Spanish hunting club where the men had hunted together for 15 years—“yet not one of them knew that each of the others was my client. They just don’t talk about it.”¹⁸

Why Do Aliens Want U.S. Land?

Investors have been attracted to American land for several reasons, but the overriding consideration seems to be a faith in the fundamental economic strength of the U.S. and its political stability.¹⁹ Damien de Sota of Luxembourg said,²⁰ “There’s no other country in the world where you can invest money and have some assurance that it will be there 10 years later.” Some seek refuge from political instability or agrarian land reform policies in their own countries. U.S. land offers a secure investment and a portfolio-balancing instrument. Most foreign purchasers are not short-term land speculators, but rather seek a long-term, secure investment including capital appreciation.

Besides the existence of excellent investment opportunities here that have provided such strong incentives, the fact that foreigners are holding dollars has given them the ability to purchase U.S. assets. We have had large balance of payments deficits for several years, and dollars have been piling up in foreign lands. As the exchange rate moves against the dollar, it becomes increasingly costly to hold idle dollar balances, and, thus, there is a strong motive to spend them. Where is a more attractive place than in the American economy?

A recent editorial in *The Wall Street Journal* puts the international dollar situation more strongly:

The foreigners who accepted American paper were under the impression that the paper was worth something. When the dollar was falling, many developed doubts and felt that they had better redeem their paper for something more substantial while the getting was good . . . One ill effect is that foreigners worried about the paper they are holding end up trying to buy America.²¹

The relative price of land in the U.S. seems to be of some significance in accounting for the interest of foreigners. Compared to land prices in other developed countries, the perception is that bargains can be found here. Typical prime farmland costs \$3,000 an acre in more crowded France and West Germany. Particularly with the devaluation of the dollar, even the most expensive U.S. land may seem “cheap” to foreigners. Fred Sands, a Los Angeles real estate broker points out, “From an international standpoint, they (Iranians) feel that Southern California is underpriced.”²²

Furthermore, reciprocal tax treaties may give some foreigners an advantage when bidding against domestic purchasers for land. Foreign investors can afford to offer more, if for example, land earnings are taxed at a lower marginal rate than they are for our farmers. Americans are taxed on their total earnings, placing them in a higher tax bracket relative to foreigners who are taxed here only on their land earnings. Furthermore, capital gains enjoyed by foreigners may be taxed at a lower (even zero) rate than are those captured by our domestic investors. Tax-treaty advantages, however, differ greatly depending on the country with whom the arrangement is made.²³

It also appears the U.S. offers more favorable leaseback arrangements than do many other countries. In Holland and Austria, for example, the landowner has much less control over the tenant than in America. Dutch and Austrian government

regulations protect tenants so that a farmer can stay on the place for a lifetime—even if he is a bad farmer.²⁴ Leases in the U.S. run for a negotiated period—one, five, or ten years. Most foreign investors use management firms, such as Doane of St. Louis or Oppenheimer of Kansas City, who employ a farmer already in the area or bring in an experienced one.²⁵

In the U.S., land market procedures are well established and function relatively smoothly. Experienced brokers, attorneys, accountants, and mortgage loan specialists can be employed to provide special services, titles are clear, and insurance is dependable.²⁶ Financing may also be available to foreign purchasers; and leverage, possible.

Some aliens seek land purchase in order to establish residency as the first step toward eventual immigration with their families.²⁷ Such “deals” are usually smaller and not much publicized, but do offer still another reason for foreign interest in our land.

The demand for American farmland from so many directions has produced a new breed of promoters.²⁸ European newspapers have been flooded with advertisements for U.S. land and it may be huckster middlemen who gain the most, for an unwarranted portion of the purchase price sometimes goes to the promoter.²⁹

There are always dangers and possible pitfalls to foreign buyers—often they must depend on American brokers for technical and economic information, and sometimes they get stuck with land of lower quality than they expected. Most, however, have been extremely discerning in their selections. Many have owned land in their own countries and know exactly what they want here.

Impacts on the U.S. Economy from Land Purchases by Foreigners

Partly because the actual extent of foreign holdings of our farmland is unknown, it is impossible to give a definitive assessment of the pros and cons for the local economy. A negative impact on a very small scale may be of negligible importance, while on a large scale, could produce profound repercussions throughout the economy. Likewise, beneficial outcomes may be scarcely noticed, or on the other hand, may produce long-term multiplier effects enjoyed by all. Since foreign investment does not yet seem to be a significant factor in farmland transfers, it probably can safely be said that the effects are largely innocuous in the economy as a whole. This is not to say, however, that impacts in local areas where transfers are occurring will be negligible. We can indicate, at least in principle,

what the impacts would be if land purchases by aliens do become significant.

Advantages

At a time when massive sums of dollars are flowing out of the country the most obvious advantage is that American land purchases provide a mechanism for the return of some of these dollars. Alternatively, land is being traded for foreign currency which gives Americans a claim on real foreign goods.³⁰ (The process is not dissimilar to mortgaging real property which produces new capital for the mortgagor.) In many cases the U.S. seller continues farming the place and is able to put the new capital to work profitably by expanding operations—renting or buying more land and buying new equipment—or by diversifying—investing in some nonagricultural enterprise.

The long-run benefits of the inflow of new capital depend on what sellers do with the proceeds. If they are invested in capital goods, the benefits may be large and long lasting. There are some theoretical reasons why the rate of saving (investment) may be high for funds obtained through land sales where large sums are involved. It has been argued by Milton Friedman³¹ that a very high proportion of income regarded as transitory is saved; whereas, permanent income is largely consumed. Transitory income may be defined as unexpected income or that which is received in large “blocks” as contrasted with a steady flow. Thus, people do not consume large quantities of transitory income all at once, but spread out consumption over many years—the number of years depending partially on where they are in the life cycle. Even if the seller of land retires and uses all the funds as retirement income he (she) will spread the consumption of that income over the expected period of retirement. This process necessitates a large amount of saving, which will move into investment channels and add to the nation’s capital stock.

Mason Gaffney points out some other, less obvious, advantages to foreign purchases of U.S. assets. Our image as the dominant capitalist nation is improved abroad with the acknowledgement of our need to import foreign capital. Although the extent of foreign investment in U.S. land is still unknown the government does monitor direct investment in industry and in securities such as Treasury Bills and common stock.³² It is estimated that foreigners have about \$311 billion invested here in nonland assets—up from \$175 billion five years ago.³³ Americans have \$381 billion of similar investment abroad.³⁴ These are large sums and indicate that foreign nations have purchased a stake in our wel-

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fare by investing here, just as we have bought shares abroad for a generation or more. Such interdependency should create better neighbors as the world inevitably grows smaller. Isolationism is no longer an attractive option for any nation.

Disadvantages

Although there are some real fears about foreign ownership of our agricultural land—such as the threat of loss of national sovereignty and of foreign control of our food and fiber industry—most concerns center around two general complaints. First, it is argued that foreign demand for land has further bid up land prices and that some foreign purchasers have unfair advantage in the market. It does appear that many aliens are willing to pay premiums for land and frequently make all cash deals. Land prices, then, it is argued, are driven up for domestic purchasers. Young farmers, particularly, may find it difficult to purchase the land they cultivate. Although there may be some validity in this point, it should not be given more weight than it deserves. We have already pointed out above, that foreign land purchases are probably not very significant in aggregate. Even if they were, however, it must not be forgotten that the sellers of land are Americans, at least in the first round, and that even if land prices are bid up by foreigners, there will be an American seller who benefits. This point is strikingly illustrated in the response to a segment of the CBS television program “60 Minutes,” devoted to the issue being discussed in this paper. CBS reported in a following program that it had been deluged with letters and phone calls, not from farmers demanding control of land sales to foreigners, but by farmers who wished to contact foreign buyers and who thought CBS might have some useful information. There is an issue of freedom here—the freedom to sell to whomever one wishes, at the highest price obtainable.

America’s farmland has provided an excellent investment opportunity and an inflation hedge for nonagricultural individuals and corporations, be they native or alien. It is alleged that speculators who purchase land largely for resale at higher prices have contributed substantially to spiraling prices. Recall, however, that 80 percent of agricultural land transfers are farmer to farmer. The farmers themselves are still the main bidders and the main beneficiaries from inflated land values.

Second, some disadvantages center around the problems associated with absentee ownership. Absentee owners are alleged to be less aware of and less concerned with the physical, social, and civic environment surrounding their holdings.

Perhaps even more serious is the possibility that land by aliens would be farmed less intensively than that held by resident owners. In some cases, improvements to land and buildings may be put off or avoided altogether by nonresident owners. Consumers, society in general, and our tax coffers all suffer losses when land is not used as intensively as it might be. So runs the argument. We know, however, of no good empirical studies that show conclusively that farms owned by absentee landlords are less intensively operated than are those owned and operated by resident farmers. Besides, these two concerns—the bidding up of land prices beyond the reach of our farmers and all the problems associated with absentee ownership—apply just as much to investors residing in New York City or San Francisco as to those in Rome.

Policies to Control Sales to Aliens

Given that there are perceived, if not real, disadvantages to selling our farmland to foreigners, what might be done about it? There are three possible approaches.³⁵ At the one extreme would be complete prohibition; at the other, a wide open door; and the third, an in-between stance. Land ownership laws have so far been primarily left up to the states. Some states give aliens equal rights with citizens to hold land; others restrict ownership somewhat—allowing holdings up to a certain maximum acreage or for a given number of years; still others prohibit sales to aliens altogether.³⁶ Twenty-nine states limit farm ownership by foreigners to some extent.³⁷

It seems there is some urgency to view the whole issue of land ownership, including foreign holdings, from a national perspective. With respect to foreign investment, in particular, the GAO called for an examination of our tax laws, treaties, regulations, and reporting requirements.³⁸ Recently, a major thrust toward full disclosure of land ownership has been launched. In fact, the farm population and the number of people trying to find out who owns the farmland may soon be about equal.³⁹

When he released the “Much Concern—Little Data” GAO report, Senator Talmadge (D-Georgia), Chairman of the Senate Agriculture Committee, proposed that: (1) The GAO continue its investigation, (2) The USDA conduct a study on the feasibility of monitoring foreign investment, (3) State agricultural extension services report to the Senate Agricultural Committee farmland purchases by foreigners in their respective states, (4) County offices of the Agricultural Stabilization and Conservation Service review records and report foreign holdings, (5) The Secretary of Com-

merce report any information obtained through the International Investment Division, and (6) The Congressional Research Service of the Library of Congress prepare a paper discussing legal questions of ownership by aliens.⁴⁰

The Economics, Statistics, and Cooperative Service (ESCS) of the USDA is conducting the Resource Economic Survey of Ownership—the first national survey of private lands. Fifty thousand places are being surveyed to determine ownership, types of organizations holding land (individual, partnership, corporation, trust, etc.), characteristics of the owners, the quantity of land held by each, its use, improvements, etc. Although the survey is not directed specifically toward detecting alien holdings, it may nevertheless reveal some useful information in this direction.

The International Investment Survey Act of 1976 provided for a study to determine the feasibility of monitoring foreign holdings of both rural and urban property. ESCS has undertaken such a feasibility study to include, among other things, uncovering all the ways true ownership can be masked. They will also be investigating the various ways ownership is reported in other countries.

So it seems we have been choosing the middle road between rigid prohibition and uncritical encouragement of foreign land purchases.⁴¹ It is obvious that the most urgent need is to ascertain the exact nature and extent of foreign holdings in order that impact analysis can be made. The, it would seem most desirable “to find filters that would secure the good effects, sparing us the bad.”⁴² On August 16, 1978, U.S. Senators Malcolm Wallop (R-Wyoming) and S. I. Hayakawa (R-California) proposed an amendment to the general tax bill (HR13511) that would have required foreigners to pay a capital gains tax upon sale or exchange of agricultural or timber lands. The amendment was defeated, but such a law would have helped equalize domestic and foreign positions, filtering out some of the tax advantages held by foreigners.

Gaffney discussed how the property tax can work as a useful filter in that it is due each year regardless of the owner’s residence, and it is unavoidable. By contrast, aliens may escape other U.S. taxes such as sales and estate taxes, or, as

was mentioned earlier, they may enjoy some income tax advantages. The property tax, however, must be paid or the land is forfeited. Thus, it makes land somewhat less attractive to any nonresident—alien or native—who simply wants to hold land for appreciation rather than to use and manage it intensively. The property tax helps solve part of the absenteeism problem in that it brings owners closer to their land, makes them more aware of its environment, and even of their own civic duties.⁴³ Furthermore, the property tax indirectly helps preserve our precious national sovereignty, for all private land no matter who owns it is subject to inspection and assessment for tax purposes. Despite all these claims for the property tax, Proposition 13 in California and similar measures elsewhere hardly give us confidence that more intensive utilization of this tool is the “wave of the future.”

Conclusion

There are measures that can be taken to protect ourselves from possible negative impacts of alien investment here—moderate measures, far short of direct proscription of purchases. We have mentioned how the property tax can be used as a filter and how the capital gains tax could serve to reduce tax advantages of foreign investors.

On October 14, 1978, President Carter signed the Agricultural Foreign Investment Disclosure Act (Public Law 95-460) which establishes a nationwide system to monitor foreign purchases of U.S. agricultural land.⁴⁴ A series of detailed reporting requirements will apply to all foreign citizens who hold or acquire a significant interest in American farmland.⁴⁵ A report will be required from the Secretary of Agriculture at the end of one year. It is thought that this law plus other information-gathering efforts mentioned earlier will help close the information gap. Fuller information will enable us to weigh impacts more accurately and to impose further restraints, if deemed necessary. There is nothing to prevent us, for example, from imposing an export tax on commodities grown on foreign-owned land and shipped directly overseas. We have not lost an ounce of sovereignty from the foreign investment phenomenon and are in no way caught in the Naurau’s dilemma.

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FOOTNOTES

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- ² John McMahan, "Foreign Investment in U.S. Real Estate," *Urban Land*, Vol. 36, No. 10, November 1977, p. 3.
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- ¹⁰ Krause, *op. cit.*, p. 36.
- ¹¹ Stern, *op. cit.*, p. 19.
- ¹² "Controversy Grows Over Effect of Foreign Purchase of U.S. Farmland," *The Appraiser*, Vol. 34, No. 6, June 1978, p. 1.
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- ¹⁴ Gene L. Wunderlich, *Foreign Ownership of U.S. Real Estate in Perspective*, USDA-ESCS, No. 24, June 1978, p. 1.
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- ¹⁷ Stern, *op. cit.*, p. 20.
- ¹⁸ *Ibid.*
- ¹⁹ "Foreign Stake in U.S. Rises but is Dwarfed by U.S. Stake Abroad," *The Wall Street Journal*, Vol. 99, No. 1, July 3, 1978, p. 1.
- ²⁰ *Ibid.*
- ²¹ "Buying America," *The Wall Street Journal*, Vol. 99, No. 103, November 27, 1978, p. 16.
- ²² "Foreign Investors Go on a Spree in the U.S.," *op. cit.*, p. 54.
- ²³ The Netherlands-Antilles, for example, has been a popular third country in which to form investment corporations. Our arrangement with this country offers unique tax shelter opportunities. Passive investors (not actively conducting a trade or business here, but leasing the operation to another), may elect from year-to-year the basis upon which to pay U.S. tax, either: (1) current income taxed on a gross basis at 30 percent, but no capital gains tax due upon sale of the property, or (2) net income taxed at U.S. corporate rates, but capital gains tax owed upon resale. During years of profitable operation, investors may select the second option and may use a rapid depreciation schedule to reduce net income substantially. Then for the year in which the property is sold they may switch to option one. U.S. Department of Commerce, Report to the Congress, *Foreign Direct Investment in the United States*, Vol. 6: Appendix J, Section II, A., 4., d., April 1976.
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- ²⁶ McMahan, *op. cit.*, p. 5.
- ²⁷ Form a conversation with a Modesto broker.
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- ³¹ Milton Friedman, *A Theory of the Consumption Function*, Princeton University Press, 1957, pp. 167-182.
- ³² Kilborn, *et. al.*, *op. cit.*, p. 79.
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- ³⁸ U. S. General Accounting Office, *op. cit.*, p. 4.
- ³⁹ *The Washington Farmlatter*, Letter No. 1810, 735 National Press Bldg., Washington, D.C., June 16, 1978.
- ⁴⁰ *Ibid.*
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- ⁴³ *Ibid.*, p. 381. Some special improvement districts still have property qualifications for voting.
- ⁴⁴ *Weekly Compilation of Presidential Documents*, Vol. 14, No. 42, October 14, 1978, p. 1783.
- ⁴⁵ *Ibid.*

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