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Agricultural Philosophies and Policies in the New Deal

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INTRODUCTION

In the frequently innovative social-program atmosphere of the New Deal 1930s, agriculture was not a bystander or even an incidental happenstance participant. Although agricultural programs ranged from crude improvisation to sophisticated social design, they were very much a part of the New Deal activity and, perhaps surprisingly, attracted some of the brightest minds in the New Deal constellation.

Agriculture's participation in New Deal programs began immediately. Agriculture was a major concern of initial New Deal programs—the Roosevelt administration enacted a new farm law in its famous first one hundred days.[1]

Unrest in the countryside, including instances of violence, partially explained Roosevelt's and Congress's prompt attention to agricultural problems. Equally significant was the era's political arithmetic—agriculture comprised a larger fraction of the economy in the 1930s than it does today,[2] and numerous influential senators and representatives promoted agricultural concerns.

Farm policy debates had already been underway in the

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1. Agricultural Adjustment Act, ch. 25, 48 Stat. 31 (1933).
2. In 1933, agriculture ("the farm sector") contributed $4.6 billion to the gross domestic product of $55.5 billion, or 8.3%. In 1982, the farm sector contributed $74.8 billion to the total gross domestic product of $3,012 billion, or only 2.5%. ECONOMIC REPORT OF THE PRESIDENT 172 (1983). Moreover, the U.S. farm population decreased from 32.4 million, 25.8% of the total population, in 1933 to 6.9 million, 3.0% of the total population, in 1981. *Id.* at 271. A revised definition of farm population, however, reduced the 1981 estimate to 5.6 million, 2.4% of the total population. BUREAU OF THE CENSUS, U.S. DEP'T OF COMMERCE & ECONOMIC RESEARCH SERVICE, U.S. DEP'T OF AGRIC., SERIES P-27, NO. 55, CURRENT POPULATION REPORTS, FARM POPULATION OF THE UNITED STATES: 1981, at 1 (1982).

1920s, and facilitated the quick attention New Dealers gave to agriculture. A sharp decline in prices of farm products that occurred just after the end of World War I was followed by only a partial recovery—agriculture did not share fully in the industrial prosperity of the 1920s. Throughout this period restive political leaders and creative scholars filled both the countryside and the halls of Congress with calls for "farm relief." As a result, the Roosevelt administration entered office in 1933 with a portfolio of plans for relieving agricultural distress.

The sequence of events leading to New Deal legislative programs, however, can mask the underlying forces. New Deal innovations in agriculture attest to a reweighting of one of the most basic balances in any economy—the balance between the rural-agrarian and the urban-industrial sectors. The New Deal erased for all time the rural-agrarian heritage of a circumscribed role for government, not only in agriculture but in the economy. By the mid-1930s the economy and its agricultural portion had been converted to an urban-industrial commercial conceptualization and policy design.

I. SOCIAL CHANGE IN THE 1920s

A. Rural-Agrarian Roots

Scholars usually mark the industrialization of America as beginning with the Civil War.[3] Since the nation had not completely opened the western frontier until well into the twentieth century, the United States' transition to an entirely industrialized nation proceeded slowly. Moreover, ideologies and philosophical traditions invariably cause changes in producing and living to lag behind financial and technological modifications. Thus, traditional rural-agrarian thought patterns persisted through not only the early years of the 1900s, but the years following World War I as well.

In its purest form, the rural-agrarian creed upon which these thought patterns were based emphasizes the non-neces-

3. *See, e.g.*, F. Merk, History of the Westward Movement 447 (1978) (The United States developed "from a frontier society into one of the world's great industrialized societies. It made the change in the years between the Civil War and the close of the nineteenth century."); W. Miller, A New History of the United States 269 (1958) ("[L]eading entrepreneurs and speculators promoted the huge expansion of American industry after the Civil War . . . ."); 1 R. Morris & W. Greenleaf, U.S.A.—The History of a Nation 654 (1969) ("[T]he Civil War represented a triumph of the industrial North over the agricultural South and forecast, if it did not promote, the enormously rapid industrialization of the nation which followed in its wake.").

sity and even noxiousness of giving central direction to economic and social systems. Many persons actively preached this creed during the 1920s. Presidents Calvin Coolidge and Herbert Hoover, Treasury Secretary Andrew Mellon, and popular writer-exhorter Bruce Barton lauded the virtues of free-wheeling financial leadership and tightly constricted federal, and even state, government. As a result, the government of the 1920s was not only not disposed to aid the agricultural economy when petitioned to do so, but regarded any actions it might take as inherently deleterious.

B. Farm Ferment in the 1920s

Countercurrents to prevailing philosophy nevertheless began to appear in the 1920s. In agriculture, traditional rural-agrarian thought patterns were challenged ever more often, thereby setting the stage for their ultimate exit in the 1930s. The stock market crash of 1929 and the Great Depression that followed created shock waves that brought the demise of rural-agrarian thought patterns.

Significantly, the precipitous drop in prices of farm products in 1920-21[4] was not brushed aside, but was given prominent attention. Farmers and their representatives responded by calling national conferences addressing the subject. In keeping with the spirit of those years, however, the most prominent conclaves were not of farmers but of businesspeople, who offered the urban-industrial world's advice to farmers.[5]

Although the ideological climate of the 1920s permitted the

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4. Richard Kirkendall described the decline in farm income during this period as follows:

> During World War I, farmers had enjoyed prosperity and had increased their acreage and their production, raised their standard of living, and gone into debt; but . . . [farm income dropped] from nearly seventeen billion dollars in 1919 to less than nine billion in 1921. Throughout the 1920s, farm income never reached 12.0 billion . . . .

Kirkendall, *The New Deal and Agriculture*, in THE NEW DEAL: THE NATIONAL LEVEL 84 (J. Braeman, R. Bremner & D. Brody eds. 1975). *See also* E. HOYT, THE TEMPERING YEARS 219-20 (1963) (farm depression of the 1930s began in 1920).

5. For example, at a "small conference" called by Secretary of Agriculture Henry C. Wallace on February 13, 1922, two representatives of the American Farm Bureau Federation were joined by

> Julius H. Barnes, President of the United States Grain Corporation; Charles G. Dawes, Director of the Budget . . . ; Otto Kahn of Kuhn, Loeb & Co.; Fred Lingham, Lockport Milling Co., Lockport, N.Y.; George McFadden, cotton exporter from Philadelphia; Frederick B. Wells, grain dealer from Minneapolis; and Thomas Wilson, American Institute of Meat Packers of Chicago.

G. BAKER, W. RASMUSSEN, V. WISER & J. PORTER, CENTURY OF SERVICE: THE government to respond to farm problems with no stronger action than sponsoring farmers' cooperatives, renewed consideration of problems facing agriculture led to a new self-image for the nation's farmers—a national image of agriculture as an at least partially unified economic sector. George Peek[6] and Hugh Johnson[7] provided the statistical data necessary to cultivate this image of farming as an economic sector in a 1922 tract entitled *Equality for Agriculture*.[8] The tract advanced both the idea and statistic of "parity," the ratio of the prices farmers receive for the products they sell to the prices they pay for goods and services.[9] The ratio evidenced farmers' position as a group in comparison to the urban-industrial sector. "Parity" subsequently became a catchword advocating increased income for farmers and has persisted as a slogan for decades.

Moreover, new faces with diverse ideas invaded the farm scene, including Henry Cantrell Wallace, President Warren Harding's secretary of agriculture; Herbert Hoover, Harding's secretary of commerce; and George Peek. Although the rural-agrarian creed persisted, increased awareness of the farmers' plight made the rural-agrarian sector more receptive to novel proposals for improving the farmer's lot. The proposals focused on export and land-use policies, a domestic allotment plan, and more extensive use of cooperatives.

C. Farm Aid Proposals in the 1920s

1. *A Protective Export Policy*

Agriculture's doldrums in the early 1920s, like those of the early 1980s, were sometimes ascribed to lagging exports.[10] Commentators blamed slackening exports in the 1920s on the United States' transformation during World War I from debtor

First 100 Years of the United States Department of Agriculture 119 (1968) [hereinafter cited as Century of Service].

6. George Peek was, at the time, president of Moline Plow Company, a company severely damaged by the farm depression. Kirkendall, *supra* note 4, at 84.

7. Hugh Johnson was Peek's associate at Moline Plow Company. Century of Service, *supra* note 5, at 118.

8. G. Peek & H. Johnson, Equality for Agriculture (1922).

9. *Id.*

10. *See, e.g.*, Kirkendall, *supra* note 4, at 84-85. The end of strong world demand for American agricultural products during and immediately following World War I proved a factor in slipping export volume. Sixty years later, a similar fade in an export boom (complicated again by international debt burdens of buyers) also created problems for American agriculture.

to creditor status.[11] Farmers were told repeatedly that only a debtor nation sells more abroad than it buys and that a creditor nation must expect to do the opposite.[12]

As a result, foreign trade received much attention during the 1920s. The "little-government" philosophy characteristic of agricultural thought did not extend to foreign trade; indeed, high protective tariffs were not only welcomed, but actively sought, as agriculture, hurt by this new creditor status, contemplated how to win the blessings industry had so readily obtained through protective tariffs. Accordingly, much of the debate and political staging in agriculture concerned how to get either the equivalent of industry's tariff protection or international "two-pricing," a method of expanding markets abroad by pricing farm products higher in the inelastic domestic market and lower in the elastic export market. The discussions centered around equalization fees, export debentures, and most importantly, the McNary-Haugen farm bill.

The McNary-Haugen plan provided, in one of its versions, that farmers would sell on the domestic market the amount of their production that could be sold at a price equal to the farmers' prewar purchasing power. The plan included protective tariffs on imports to protect farmers from foreign competition. In addition, the government would purchase any surplus at the American price and "dump" it on the foreign market at a competitive price. The difference between the price paid to the farmers and the amount the government actually received for sales on foreign markets was the "equalization fee."[13] Although Congress actually passed a McNary-Haugen bill twice, President Coolidge vetoed it both times.[14] The experience, however, did provide the impetus for the eventual enactment of the Agricultural Marketing Act of 1929.[15]

2. *A Land-Use Policy*

Concurrent with discussions of export controls, a less boisterous contingent of agriculture's volunteer advisors argued for

11. Henry C. Wallace repeatedly took this stand during the 1920s in his magazine, *Wallace's Farmer*.

12. *See, e.g.*, Nourse, *The Trend of Agricultural Exports*, 36 J. POL. ECON. 330 (1928); Tugwell, *The Problem of Agriculture*, 39 POL. SCI. Q. 549 (1924).

13. E. HOYT, *supra* note 4, at 221. *See also* Kirkendall, *supra* note 4, at 85.

14. Congress passed the McNary-Haugen bill in 1927. S. 4808, 69th Cong., 2d Sess., 68 CONG. REC. 3518 (1927). President Coolidge, however, vetoed the bill. *Id.* at 4771. Coolidge again vetoed the bill in 1928. S. 3555, 70th Cong., 1st Sess., 69 CONG. REC. 9524 (1928).

15. *See infra* notes 24-26 and accompanying text.

treating agriculture's economic ills by guiding land use.[16] A Business Men's Commission had requested continuing attention to national land-use planning, and Nils Olsen, chief of the Bureau of Agricultural Economics from 1928 to 1935, promoted the idea of retiring submarginal lands.[17]

Advocacy of land-use controls had dual and contrasting origins. In part it was motivated by genuine concern for protecting land resources,[18] but a fervent desire to avoid imposing controls on individual farmers' operations also prompted its promotion.

3. *A Domestic Allotment Plan*

During the 1920s only a few venturesome minds, notably W. J. Spillman of the United States Department of Agriculture and Professors John D. Black of the Universities of Minnesota and Harvard and M. L. Wilson of Montana State College, began to think in terms of applying a truly industrial instrument to the rural-agrarian sector, namely, collective management of farm output through both super-cooperatives and a national farm program. Toward this end they devised a "domestic allotment" plan.[19]

The domestic allotment plan was aimed at the problems of depressed prices and mounting surpluses. Its essential principle has been described as

> paying producers a free-trade price plus the tariff duty for the part of their crop which is consumed in the United States and this price without the tariff duty for the part of it that is exported, this to be arranged by a system of allotments to individual producers of rights to sell the domestic part of the crop in the domestic market.[20]

Advocates of the domestic allotment plan proposed, moreover, to restrict acreage, to tax processors of agricultural commodi-

16. To this day, land-use issues are included in all debates considering acreage control and price stabilization policies for agriculture.

17. Retiring submarginal land might have merit from a resource-conservation standpoint, but the effect on aggregate farm production is minimal because submarginal lands are only minimally productive.

18. Protection of land resources contributed to the enactment of the Soil Conservation and Domestic Allotment Act of 1936. *See infra* notes 67-71 and accompanying text.

19. The plan retained the dual-market feature of the McNary-Haugen plan but was distinctive in that the domestic portion would be "allotted" to producers. The restraint on production resulting from allotment would, among other things, quiet foreign countries' sensitivity to subsidization of exports. J. BLACK, AGRICULTURAL REFORM IN THE UNITED STATES 271 (1929).

20. *Id.*

ties, and to pay participating farmers based on parity.[21]

The domestic allotment plan eventually served as the prototype for the Agricultural Adjustment Act of 1933.[22] The Agricultural Adjustment Act, however, was enacted only after considerable dalliance with other ideas and one ill-timed venture, the Federal Farm Board.[23]

4. *The Federal Farm Board Interlude*

It may seem anomalous that in an atmosphere favoring limited government an entity as powerful as the Federal Farm Board should have been created. The Federal Farm Board existed, however, not because of genuine support but because it, like the land-use proposals, was perceived as a "lesser evil." Under threat of passage of the more aggressive McNary-Haugen bill, political leaders turned to cooperative cartelization.

The Agricultural Marketing Act of June 15, 1929,[24] authorized a revolving fund of $500 million to be used by the newly established Federal Farm Board to achieve orderly marketing and price stabilization.[25] Alexander Legge, president of the International Harvester Corporation, was appointed the Board's first chair.[26]

Congress could not have created the Board at a worse time. Four months after passage of the Agricultural Marketing Act, the stock market collapsed. Farm product prices quickly followed stock prices with more force than a mere Federal Farm Board and its allied cooperatives could control.

II. POLITICAL CHANGE IN THE 1930s

A. Changing Attitudes in the Farm Sector

The stock market crash, the subsequent drop in farm prices, and the Depression eroded traditional rural-agrarian opposition to government guidance of agricultural affairs. But farmers and other citizens acquiesced reluctantly.

At first the Depression's disastrous effects were not ac-

21. W. Leuchtenburg, Franklin D. Roosevelt and the New Deal 48-49 (1963).
22. *Id.* at 51.
23. One commentator estimated that the Federal Farm Board may have lost a half-billion dollars. *Id.* at 48. Another commentator placed the exact amount lost at $371,496,492. H. Warren, Herbert Hoover and the Great Depression 176 (1959).
24. Agricultural Marketing Act, ch. 24, 46 Stat. 11 (1929).
25. *Id.* § 6.
26. H. Warren, *supra* note 23, at 172.

knowledged; the majority of Americans, including farmers, regarded the downswing of common stock prices as cyclical and self-correcting, and persistent unemployment as inconceivable in our economy. Even after sidewalk apple vendors testified to the reality of the distress, rural-agrarian thought patterns continued. From my rural vantage point, I witnessed the moralistic interpretation initially given the worsening depression. In ancient times, agrarian plagues of pest and drought were seen as God's punishment for His children's misdeeds; in 1930, Americans of old faith perceived industrial unemployment as divine reproof for moral transgressions. Thus, people initially heeded Andrew Mellon's admonitions and meekly submitted to these developments, continuing to scorn governmental action.[27]

Faith that the economy would automatically right itself, however, faded quickly in light of the Depression's reality. By the mid-1930s, even farmers acknowledged that human beings and their social institutions had caused the economic distress, and concluded that the same human beings—led by the government—could make the corrections necessary to eliminate it. The New Deal, under the direction of Franklin D. Roosevelt, set out to make those corrections.

B. The Politically Charged Farm Sector

The speed with which President Roosevelt addressed farm problems is attributable partly to the politically charged atmosphere that was developing in the farm sector. Although most farmers responded moderately to their truly desperate financial positions, proving more fatalistic than politically active,[28] by 1932 the countryside definitely was becoming restive.

Statistics supported farmers' bitter disillusionment and developing agitation. Although careless rhetoric has occasionally likened agriculture's distress in the early 1980s to that which existed in the 1930s, in reality the desperation of the 1930s has never since been repeated.[29] Prices of farm land had declined

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27. *Id.* at 119.

28. W. Leuchtenburg, *supra* note 21, at 26-30.

29. Kirkendall summarized the farmers' plight as follows:

> By 1933, the farm business was one of the most seriously depressed parts of the American economic system. Few farmers, large or small, were prosperous. When the general depression hit, it had reduced demand for farm products below the unsatisfactory levels of the 1920s, and farm income fell to five billion dollars. The price of cotton, which had averaged 12.4 cents per pound from 1909 to 1914 was only 5.5 cents in February 1933; the price of wheat had dropped from 88.4 to 32.3 cents per bushel; but the farmer's tax burden had doubled since 1914. His

steadily and average per capita income among the farm population was less than half the non-farm average, itself at a new low. Farms had been foreclosed by the thousands and although some farmers remained on the land as tenants after foreclosure, in many instances the foreclosure sale purchaser ousted the former owner.[30] Moreover, farm conditions were so bad that many landlords delayed foreclosure because the land market was too weak for the land to be sold advantageously.[31]

Faced with reality, many farmers grew more politically active. Instances of violence were not unknown, including actions to stop foreclosure sales and evictions of farmers.[32] Although initially most activities were local and spontaneous, a firebrand named Milo Reno organized the Farmers Holiday Association and called for a national farmers' strike on May 13, 1933.[33] Some commentators thought Reno's not-so-veiled threats lent urgency to the New Deal's efforts to alleviate the farm problem, and indeed Congress passed the Agricultural Adjustment Act on May 12, 1933, just one day before the threatened strike.

Other individuals were also instrumental in promoting changes in the farm situation. John A. Simpson, who in 1930 had become president of the National Farmers Union, was "an inveterate exponent of flat money and 'cost of production.' "[34] Congressman William Lemke of North Dakota, along with many farmers, had little confidence in petitioning "Washington" to correct ills that "Washington" had caused. Congress-

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> debts remained high, and the prices of goods he needed to buy had not dropped nearly as far as farm prices. While agricultural prices fell 63 percent from 1929 to 1933, industrial prices slipped only 15 percent. Industrialists could control production more effectively, so that agricultural production declined only 6 percent while industrial production dropped 42 percent. Thus, by February 1933, farm commodities could purchase only half as much as they could before the war.

Kirkendall, *supra* note 4, at 85.

30. Banks and insurance companies took over so many farms that one of the brighter employment opportunities for new university graduates in farm management was to manage newly foreclosed farms for the banks.

31. Nils Olsen, chief of the Bureau of Agricultural Economics, noted in his log that banks had accelerated foreclosures when conditions improved, making acquisition of farm land more attractive. An October 5, 1933, entry indicates that the acceleration had already begun. In a conversation with Budget Director Lewis Douglas, Olsen suggested the banks were acting in anticipation of inflation. "Yes," responded Douglas, "in order to get their portfolios in shape for the deposit insurance." N. Olsen, Journal of a Tamed Bureaucrat: Nils A. Olsen and the BAE, 1925-1935, at 176 (1980).

32. *See, e.g.*, W. Leuchtenburg, *supra* note 21, at 51.

33. *Id. See also* Kirkendall, *supra* note 4, at 85-86.

34. E. Schapsmeier & F. Schapsmeier, Henry A. Wallace of Iowa: The Agrarian Years, 1910-1940, at 146 (1968).

man Lemke made headlines by advocating a debt moratorium. Scornful of the acreage reduction plan Congress had recently enacted, Congressman Lemke claimed that the surplus was not of crops but of ignorance in Washington.[35]

C. Reaction to the Demands of the Farm Sector

1. *The Agricultural Adjustment Act of 1933*

Spurred by the politically charged attitudes of many farmers, Congress eventually telescoped the multiple advocacies of the 1920s into the Agricultural Adjustment Act of 1933.[36] The Act, however, traveled a tortuous path to enactment.

By the summer of 1932 the personality of Franklin D. Roosevelt had become instrumental. In 1932, Rexford Tugwell set the process in motion by acquainting Roosevelt, then the Democratic candidate for the Presidency, with both the domestic allotment plan as a "farm relief" measure[37] and Henry Agard Wallace as a prospective secretary of agriculture. In response, Roosevelt sent Henry Morgenthau Jr. "on a fact-finding tour of the Farm Belt with specific instructions to meet with Henry Wallace."[38] Soon after, Wallace journeyed to visit "the Squire of Hyde Park," and the journey toward enactment of the Agricultural Adjustment Act of 1933 began.[39]

35. It was my good fortune to hear Congressman Lemke address the newly formed Ohio Farmers Union in September 1934. Vivid on my mental retina are the marks of genuine poverty and the eagerness for any promise of relief that I saw on the faces and in the demeanor of the farmers in the audience.

Lemke viewed the debt moratorium, enacted in 1934, Federal Farm Bankruptcy (Frazier-Lemke) Act, ch. 869, 48 Stat. 1289 (1934), as essential to alleviate farmers' problems. Lemke's victory was short-lived, however, as the Supreme Court held the Act unconstitutional. *See* Louisville Joint Stock Land Bank v. Radford, 295 U.S. 555 (1935) (Frazier-Lemke Act denied creditors' claims on security without due process).

Congress responded immediately by enacting a revised version of the law, entitled the Farm Mortgage Moratorium (Frazier-Lemke) Act, ch. 792, 49 Stat. 942 (1935). In terms substantially similar to the earlier version, the 1935 Act offered farmers extended credit, provided for the repurchase of foreclosed farms at contemporary appraisal prices, and authorized suspension of foreclosures with creditors' consent for a period of five years. The Court upheld the revised version in Wright v. Vinton Branch of the Mountain Trust Bank, 300 U.S. 440 (1937). Although the 1935 Act contained virtually the same language as the original version, the Court concluded the constitutional objections cited in *Radford* had been met. *Id.* at 456-59.

36. Agricultural Adjustment Act, ch. 25, 48 Stat. 31 (1933).

37. Tugwell arranged for one of the plan's authors, Professor M. L. Wilson, to explain it to Roosevelt. E. SCHAPSMEIER & F. SCHAPSMEIER, *supra* note 34, at 152.

38. *Id.* at 109.

39. *Id.* at 146.

Resolved to make good use of the information he had gathered during his candidacy, newly-elected President Roosevelt sent his first farm message to Congress on March 16, 1933. The new Congress responded quickly to his initiative, enacting the Agricultural Adjustment Act of 1933 during the first one hundred days of the Roosevelt administration.[40]

Most importantly, the Agricultural Adjustment Act offered compensation to farmers for reducing their acreage of "basic" crops—such as wheat and cotton—below the number of acres previously devoted to those crops. In other words, the Act invited farmers to enter voluntarily "into contracts to reduce acreage in specified surplus crops in return for benefit payments, financed chiefly by processing taxes on the commodity concerned."[41]

The production control program, revolutionary in our national history, received less than universal approval. Still alive and active was the super-cooperative idea upon which the Agricultural Marketing Act had been based[42] and the allied principle that better prices could be negotiated or even licensed.[43] In an action that seems strange in retrospect, George Peek was named the first Administrator of the new Agricultural Adjustment Administration (AAA) even though he had supported the old McNary-Haugen plan and favored commodity negotiation between cooperative spokespersons and food processors. He soon became disheartened with acreage programs, however, and resigned on December 15, 1933.[44]

In 1936, the Supreme Court held the Agricultural Adjustment Act of 1933 unconstitutional.[45] Congress first attempted

40. The bill was enacted on May 12, 1933. *See supra* note 33 and accompanying text.

41. Davis, *The Development of Agricultural Policy Since the End of the World War*, in U.S. DEP'T OF AGRIC., 1940 YEARBOOK OF AGRICULTURE, FARMERS IN A CHANGING WORLD 316-17 (1940).

42. *See supra* notes 24-26 and accompanying text.

43. Kirkendall, *supra* note 4, at 91.

44. Whether Peek's resignation was actually voluntary is questionable. At a press conference just before Peek's resignation, Wallace spoke of Peek's work as a total loss, but did so "too impersonally and too adroitly for Peek to take offense." UNOFFICIAL OBSERVER, NEW DEALERS 84 (1934). One newspaper reporter remarked after the conference: "That is the coolest political murder that has been committed since Roosevelt came into office." *Id.*

45. United States v. Butler, 297 U.S. 1 (1936). The Court found agriculture to be a purely "local" subject with which the federal government should not be concerned. *Id.* at 75-78. Moreover, the Court noted that the processing tax was a mere incident of the Act's true purpose: regulation of agricultural production. *Id.* at 61.

By chance, I was at the home of H.R. Tolley on the date the Court an-to develop a soil conserving approach, described below, but subsequently incorporated the basic provisions of the 1933 Act in the Agricultural Adjustment Act of 1938,[46] which the Court upheld in *Mulford v. Smith*.[47] Congress did not reject the commodity ideas upon which the unsuccessful Agricultural Marketing Act had been based. Rather, it drew on them and also codified the philosophies of George Peek and other critics of the 1933 Agricultural Adjustment Act by enacting the Agricultural Marketing Agreements Act of 1937,[48] which explicitly sanctioned the previously informal use of commodity licensing and agreements. The title "Agricultural Marketing Agreements Act" has become almost a misnomer, however, since mandatory marketing orders, not voluntary agreements, have persisted to this day, notably for dairy products and fresh produce.

Both the AAA's involvement in production control and the Agricultural Marketing Agreements Act's endorsement of mandatory marketing orders illustrate "the New Deal's commitment to collective capitalism,"[49] even in programs involving agriculture. Indeed, defenders of the production control program often emphasized its similarities to practices engaged in by large corporations.[50] The AAA's activities and the willingness of Congress to impose mandatory marketing orders underscore the extent to which the "little government" rural-agrarian ideology of the 1920s dissolved during the Depression and the New Deal.

D. Commodity Versus Human Welfare Objectives

The notion of a strong commodity organization took a compulsory form for cotton and tobacco. Cotton and tobacco planters resented "free riders" in voluntary programs.[51] Thus, they pressed for and obtained passage of the Bankhead Cotton Con-

nounced its decision. He had as his guest Mordecai Ezekiel, Secretary Wallace's chief economist. The two men pensively pondered the blow the Court had dealt. Tolley, my professor, soon became administrator of the Agricultural Adjustment Administration.

46. Agricultural Adjustment Act of 1938, ch. 30, 52 Stat. 31.
47. 307 U.S. 38 (1939).
48. Agricultural Marketing Agreements Act, ch. 296, 50 Stat. 246 (1937).
49. Kirkendall, *supra* note 4, at 89.
50. *Id.*
51. W. Leuchtenburg, *supra* note 21, at 74-75. Although Secretary Wallace strongly opposed a bill filed by Senator John Bankhead of Alabama calling for compulsory crop reduction with ginning quotas, questionnaires Wallace sent out to cotton farmers indicated that more than 80% favored the plan while only 2% opposed it. *Id.* at 75.

trol Act[52] and the Kerr-Smith Tobacco Control Act,[53] laws that penalized non-participants.[54] A strong commodity orientation later became encapsuled in the term "supply management" and was incorporated in the Agricultural Adjustment Act of 1938. A quarter century later, "supply management" again was endorsed during the tenure of Secretary of Agriculture Orville Freeman.

The aggressive action by cotton and tobacco growers to set up strong commodity programs illustrates a clash between opposing objectives that still exists today. Commodity programs benefit the so-called "commercial farmers" who own moderate or large farms and who depend on farming operations for the majority of their income. As early as 1933, however, a furor arose over whether commodity program benefits would reach tenant farmers, sharecroppers, small farmers, and small landowners.[55] These farmers found their political voice in New Deal years; their great numbers, particularly in the Southeast, overcame their organizational weaknesses. Program administrators thus found it necessary to specify minimum acreage allotments for the protection of small cotton and tobacco farmers.

Pressure to help the farm families bypassed by commodity programs led to other measures. The first such measure was the farm homestead program.[56] President Roosevelt later established the Resettlement Administration, a forerunner of today's Farmers Home Administration, which "sought to move impoverished farmers from submarginal land and give them a fresh start on good soil with adequate equipment and expert guidance."[57]

52. Bankhead Cotton Control Act, ch. 157, 48 Stat. 598 (1934). The Act provided for compulsory reduction of excess cotton production and benefit payments to growers to offset the reductions. *Id.* §§ 3(a), 16(c).

53. Kerr-Smith Tobacco Control Act, ch. 866, 48 Stat. 1275 (1934). Modeled after the Bankhead Cotton Control Act, the Tobacco Control Act authorized a mandatory production quota system for tobacco planters and taxed nonparticipating planters. *Id.* §§ 3, 5(a).

54. Additionally, in 1935 Congress yielded to demands from "conservative" Maine farmers and "individualistic" senators like William Borah of Idaho, and passed the compulsory Potato Act of 1935, ch. 641, 49 Stat. 750.

55. H. L. Mitchell helped lead a tenant farmers' rebellion and continues to write and talk about the events of those years. *See, e.g.*, H.L. MITCHELL, MEAN THINGS HAPPENING IN THIS LAND (1979).

56. National Industrial Recovery Act, ch. 90, 48 Stat. 205 (1933) ($25,000,000 appropriated for loans and other economic aid in the purchase of subsistence homesteads).

57. W. LEUCHTENBURG, *supra* note 21, at 140. The Resettlement Administration planned to move 500,000 families, but it lacked money and actually resettled only 4,441. *Id.*

Although larger-scale farmers often resented the credit and other programs for the smaller farmers, they could not dislodge the programs. Congress steadfastly balanced the conflicting needs of larger commercial farmers with those of poorer farmers and sharecroppers when establishing New Deal agricultural programs.

III. THE INFLUENCE OF HENRY A. WALLACE

Although political necessity partially explained New Deal concessions to smaller farmers, equally important were the personality and philosophy of Henry A. Wallace, President Roosevelt's secretary of agriculture. Secretary Wallace, with his vision of the twentieth century as the "Century of the Common Man," was, insofar as the New Deal represented both a socio-political movement and a rescue operation, a quintessential New Dealer.[58]

A. The Ever-Normal Granary

Henry Wallace advocated an "ever-normal granary"—a "Joseph Plan" for storing grain from a good year to a bad.[59] Although both the idea and the Biblical characterization can be traced to Wallace's journalistic days,[60] his ever-normal granary idea was incorporated into the new farm program by pure happenstance. The opportunity arose from the program offering farmers nonrecourse loans on their storable commodities, a plan initially intended to facilitate "orderly marketing." The Commodity Credit Corporation was to issue loans at the end of a season, enabling farmers to escape the financial necessity of selling their crops immediately to pay their bills. With the loans, farmers could hold their products until prices were higher.[61]

In some years, however, the market price failed to improve enough to encourage farmers to pay off their loans and redeem their products. As a result, the Commodity Credit Corporation became the unwilling owner of the crops. It was an easy next

58. An unfriendly and unknowing critic would associate Wallace's leadership as secretary of agriculture in 1933-41 with his political misadventures a decade later. My experience on the scene (in 1936 I joined the Agricultural Adjustment Administration in Washington) substantiates historians' denial of this contention.

59. *See* Davis, *The Economics of the Ever-Normal Granary*, 20 J. Farm Econ. 8 (1938); Davis, *Washington Notes*, 92 New Republic 186-87 (1937).

60. *See supra* note 11.

61. W. Leuchtenberg, *supra* note 21, at 73-74.

step for Wallace to characterize those crops as a reserve against adversity and to orchestrate the program so as to keep the reserve's size within reasonable limits—in other words, "ever-normal."

The program, however, did not always produce the ever-normal granary foreseen by Secretary Wallace. Harvests in some years proved greater than anticipated, and as a result the reserve became larger than normal. Yet, on several important occasions, the larger-than-normal stock proved advantageous. The first such occasion was World War II; the most recent occurred in the mid-1970s when foreign countries purchased unprecedented amounts of our grain and cotton, emptying our larder.

B. Agrarian Democracy

Not the least of Wallace's influences was his inspirational support of the principles of agrarian democracy. On Wallace's impetus, local, county, and state committees administered the initial stages of the acreage reduction programs authorized by the Agricultural Adjustment Act of 1933. The Farm Credit Administration also used elected governing committees or boards; the Federal Land Banks and Production Credit Associations, allied with Intermediate Credit Banks, operated with county governing committees.

The dream of a functioning agrarian society, cultivated during the Wallace years, went far beyond simply establishing a committee structure for commodity programs. Leaders in the Bureau of Agricultural Economics, for example, sought to establish a mechanism whereby rural community leaders would develop far-sighted programs in land use, resource conservation, taxation, and public services.[62] Local land-use planning committees were critical to the establishment of such a rural utopia.

Although Henry Wallace certainly endorsed this type of community planning, the actual spearheading came from M. L. Wilson.[63] Wilson had coauthored the original domestic allotment plan, but by the time he was appointed undersecretary of agriculture in 1937 he was more interested in the potential of agrarian democracy. Wilson directed the first nationwide survey of farmers for their opinions on farm policy. Moreover,

62. Kirkendall, *supra* note 4, at 100-01.

63. Wilson headed the Subsistence Homestead Experiment, a model rural-industrial community. Unofficial Observer, *supra* note 44, at 200-02.

Carl Taeusch, a deposed Harvard University professor of philosophy, crisscrossed the nation holding "Schools of Philosophy" at which farmers could debate farm policy issues.

The concept of agrarian democracy through rural community planning proved short-lived. The Bureau of Agricultural Economics set out to establish a network of planning committees, but met a solid wall of resistance thrown up by commercial interests favoring commodity programs but little else. Moreover, World War II halted steps toward a rural policy-making apparatus outside the political party structure as effectively as did ideological resistance. Thus, "complete" agrarian democracy was never achieved.

IV. TOWARD A COMPREHENSIVE PLAN FOR AGRICULTURE

A. Soil Conservation—Confluence and Conflict

From the first agricultural adjustment program of 1933 to the congressional debates of 1983, soil conservation has weaved in and out of commodity programs. By 1933, Hugh Bennett, a veteran crusader for conservation,[64] had convinced many Americans that a failure to protect topsoil would speed the arrival of the Apocalypse. Even in the turmoil of the spring of 1933, when the Agricultural Adjustment Act took form, Congress could not ignore the soil-protecting benefits of acreage reduction. Because intertilled crops such as corn and cotton were highly eroding and in surplus, conservation supporters contended that both problems could be alleviated in a single program.[65]

In 1936, when the Supreme Court held the Agricultural Adjustment Act of 1933 unconstitutional,[66] agriculture's leaders turned to soil conservation as the principal instrument to aid farmers. No one could challenge the value of conservation, and farmers readily believed that a program to increase acreage of soil-conserving crops would incidentally shrink the surplus of soil-depleting crops. Accordingly, Congress passed the Soil

64. Bennett, who on Rexford Tugwell's recommendation was named in 1933 to head the newly-created Soil Erosion Service of the Department of the Interior, has been called the "father of soil conservation." W. Leuchtenburg, *supra* note 21, at 173.

65. The connection between surpluses and soil depletion, however, was far from direct. For example, wheat, a soil-conserving crop, was due for acreage reduction while soybeans, probably the most soil damaging of all crops, was omitted from the program.

66. *See supra* note 45 and accompanying text.

Conservation and Domestic Allotment Act of 1936,[67] an act that paid farmers for sowing soil-enriching grasses and legumes rather than planting soil-depleting crops.[68]

Although the 1936 Act may have improved conservation, it did not reduce acreage of surplus or "basic" crops.[69] The Act, however, proved precedent-setting in several respects. It departed from the restricted focus of the Agricultural Adjustment Act of 1933 by authorizing government payments to farmers for carrying out specific conservation-enhancing practices.[70] Moreover, a technical innovation in the 1936 Act introduced a new concept of parity: income parity.[71] Although individuals favoring a commodity orientation to programs did not welcome this new yardstick, it played an important role in broadening the agricultural aid then underway.

B. THE AGRICULTURAL ADJUSTMENT ACT OF 1938—CONSIDERATION AND CONSENSUS

By 1938, it had become apparent that the 1936 Act was not working very well.[72] Furthermore, ideas of what a well-rounded agricultural program should encompass had solidified during the years of debate and experience following enactment of the Agricultural Adjustment Act of 1933.[73] In addition, a reconstituted Supreme Court improved the odds that a 1933-type farm law would escape invalidation,[74] and gave Congress the incentive to provide the nation's farmers with yet another form of aid.

As commodity programs continued year after year, however, it became necessary to justify farm aid programs in terms of their benefits to all citizens, not just farmers. Consequently,

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67. Soil Conservation and Domestic Allotment Act, ch. 104, 49 Stat. 1148 (1936).

68. *Id.* §§ 7-8.

69. W. LEUCHTENBURG, *supra* note 21, at 254-55. In part, the law proved unworkable because not enough farmers voluntarily agreed to limit production. *Id.*

70. Today, the Agricultural Conservation Program pays out money to farmers for many practices, including seeding pastures and building farm ponds.

71. CENTURY OF SERVICE, *supra* note 5, at 168.

72. W. LEUCHTENBURG, *supra* note 21, at 254-55.

73. *Id.*

74. Justices McReynolds and Butler were "the only survivors of the ravages of judicial reorganization through retirement and new appointment" which characterized the court during 1937-38. W. SWINDLER, COURT AND CONSTITUTION IN THE TWENTIETH CENTURY: THE NEW LEGALITY, 1932-1968, at 100 (1970). The new Court was considerably more liberal. After the *Bituminous Coal Act* decision in 1936, "no major act of Congress was found unconstitutional in any part for the next seven years." *Id.* at 101.

before drafting the 1938 Act, its framers assembled voluminous statistics showing how alternate programs would affect the supply of food made available to consumers.[75] Supporters used the statistics to argue that the "normal" in an ever-normal granary was of even greater benefit to consumers than to farmers. Soil conserving plans also lent themselves admirably to public endorsement.[76]

Against that background, Congress passed the most comprehensive farm bill ever proposed to that time, the Agricultural Adjustment Act of 1938.[77] The Act, the first omnibus law for agriculture in our national history, covered an amazing array of farm-related issues.[78] Historians Rasmussen and Baker have summarized its most significant features as follows:

> [The Act included] provisions for acreage allotments for corn, cotton, rice, tobacco, and wheat; specific directions [as to] . . . State and local committees; provisions to safeguard tenants [sic] share of payments; specific provisions on the allocation of payments; provision for increasing the size of payments on small farming operations; limitation of $10,000 on the size of payments; and a special amendment for the protection of dairy, livestock, and poultry producers from undue competition resulting from the conservation payment program. In this act (Title III), Congress enacted the first comprehensive legislation dealing with price support. Marketing control was substituted for direct production control, and authority was based on Congressional power to regulate interstate and foreign commerce.
>
> The legislation's new features included mandatory nonrecourse loans for cooperating producers. . . ; crop insurance for wheat; and parity payments. . . .
>
> [S]pecial payments were made in 10 States to farmers who cooperated in a program to retire land unsuitable for cultivation. The goals of the legislation were the attainment of parity prices and parity income insofar as practicable and the assurance of adequate reserves of food, feed, and fiber for the consumer. . . .
>
> Systematic storage was to serve as the basis of an ever-normal granary plan to protect both farmers and consumers. . . .
>
> Other provisions of the 1938 Act included authorization for the establishment and maintenance of four regional research laboratories to develop new uses for farm products.[79]

As the Rasmussen and Baker summary indicates, the Agricultural Adjustment Act of 1938 represented a clear departure

75. *See, e.g.,* AGRIC. ADJUSTMENT ADMIN., U.S. DEP'T OF AGRIC., AGRICULTURAL ADJUSTMENT 79-83 (1936).

76. *See* W. LEUCHTENBURG, *supra* note 21, at 172-75.

77. Agricultural Adjustment Act of 1938, ch. 30, 52 Stat. 31.

78. *See generally id.*

79. Rasmussen & Baker, *Price-Support and Adjustment Programs from 1933 through 1978: A Short History,* in U.S. DEPT. OF AGRIC., AGRIC. INFO. BULL. NO. 424, ECONOMICS, STATISTICS, AND COOPERATIVES SERVICE 12-13 (1979).

from the "little government" philosophy which characterized pre-Depression, rural-agrarian America.

V. PROSPECTUS FOR A BETTER AGRARIAN WORLD

True believers in the ability of agrarian democracy to fashion a better rural community recorded their faith in the monumental *1940 Yearbook of Agriculture, Farmers in a Changing World*,[80] described by its editor as "a log book of a journey toward a future."[81] The yearbook begins by recounting how the Pilgrims of 1620 "dreamed of building a new, freer life,"[82] and then records the "explorations along the social and economic frontiers of agriculture."[83] Selected chapter titles illustrate these "explorations": *Agricultural Surpluses and Nutritional Deficits*; *The Farmer's Stake in Greater Industrial Production*; *The City Man's Stake in the Land; The Challenge of Conservation*; *Cooperative Marketing by Farmers*; *Rural Electrification*; *Cultural Setting of Agricultural Problems*; *Science and Agricultural Policy*.[84] Alas, a postscript to *Farmers in a Changing World* foretells the setting aside of those noble aspirations: "Since the preparation during 1939 of most of the material in this book, the international situation has changed swiftly and tragically. Unquestionably the turn of world events will profoundly affect the problems of agriculture in the United States in ways not entirely predictable."[85]

World War II did indeed bring an end to the New Deal vision of agrarian democracy. It did not, however, end price, income, and acreage control programs for agriculture; shorn of most of their mandatory allotment features, the programs continue to the present time. But lost forever were the heady enthusiasm of M. L. Wilson and his associates, the Wallace dream of making the twentieth century one of destiny for the common man as epitomized in the American farmer, and the bold idealism of the philosophers who held schools for bib-overalled farmers. These hallmarks of the latter 1930s were never re-established following the turmoil of World War II.

The limitations imposed on the Bureau of Agricultural Eco-

80. U.S. DEP'T OF AGRIC., 1940 YEARBOOK OF AGRICULTURE, FARMERS IN A CHANGING WORLD (1940).
81. *Id.* at 1.
82. *Id.*
83. *Id.* at 2.
84. *Id.* at vii-x.
85. *Id.* at xi.

nomics after the war[86] only symbolized the end of what may now be regarded as the wonderfully sanguine naivete of the New Deal years. For some of us veterans, paradise has been lost—not in the sense of accomplishment but of aspiration.

Yet, in the manner of an Elizabethian comedy, the jester has the last laugh. The United States failed to re-establish agrarian democracy in its more ingenuous form as envisioned by New Dealers because New Deal programs stripped the economy of almost all vestiges of rural-agrarianism. World War II merely did the mopping up.

Post-war United States is urban-industrial and national programs for agriculture fit this mold. The Agricultural Adjustment Act of 1949, not its New Deal predecessors, was the transition law that set the pattern for all subsequent farm programs, even those now in force.

We may individually approve or regret the reconstitution of the economy, and of agriculture within it, but we are powerless against it.

86. *Cf.* Hardin, *The Bureau of Agricultural Economics Under Fire: A Study in Valuation Conflicts*, 28 J. FARM ECON. 635-38 (1946).