AMERICA'S DECISION: WILL WE SAVE THE FAMILY FARM?

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I.
INTRODUCTION: THE ROOTS OF THE FARM CRISIS

America's farm economy and farm communities are in crisis. Debt and despair, foreclosures and even suicides have swept across the heartland in recent years, turning entire regions into economic wastelands.

Despite the severity of the situation, solutions *are* possible; what is lacking is commitment on the part of our national leadership. For fundamentally, the farm crisis is a crisis of values. It is the result of a failure by our nation's political and economic leaders to recognize the importance of rural America to the stability and strength of our democratic society.

In the fall of 1986, a column in the *Wall Street Journal* headlined, "Why Not Save The 31,000 Top Farmers?," argued that farm foreclosures in the Midwest and South were nothing more than the inevitable workings of the marketplace, weeding out all but the most "efficient" farmers.[1]

While I disagree with the author's premise, he identified the central question we face in formulating a farm policy: How many farmers will our society permit to own and work the land?

Do we want two million farm families owning the land they live and work on, preserving it for future generations? Or do we want our farms run as giant corporations, owned by absentee landlords and operated by day laborers? America must now decide whose interests our government will defend: the vast majority of farmers or the handful of large producers and agribusiness conglomerates.

The Reagan administration has given us its farm policy: big is best.[2] As a result, we have witnessed families breaking under financial strain;[3] banks

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1. A mere 1.3 percent of farm businesses accounted for nearly half of total net farm income in 1984, or $13.2 billion out of $26.7 billion. Peterson, *Why Not Save The 31,000 Top Farmers?*, Wall St. J., Oct. 8, 1986, at 34, col. 3.

2. *See* CONGRESSIONAL QUARTERLY INC., FARM POLICY: THE POLITICS OF SOIL, SURPLUSES, AND SUBSIDIES, 145-66 (1984) [hereinafter FARM POLICY POLITICS].

3. *See* Robbins, *Farm Belt Suicides Reflect Greater Hardship and Deepening Despondency*, N.Y. Times, Jan. 14, 1986, at A11, col. 1. *See also* Turkington, *Farmers Strain To Hold The Line As Crisis Uproots Mental Health*, Am. Psychological A. Monitor, Apr. 1, 1985, at 1.

closing at record post-Depression rates;[4] small businesses going bankrupt;[5] massive layoffs in factories producing agricultural machinery;[6] the economic devastation of entire communities;[7] and finally, the erosion of our soil and pollution of our groundwater by excessive use of pesticides and fertilizers.[8] These events, the Reagan administration would have us believe, are the inevitable costs of progress.

These developments are not inevitable, nor do they represent progress. They result from agricultural policies that spur farmers to produce more and more at lower and lower prices.

The Reagan administration portrays the farm policy debate as the "free market" versus "government control,"[9] but there is no free market in agriculture. Through a variety of mechanisms, every nation controls farm production and commodity prices, and the United States is no exception. Because of the importance of an affordable and reliable food supply, American governments have always been involved in agriculture.[10]

The time has come for the farm policy debate to move beyond mindless and misleading clashes about "free markets" versus "government control." There can be no debate over whether government will be involved in agriculture. It will. Instead, we must focus on *how* government should approach the farm economy. What will its role be? Who will it help? What kind of agricultural system will take shape in the years to come?

II.
PRICES & PROFITS: THE PROBLEM WITH FARM POLICY

During the 1970s, due to drought in the Soviet Union and other short-

4. From 1982 through 1986, 425 banks failed in the United States, including 42 in 1982, 48 in 1983, 79 in 1984, 120 in 1985, and 138 in 1986. Between 1943 and 1981, there was an average of less than six bank failures in a single year. 1986 FDIC, ANN. REP. 53.

5. Approximately one-quarter of rural, non-farm businesses are experiencing financial crises. Fruhling, *Small-Town Blues: Years Of Farm Troubles Force Wrenching Choices*, Des Moines Register, Feb. 10, 1987, at 5A, col. 1 [hereinafter *Small-Town Blues*]. *See* FEDERAL RESERVE BANK OF KANSAS CITY, A CHANGING RURAL AMERICA (1986).

6. From 1979 to 1986, the number of workers employed in farm machinery production fell from 112,700 to 41,300. BUREAU OF LABOR STATISTICS, U.S. DEP'T OF LABOR, LABSTAT SERVICES REPORT (1987).

7. University of Minnesota economists who studied rural counties in several states. . . concluded that the farm crisis. . . has become a crisis for local government, crippling government's ability to collect taxes at a time of rising demand for services for the needy such as job training for farmers, suicide-prevention programs and financial counseling.

Small-Town Blues, supra note 5, at 5A, col. 3. A report by the Federal Reserve Bank of Kansas City notes that, "rural areas are having trouble maintaining streets, water and sewage systems and other facilities crucial to attracting new industry." *Id.*

8. *See, e.g.,* Soth, *Limits on Land Use, Chemicals Needed to Manage Crop Surplus*, Des Moines Register, Nov. 24, 1986, at 12, col. 3.

9. *See* FARM POLICY POLITICS, *supra* note 2, at 145-66. *See also* Remarks at Fairgrounds Grandstand, President Ronald Reagan, Springfield, Ill. (Aug. 12, 1986) (on file at the New York University Review of Law & Social Change).

10. *See* FARM POLICY POLITICS, *supra* note 2, at 103-04.

term factors, the world market briefly accommodated all the farm commodities we could produce. Commodity prices stayed high,[11] the value of farm land skyrocketed,[12] and farmers prospered.[13] During this time, economists, government officials, bankers, and credit officials all advised farmers to expand and to borrow.

The prosperity of the 1970s could not continue forever. The 1980s brought an explosion of food production around the world, particularly in the Third World.[14] The rising federal deficit effectively priced our commodities out of the market while it contributed to dramatically higher real interest rates at home.[15] Inflated land prices, the basis of most farmers' equity, fell[16] and domestic commodity prices sank.[17]

At first, the victims were those farmers and outside land speculators who had vastly overextended their operations. Today, as the farm crisis drags on, more and more solid operators, through no fault of their own, are also being dragged down by low price policies.

Despite the pain it has caused, the Reagan administration continues to base its farm policy on the fallacious premise that lowering commodity prices will win back our export markets. In the fall of 1986, the Government Accounting Office released a report[18] showing that price is by no means the only factor in world agricultural trade. Trade distorting mechanisms also play a significant role. These devices (which include trade agreements and counter-

11. *See A Bumper Year — For Prices*, TIME, Aug. 26, 1974, at 32. *See also, A Turn in Farmers' Fortunes — Report From Mid-America*, U.S. NEWS & WORLD REPORT, Apr. 22, 1974, at 27.

12. *See An Endless Boom in Farmland Prices*, in U.S. NEWS & WORLD REPORT, Apr. 29, 1974, at 49. *See also Farmland Boom Starts to Slow Down*, U.S. NEWS WORLD REPORT, Apr. 10, 1978, at 77.

13. *See A Financial Perspective on Agriculture*, FED. RESERVE BULL., Jan. 1984, at 5.

14. The People's Republic of China has increased its food output by 40 percent since 1980. Bangladesh, mired in famine in the 1970s, is now self-sufficient in food grains. India has doubled its wheat production and increased its rice production by 30 percent since 1970. Sinclair, *The World Doesn't Need Our Farmers*, Wash. Post, Dec. 29, 1985, at B1, col. 4.

15. From 1960 to 1980, real interest rates for farmers averaged 2.3 percent. From 1981 to 1985, this average rose to 6.4 percent. E. MELICHAR, DIV. OF RESEARCH & STATISTICS, BD. OF GOVERNORS OF THE FED. RESERVE SYS., AGRICULTURAL FINANCE DATABOOK 5 (June 1987).

16. Farmland values have plunged 50 percent since the peak in 1981 according to the Federal Reserve Bank of Chicago, which conducts a quarterly survey of the nation's agricultural bankers. *Decline in Farmland Values Continued in Late '86*, Des Moines Register, Feb. 17, 1987, at 6S, col. 1. In Iowa, farmland values have fallen 63 percent since 1981, according to surveys by Iowa State University. Erb, *Land Values Drop 17 Percent Despite "Positive Signs"*, Des Moines Register, Dec. 19, 1986, at 1, col. 6.

17. The following are average farm prices for 1986 as compared with 1981. Corn: $1.45/ bushel v. $2.47 bushel. U.S. DEP'T OF AGRIC., ANN. PRICE SUMMARY 31 (1987). Soybeans: $4.67/bushel v. $6.07/bushel. *Id.* at 34. Milk: $12.50/cwt v. $13.77/cwt. *Id.* at 51. Wheat: $2.42/bushel v. $3.69/bushel. *Id.* at 37.

18. GEN. ACCOUNTING OFFICE, U.S. AGRICULTURAL EXPORTS, FACTORS AFFECTING COMPETITIVENESS IN WORLD MARKETS (Oct. 1986) [hereinafter U.S. AGRICULTURAL EXPORTS].

trade practices, tariff and nontariff barriers, and levies and credit policies)[19] will hurt our farmers regardless of our pricing policy.

To demonstrate, under the 1985 farm bill,[20] the Reagan administration proposed lower commodity prices as the means to increase exports. Instead, the U.S. began importing more agricultural goods than it exported,[21] the first time this had happened in more than a quarter of a century.[22] In 1981 the U.S. had an agricultural trade surplus of $27 billion.[23] In 1986, the surplus dropped to $5 billion.[24]

Even if lowering prices aided exports, it does our farmers little good to dump their commodities at prices well below the cost of production. By trying to increase export volume at any cost, the Reagan administration bankrupts hundreds of thousands of farmers.

The food processors, exporters, and grain companies gain from low prices and lucrative grain storage contracts. From January to October 1986, profits of food processing firms increased 13 percent.[25] Over the past five years, while most farmers experienced a negative net return on equity, the fifty top food processing companies averaged a 14.6 percent positive return.[26]

Low prices and chronic overproduction concentrate land ownership and agricultural wealth here and abroad. Under current policies, the total number of farms in the United States will fall to 1.2 million by the year 2000, nearly a fifty percent decline from the 2.2 million farms in the nation in 1982.[27] Most of this loss will come from part-time and moderate-sized farms, which will plunge in number from 2.1 million in 1982 to 1.1 million at the end of this century.[28] At the same time, the number of large farms will increase from 122,000 to 175,000.[29] Fifty percent of these farms will account for 75 percent of all agricultural production by the year 2000.[30]

The Reagan administration did not originate this policy of "production-oriented" agriculture, but has carried the policy out more excessively and

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19. *See id.* at 14-29.

20. Food Security Act of 1985, Pub. L. No. 99-198, 99 Stat. 1354 (codified at scattered sections of 7 U.S.C.).

21. U.S. AGRICULTURAL EXPORTS, *supra* note 18, at 5.

22. *Id.* at 5.

23. *Id.*

24. ECONOMIC RESEARCH SERVICE, U.S. DEP'T OF AGRIC., FOREIGN AGRICULTURAL TRADE OF THE UNITED STATES 7 (Jan.-Feb. 1987).

25. *Corporate Scoreboard*, BUS. WK., Nov. 17, 1986, at 181. Food processing is defined as baked goods, canned and packaged foods, dairy products, meat, and condiments.

26. To cite some examples: Kellogg, 33.4 percent; Monfort of Colorado, 31.9 percent; RJR Nabisco, 22.8 percent; ConAgra, 22.2 percent; H.J. Heinz, 21.2 percent; Ralston Purina, 19.1 percent; Pillsbury, 17.2 percent and Quaker Oats, 16.7 percent. *Annual Industry Survey*, FORBES, Jan. 12, 1987, at 134-38.

27. OFFICE OF TECHNOLOGY ASSESSMENT, TECHNOLOGY, PUBLIC POLICY AND THE CHANGING STRUCTURE OF AMERICAN AGRICULTURE, at 16-17 (1986) [hereinafter OTA REPORT].

28. *Id.*

29. *Id.* Large farms are defined as those whose farm product sales exceed $200,000. *Id.*

30. *Id.*

more callously than any of its predecessors. Beginning with Secretary of Agriculture Ezra Taft Benson in the 1950s, our agricultural policy has promoted concentration of agricultural capital.[31] We condemn, and rightly so, the forced removal of rural populations in communist countries. Yet what is happening here in America? We are seeing today the greatest forced migration in our nation's history—a modern-day Grapes of Wrath.

In his landmark book *The Unsettling of America*,[32] Wendell Berry points out the folly of this approach. He writes:

> The only difference is that of method: the force used by the communists was military; with us, it has been economic — a 'free market' in which the freest were the richest... as a social or economic goal, bigness is totalitarian; it establishes an inevitable tendency toward the one that will be the biggest of all. Many who got big to stay in are now being driven out by those who got bigger.[33]

Nationwide, due to foreclosures, federal agencies, banks, other lenders, and insurance companies own about $6 billion in farmland, roughly 11 million acres.[34] At some point, when land prices are judged to have reached rock-bottom, these lands will be sold.[35] Few family farmers will be in a position to purchase.

It need not be that way. Our country decided long ago that wages should not be determined solely by the marketplace. The farmer receives a minimum wage through a fair price in the marketplace. Thus, as we have established minimum wages for factory workers and for office workers, we should legislate a minimum wage for farmers through fair prices.

III.
THE FAMILY FARM ACT

In February of 1987, Congressman Richard Gephardt of Missouri and I introduced a bill, the Family Farm Act,[36] to accomplish this goal. Originally introduced in 1985 as the Farm Policy Reform Act,[37] the bill is a product of this decade's farm protest movement. Many of the bill's major ideas were debated and discussed in grassroots meetings across the country. These meetings were sponsored by, for example, such groups as the Iowa Farm Unity Coalition.

31. *See* W. BERRY, THE UNSETTLING OF AMERICA: CULTURE AND AGRICULTURE (1977).

32. *Id.* at 41.

33. *Id.*

34. Fruhling, *Rural Crisis Spawning New Corporate Owners As Family Farms Fade*, Des Moines Register, Feb. 8, 1987, at 6A, col. 3.

35. *See, e.g., Farm Credit Plans Aggressive Sale of 490,000 Acres*, Des Moines Register, Feb. 27, 1987, at 2S, col. 1.

36. S. 658, 100th Cong., 1st Sess. (1987); H.R. 1425, 100th Cong., 1st Sess. (1987) [hereinafter FAMILY FARM ACT].

37. S. 1083, 99th Cong., 2d Sess. (1985); H.R. 2383, 99th Cong., 2d Sess. (1985).

By combining farmers' self-governance, market stability through supply management, and emergency debt relief, the Family Farm Act will alleviate immediate pressures on farmers. The bill will also ensure fairer prices and higher incomes for years to come by readjusting the market. The bill restructures farm policy by combining short-term debt relief with price adjustments; it also implements long-term reform of the way the federal government decides farm policy.

First, the bill provides farmers with a voice in their destiny. It will establish a nationwide referendum program for storable commodities[38]—one farmer, one vote—to allow farmers to choose what kind of farm program they want. Held every four years, referenda will be commodity specific, except in the case of wheat and feed grains, which will be included in a joint referendum. Voting is essential; as long as farm policy is decided in Washington, the agribusiness interests that benefit from overproduction will continue to control the agenda.

If a majority approves the referendum, farmers would enter a market-certificate program to bring their supply in line with demand.[39] The Secretary of Agriculture would set a national marketing quota for each commodity based on projected domestic demand, export demand, food aid requirements, and reserve requirements.[40] Corresponding to the projected national yield, the Secretary would proclaim a national allotment of acres to be cultivated. An individual farm would limit its production according to bushels rather than according to acres. This method would reduce the incentive to use massive amounts of chemicals and fertilizers to achieve maximum production. The bigger farmers would reduce their production more; the smaller farmers would reduce less.[41] In no case would the unpaid set-aside on any one farm exceed 35 percent.[42]

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38. Due to their non-perishable nature, storable commodities are most sensitive to the price-depressing action of excess production. The Family Farm Act defines storable commodities as wheat, corn, grain sorghums, barley, oats, rye, upland cotton, rice and soybeans. FAMILY FARM ACT, *supra* note 36, at § 601(1) (1987).

39. If the referendum results in a no vote, then the current farm law will remain in effect. *Id.* at § 602(e).

40. "Reserve requirements" refers to the amount of a commodity needed to avert shortages in the event of drought or other natural disaster. Reserve requirements would be determined by the Secretary of Agriculture. *Id.* at §§ 601(8), 610(c)(1).

41. The FAMILY FARM ACT requires that production limits be determined in the following manner:

> [T]he set-aside percentage for a crop on a farm shall be based on a formula determined by the Secretary that will on a uniform basis require a greater set-aside percentage as projected production per farm increases. Such formula shall contain a minimum of ten farm-size categories each separated by not less than a one percent set-aside.

Id. at § 607(c)(3). This provision is essential to ensure that the greatest benefits are enjoyed by small and medium-sized family farms.

42. Set-aside percentages are based on each farmer's total crop production base. A 35 percent cap was established to prevent economically disruptive cutbacks in production. However,

> if the Secretary determines that the projected quantity of a commodity, in the absence of land diversion payments, will exceed the national marketing quota for the commod-

For any commodity, each producer would submit planting intentions to the Secretary of Agriculture, who would then determine the set-aside percentage needed to balance supply with demand.

Matching supply with demand would raise market prices above government support levels, eliminating target price subsidies[43] and diversion payments.[44] Surpluses would be eliminated over a period of five years, and farm income would rise to a level at which farmers could afford to pay their debts.

Commodity loan rates, which guide market prices, would be set at 70 percent of parity[45] for 1987 and would increase one percent per year to a maximum of 80 percent of parity.[46] Continuation of this schedule after the first five years would be contingent upon a USDA study and a review by Congress.[47]

Third, to deal with farmers' immediate problems, our bill would establish mediation services[48] to mediate between farmers and creditors, allowing alternatives to foreclosure. The bill would also provide for a state-federal partnership to assist in the comprehensive restructuring of farmers' debts.

Debt restructuring assistance would be provided through County Emergency Debt Restructuring Committees,[49] whose members will be chosen from county committees of the Farmers Home Administration ("FmHA") and Agricultural Stabilization and Conservation Service ("ASCS"). Restructuring agreements that meet certain criteria will enable borrowers to qualify for fed-

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ity, the Secretary may make land diversion payments to producers of the commodity who are eligible family farmers.

Id. at § 607(d)(1).

43. The "target price" is the price objective determined by law to be adequate for farmers to meet the cost of production. The target price is used to determine the level of income support — known as a deficiency payment — a farmer participating in a U.S.D.A. crop program is entitled to receive. These direct payments are made to participating wheat, feed grain, cotton, or rice producers when their prices are below the target price. Deficiency payments are the difference between the target price and the higher of the federal nonrecourse loan level or the crop's average market price (multiplied by the established quantity of bushels or pounds produced). *See* 1 AGRICULTURAL LAW § 1.14 (J. Davidson ed. 1981).

44. Diversion payments are the compensation provided to farmers who voluntarily reduce their commodity output by specified amounts. Diversion payments are often offered to farmers who agree not to plant portions of their wheat, feed grains, cotton or rice acreage. In recent years, they have also been made available to dairy farmers who reduce or terminate milk production. *See id.* at § 1.15.

45. "Parity ratio" measures the inflation-adjusted buying power that a bushel of grain or other commodity unit had during the period 1910 to 1914. This period is widely considered the healthiest and most prosperous for American agriculture in this century.

The parity ratio is determined by dividing the index of prices received by farmers in a given year by the inflation-adjusted prices farmers received during 1910-1914. Thus, the parity ratio for 1910-1914 is 100 percent. The following are the parity ratios for selected recent years: 1976 — 71 percent; 1980 — 65 percent; 1985 — 52 percent. U.S. DEP'T OF AGRIC., AGRICULTURAL PRICES, 1985 SUMMARY 29 (1986).

46. FAMILY FARM ACT, *supra* note 36, at § 603(b).

47. *Id.* at § 603(d).

48. *Id.* at § 522.

49. *Id.* at § 541.

eral no-interest loans of up to $30,000 for three years.[50] The loans will assist with debt service and the restructuring of operations.[51] Following the loan period, a borrower will receive a two year grace period, which may be extended for two additional years if agricultural conditions do not improve. The borrower then will have five years to pay back the loan.[52]

Eligibility for debt restructuring assistance will be determined according to the following guidelines.[53] Family farmers will be eligible if they experience financial stress and if their gross sales are less than $500,000. However, net farm and non-farm income cannot exceed $30,000. Eligible farmers will be required to demonstrate that the assistance is needed for the continuation of a financially viable farming business.

The debt restructuring assistance program will require a partnership between state and federal governments. In order for a state's farmers to be eligible for assistance, the state government would be required to train needed mediators, provide mediation when requested by both creditors and lenders, provide borrowers with the right to request a 42-day mediation period before foreclosure proceedings, and provide lenders with the right to request a 42-day mediation period before borrowers may file for bankruptcy.[54] If a state takes these steps, matching grants of up to one million dollars will become available.[55]

The Family Farm Act will save the taxpayers significant amounts of tax money. A recent study by the Food and Agricultural Policy Research Institute ("FAPRI")[56] suggests that the Family Farm Act would dramatically increase net farm income while reducing costs to the federal government. As compared with the current program, the Harkin-Gephardt bill would realize $72.3 billion in government cost savings over the nine-year period 1987-1995.[57] According to FAPRI, the bill would raise average annual net farm income by 77 percent, to $48.2 billion per year versus $27.3 billion per year under the current program.[58]

Critics charge that the Family Farm Act would force the U.S. to abandon its agricultural export markets. They fail to realize that it is revenues, not volume, that matters. The FAPRI study showed the bill would produce an annual net gain in export revenues for seven major commodities. From 1987-

50. *See infra* note 53.

51. FAMILY FARM ACT, *supra* note 36, at § 541(e), (f).

52. *Id.* at § 543.

53. *Id.* at § 531. In order to ease the burden of debt restructuring on lending institutions, losses occurring as a result of this program may be written off on taxes over a 10 year period.

54. *Id.* at § 521.

55. *Id.* at § 551. Specifically, the matching grants cover the costs of establishing mediation programs.

56. FOOD AND AGRICULTURAL POLICY RESEARCH INSTITUTE, THE COMMODITY SUPPLY MANAGEMENT PROGRAM 17-19 (1987) (on file at the New York University Review of Law & Social Change).

57. *Id.* at Table 4.

58. *Id.* at ii.

1995, revenues would amount to $248 billion versus $137 billion under the existing "export-oriented" policy.[59]

The bill would address any potential loss in export markets by requiring the President to enter multilateral negotiations with food-exporting nations. These negotiations would attempt to increase world market prices and to preserve market shares.[60] Many agricultural trading nations, particularly those in the Common Market, spend billions on farm subsidies to maintain their world market shares and might find it in their interest to achieve this kind of agreement.

If, after nine months, no multilateral agreement had been consummated, the Secretary of Agriculture would be required to use export Payment-in-Kind ("PIK")[61] or cash subsidies to maintain exports.[62] Other provisions would prevent imported commodities from undermining domestic price supports,[63] require labeling of agricultural products when a significant percentage is imported,[64] and outlaw the importation of food items containing chemicals prohibited in the United States.[65]

Others have said the Family Farm Act would increase consumer food prices. Even assuming that food processing companies will pass along to the consumer the full cost of higher-priced commodities,[66] food prices would only rise by an estimated three to seven percent. The bill also incorporates the Hunger Relief Act[67] introduced by Congressman Leon Panetta (D-CA) and Senator Edward Kennedy (D-MA). Should retail food prices rise, the Hunger Relief Act would offset costs to the poor by increasing benefits under the school lunch and breakfast programs, food stamps, and Supplemental Feeding Program for Women, Infants and Children ("WIC") measures.

As it is, expenses for food represent a mere twelve percent of Americans' income, one of the lowest percentages in the world. In Canada and in Great Britain, food expenditures amount to fifteen percent of income; in Australia, seventeen percent; in France, eighteen percent; in West Germany, twenty-

59. *Id.* at Table 4.

60. FAMILY FARM ACT, *supra* note 36, at § 604(c)(2)(B)(i).

61. PIK is a government program in which crops from federally-owned surplus commodities are given to farmers, in order to lower export prices.

62. FAMILY FARM ACT, *supra* note 36, at § 604(c)(2)(B)(ii).

63. *Id.* at § 311.

64. *Id.* at § 312. Labeling would be triggered by imports either that were high in value or high in volume.

65. *Id.* at § 313.

66. Food processors rarely pass along any decreases in commodity prices to the consumer. For example, in 1981, the average retail price of a box of Wheaties was $1.04. The total amount of wheat in that box added up to about 2.4 cents. By 1986, the price of Wheaties had risen to $1.41, but the wheat value had fallen to 1.6 cents — a 36 percent price *increase* to consumers, even as wheat prices had *fallen* more than 33 percent. TEXAS DEP'T OF AGRIC., NEWS RELEASE 4 (Feb. 5, 1987) (on file at the New York University Review of Law & Social Change).

67. H.R. 4880, 99th Cong., 2d Sess., 132 CONG. REC. H3140 (1986); S. 2495, 99th Cong., 2d Sess., 132 CONG. REC. S6376-81 (1986). The sponsors plan to reintroduce the measure, in revised form, in the 100th Congress.

three percent; in the Soviet Union, twenty-six percent; and in China, sixty percent.[68]

President John F. Kennedy saw the delicate balance to be struck when he said, "It must . . . be our purpose to see that farm products return a fair income because they are fairly priced. No farm program should exploit the consumer. But neither can it subsidize the consumer at the cost of subnormal incomes to the farmer."[69]

The people who seem most concerned about increased food prices are the large agri-business concerns. Their interest is not surprising; they have reaped huge profits from low commodity prices at the expense of both the farmer and the consumer. Farmers and consumers alike will benefit from an agricultural system based on a wide distribution of land and wealth.

The Family Farm Act represents a sharp departure from current policies, but it is by no means a new idea. In his 1960 presidential debate with Richard Nixon, Kennedy stated, "In my judgment, the only policy that will work will be for effective supply and demand to be in balance, and that can only be done through governmental action."[70] He suggested "that in those basic commodities which are supported, that the federal government, after endorsement by the farmers in that commodity, attempt to bring supply and demand into balance [and] attempt effective production controls."[71]

The farm crisis today, simply put, is a case of having too much grain with nowhere to go. Even the Reagan administration has, at times, come to the conclusion that supply management is the answer.[72] Yet it clings to a belief in a non-existent free world market and spends billions on set asides, diversion payments, and bonus payments, all terribly inefficient and ineffective attempts to reduce surpluses. If supply management is needed, and clearly it is, why not do it properly by eliminating budget-busting farm subsidies and providing farmers with a mechanism that allows them to produce only as much as the market will bear?

The Family Farm Act will not by itself solve the crisis in rural America.

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68. U.S. DEP'T OF AGRIC., NATIONAL FOOD REVIEW Winter 28 (1986).

69. President John F. Kennedy's Special Message to the Congress on Agriculture (Mar. 16, 1961), PUBLIC PAPERS OF THE PRESIDENTS 193 (1962).

70. *Subcomm. on Freedom of Communications, Subcomm. on Communications, Senate Comm. on Commerce, the Joint Appearances of Senator John F. Kennedy and Vice President Richard M. Nixon and other 1960 Campaign Presentations*, S. REP. NO. 994, 87th Cong., 1st Sess., pt. 3, at 80 (1961).

71. *Id.*

72. The 1983 Payment-in-Kind program, which provided farmers who set-aside greater portions of their crop acreage base with surplus commodities, was announced by Secretary Block on Jan. 11, 1983. 48 Fed. Reg. 1476-79 (1983). It was the largest set-aside program in U.S. history and the most expensive, costing $1.2 billion worth of Credit Corporation Commodities ("CCC").

In addition, the President has publicly supported the 1985 farm bill, which among other things provides for a multi-million acre conservation reserve program and a 35 percent set-aside. *See* Anthan, *Lyng Says Reagan Backs Farm Program*, Des Moines Register, Sept. 13, 1986, at 1, col. 5.

We also need to bring military spending under control, to bring down the massive budget deficit, and to devise a trade policy that will allow American commodities and products to compete in the world market. Nonetheless, a new farm bill must be the centerpiece of our effort.

IV.
DECENTRALIZATION & DEMOCRACY: PROTECTING POLITICAL & ECONOMIC LIBERTY

The decision our government makes about farm policy will determine the quality of life and the productivity of rural America for the years to come. Our own economic history demonstrates which decisions will lead to prosperity.

One of the most successful government programs in history was the Homestead Act of 1862.[73] This measure settled the West by *giving* land to families willing to create productive farms. A different approach might have entailed turning to Cornelius Vanderbilt, Jay Gould, or some other wealthy railroad baron and proposing, "Here's the Dakota Territory, how much will you *pay* for it?"

We implemented the Homestead Act because our leaders understood that society benefits when citizens have an ownership stake in the economy. As Mark Twain wrote, "Any man worth his salt would fight to defend his home, . . . but only a fool would fight to defend his boarding house."[74]

"Free-market" advocates argue that diverse ownership of farmland is not efficient. The proposition's truth depends on how one defines efficiency. Perhaps the time has come to consider social efficiency as well as economic efficiency when formulating our farm and rural policies. In its 1986 study, the Congressional Office of Technology Assessment concluded that, "as agricultural scale increases from very small to moderate farms, the quality of life improves. Then, as scale continues to increase beyond a size that can be worked and managed by a family, the quality of community life begins to deteriorate."[75]

Supporting this conclusion is a landmark study by the United States Department of Agriculture ("U.S.D.A.").[76] In the 1940s, this study compared two rural communities in California, Arvin and Denuba. The agricultural production in both communities had roughly equivalent dollar values. However, Denuba's economy was based on a large number of small family farmers, while Arvin's was based on a few giant producers.[77]

Compared to Arvin, Denuba (the small farm community) supported:

73. *See* P. GATES, HISTORY OF PUBLIC LAND LAW DEVELOPMENT 393-99 (1968).

74. Twain, *quoted in* M. GREEN, THE CHALLENGE OF HIDDEN PROFITS 125 (1985).

75. OTA REPORT, *supra* note 27, at 226.

76. W. GOLDSCHMIDT, A TALE OF TWO TOWNS, *reprinted in* P. BARNES, THE PEOPLE'S LAND 171-75 (1975).

77. *See generally id.*

- Twenty percent more people, and at a higher average income;
- A higher percentage of self-employed workers (in contrast to Arvin, where less than twenty percent were self-employed and nearly two-thirds were agricultural wage laborers);
- Twice as many small businesses and sixty-one percent more retail business;
- More numerous and better schools and public services;
- Greater involvement in democratic decision-making groups.

Thirty years later, Walter Goldschmidt, the U.S.D.A. researcher stated, "The vision of the future under increased corporate control of the land is the vision of Arvins rather than Denubas—indeed of super-Arvins."[78] It is not mere sentimentality to suggest that the family farm is worth preserving. Political democracy cannot long survive without some measure of economic democracy, as the history of Latin America has amply demonstrated.

The time has come for a new direction in our agricultural policy. Momentum is building across the country for a new approach. Although the Reagan administration and its allies in the Farm Bureau leadership and corporate agri-business have vowed to defeat the Family Farm Act,[79] the bill's cost-effective approach to raising farm income will appeal to both urban and rural representatives and senators.

Inevitably, there will be a struggle. We are advocating the reversal of the prevailing wisdom in agriculture for the past three decades. Instead of two to three million family farmers, why not, as the *Wall Street Journal* suggested,[80] have just 31,000 huge corporate farms? Or why not just thirty-one? Unless we act soon, the question will be little more than an intellectual exercise about what might have been done to avert the extinction of the family farm system of agriculture.

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78. F. LAPPE & J. COLLINS, FOOD FIRST 243 (1977).

79. *See, e.g.*, Sinclair, *Agribusinesses Fund Fight Against Crop-Control Bill*, Wash. Post, May 13, 1987, at A4, col. 1; Letter from W. Lesher and R. Russell to agricultural organizations (Nov., 1986) (calling for mobilization to defeat the Act) (on file at the New York University Review of Law & Social Change).

80. *See supra* note 1.