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"ROOSEVELT TO REAGAN" COMMODITY PROGRAMS AND THE AGRICULTURE AND FOOD ACT OF 1981

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I. INTRODUCTION

For over forty years, ever since the early 1930's, Congress has passed

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legislation establishing and modifying the number of programs intended to soften the impact of economic forces upon farmers. These programs are commonly and interchangeably referred to as "agricultural price support programs," "commodity programs," or "farm programs."

How much government involvement should there be in farming? Should consumers pay more? These questions are debated whenever a new farm bill is considered by Congress. Meanwhile, it is undisputed that the government has played a large role in American agriculture and that the American consumers have consistently paid a smaller portion of their income for food than anywhere else in the world.[1]

This Article seeks to briefly trace the history of our farm commodity programs from the 1930's to the present with special mention of the corn and dairy programs. Both corn and dairy considerations have been prominent in farm programs through the years. Corn is typical of the non-perishable commodities and the dairy program is unique because dairy products are so perishable they must be sold on a daily basis.

This Article will also discuss the formation of the 1981 Farm Bill, its contents, the economic and political forces shaping it. The Article will also explore the direction of farm programs, their underlying concepts and directions for the future.

II. The Thirties

The Agriculture Adjustment Act of 1933 was enacted in response to the Great Depression which hit the farm sector severely. Its goal was to raise prices of commodities, and was to be accomplished by giving the Secretary of Agriculture the authority: (1) to secure voluntary reduction of the acreage in basic crops through agreements with producers and the use of direct payments for participation in acreage control programs; (2) to regulate marketing through voluntary agreements with processors, associations of producers and other handlers of agricultural commodities or products; (3) to license processors, associations of producers and others handling agricultural commodities to eliminate unfair practices or charges; (4) to determine the necessity for and the rate of processing taxes; and, (5) to use the proceeds of taxes and appropriate funds for the cost of adjustment operations, for the expansion of markets and for the removal of agricultural surpluses.[2]

The 1933 Agricultural Adjustment Act also established marketing orders and agreements for milk and other perishable commodities such as fruits and vegetables.[3]

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1. Rasmussen, Baker & Ward, *A Short History of Agricultural Adjustments, 1933-75*, Agric. Information Bulletin No. 319 (Washington, D.C. Economic Research Service, U.S.D.A., 1976).

2. Agricultural Adjustment Act of 1933, Pub. L. No. 10, 48 Stat. 31, 33-34 (1933) (current version at 7 U.S.C. § 608-609 (1976)).

3. *See id.*, 48 Stat. at 38 (current version at 7 U.S.C. § 608(c) (1976)). A marketing order

Although enacted to meet the severe economic depression facing farmers, the Act was hotly debated. On March 21, 1933, Mr. Martin of Massachusetts (in opposition to the Act) said, "Now, Mr. Speaker, every farmer whose crops come under the czar-like power of the Secretary of Agriculture will be under close supervision. He will be unable to plant or sell without a permit. Surely it can reasonably be interpreted we are on our way to Moscow."[4]

The Agricultural Adjustment Program came to a stop on January 6, 1936, by the Hoosac Mills decision of the Supreme Court, which invalidated the production control provisions of the Agriculture Adjustment Act of May 12, 1933.[5] A new approach was found that year prior to spring planting and in 1937 Congress enacted new legislation clarifying the legal status of marketing orders and agreements.[6]

The Agricultural Marketing Agreement Act of 1937 established the authority for the Secretary of Agriculture to issue milk marketing orders.[7] The 1937 Act is still the basis for milk marketing orders in the United States today.

The Agricultural Adjustment Act of 1938 provided for mandatory price support loans on certain non-perishable commodities, so they could be stored in time of excess supply and returned to the marketplace in time of scarcity — the "ever normal granary" concept of then Secretary of Agriculture, Henry Wallace.[8] In the 1938 Act, corn was supported at 52% to 75% of parity, as determined by the Secretary.[9]

III. Farm Legislation During the Forties

During the early 1940's, the Secretary of Agriculture requested an expansion of production for war purposes. Price supports were increased and continued at a higher rate which continued until 1948.

Whereas legislation in the 1930's had been of a piecemeal variety, Con-

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is issued by the Secretary of Agriculture and is binding on all handlers of a certain commodity. A marketing agreement is a voluntary contract between the Secretary of Agriculture and handlers of a particular commodity. The handler agrees to abide by the Secretary's guidelines and regulations in marketing the commodities, and in return, the Secretary agrees to prohibit unfair methods of competition and unfair trade practices. Orders and agreements are not applicable to producers in their capacity as producers, but may apply to producers if they are also handlers, such as in a cooperative. For detailed information, *see* 7 C.F.R. 900.1-.18 (1981).

4. 77 Cong. Rec. H669 (1933).

5. United States v. Butler, 297 U.S. 1 (1936).

6. *See* Agricultural Marketing Agreement Act of 1937, Pub. L. No. 75-430, 50 Stat. 246, 247 (1937) (current version at 7 U.S.C. §§ 608(a),(c) (1976)).

7. *See id.* (current version at 7 U.S.C. § 608(c) (1976)).

8. Agricultural Adjustment Act of 1938, Pub. L. No. 430, 52 Stat. 31, 43-44 (repealed 1949); *id.* 52 Stat. at 45 (current version at 7 U.S.C. § 1304 (1976)).

9. *Id.*, 52 Stat. at 31 (current version at 7 U.S.C. § 1282 (1976)); *id.*, 52 Stat. at 43-44 (repealed 1949).

gress enacted a comprehensive long-range federal price support program in the Agriculture Act of 1949.[10] The 1949 Act laid the foundation for all future farm legislation and established a permanent policy of the Federal Government to support prices to producers for agricultural commodities. Most of these comprehensive provisions were contained in the 1948 Farm Bill[11] which marked the start of a new approach in agriculture. The 1948 Farm Bill never became operative, however, as it was superceded by the Agricultural Act of 1949 on October 31, 1949.[12]

One of the most important components of the 1948 and 1949 Acts included the establishment of basic and nonbasic agricultural commodities. As defined by the Acts, "basic agricultural commodities" were cotton, corn, wheat, tobacco, peanuts and rice.[13] All other commodities were considered non-basic agricultural commodities.[14] The significance of defining basic commodities was that these commodities would receive priority over other crops, thereby making it easier to obtain a good price support. These commodities are considered basic today and they have continued to have wide support among their various constituencies. Their original designation was essentially a political one.

Price support for basic agricultural commodities was required to be made available to producers who did not knowingly exceed the farm acreage allotment established for their farms.[15] The Secretary of Agriculture, however, had the discretion to provide such support for farmers not complying with the farm acreage allotment.[16] The 1949 Act did not fix the exact level of price support for any basic commodity, but rather set a minimum and left the exact level to be determined by the Commodity Credit Corporation, with the approval of and subject to the direction of the Secretary of Agriculture.[17]

In addition to establishing a price range, the Act included eight factors which were to be considered when determining the exact level of price support within the range fixed by the law:

1. the supply of the commodity in relation to the demand therefor;
2. the price levels at which other commodities are being supported;
3. the availability of funds;
4. the perishability of the commodity;

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10. Agricultural Act of 1949, Pub. L. No. 81-439, 63 Stat. 1051 (1949) (current version at 7 U.S.C. § 1441 (1976)).

11. Agricultural Act of 1948, Pub. L. No. 80-897, 62 Stat. 1247 (1948) (current version at 7 U.S.C. § 1301 (1976)).

12. Agricultural Act of 1949, Pub. L. No. 81-439, 63 Stat. 1051 (1949) (current version at 7 U.S.C. § 1421 (1976)).

13. *See, e.g., id.*, 63 Stat. at 1056 (current version at 7 U.S.C. § 1428 (1976)).

14. *Id.*

15. *Id.*, 63 Stat. at 1054 (current version at 7 U.S.C. § 1421 (1976)).

16. *Id.* (current version at 7 U.S.C. § 1422 (1976)).

17. *Id.* (current version at 7 U.S.C. § 1421 (1976)).

5. its importance to agriculture and the national economy;
6. the ability to dispose of stocks acquired through a price support operation;
7. the need for offsetting temporary losses of export markets; and
8. the ability and willingness of producers to keep supplies in line with demand.[18]

The Commodity Credit Corporation (CCC) was the basic tool for implementing the price support programs as it had broad authority to make loans, purchases and payments to eligible producers under a new, permanent federal charter.[19]

The 1949 Act set support prices for basic commodities at no more than 90% of parity nor less than certain minimums based on the supply percentage at the beginning of the marketing year.[20]

Generally, non-basic commodities were supported at any level between 60% and 90% of parity, depending upon the availability of funds and other specified factors, such as perishability of the commodity and the ability and willingness of producers to control production to meet demand.[21]

Because of the perishable nature of milk and the need to provide an adequate supply on a daily basis, dairy was classified as a separate commodity and given a unique government support program in the 1949 Act.[22] Support was made mandatory on whole milk, butterfat, and their products at the level between 75% and 90% of parity which would assure an adequate supply of dairy products.[23]

With the completion of the 1949 Act, corn was a firmly established basic commodity as it had been in the 1930's. No separate program was established for corn as it was grouped with other basic commodities.[24]

IV. Farm Legislation During the Fifties

Throughout the 1950's, few changes were made to the Agricultural Act of 1949. Because of the Korean War, flexible supports on most basic commodities did not become operative, but rather as part of the United Nations defense efforts, supports on all 1951 basic crops were maintained at the 90% level to stimulate production. As farmers responded to the higher price supports by producing more, the higher support prices discouraged consumption. At the same time industry began to develop substitutes for farm com-

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18. *Id.*
19. Commodity Credit Corporation Charter Act, Pub. L. No. 80-806, 62 Stat. 1070 (1948) (current version at 15 U.S.C. § 714 (1976)).
20. Agricultural Act of 1949, Pub. L. No. 81-439, 63 Stat. 1051-53 (1949) (current version at 7 U.S.C. §§ 1441-1448 (1976)).
21. *Id.*, 63 Stat. at 1052-54 (current version at 7 U.S.C. §§ 1421-1425, 1447-1449 (1976)).
22. *Id.*, 63 Stat. at 1053 (current version at 7 U.S.C. § 1447 (1976)).
23. *Id.*
24. *See id.*, 63 Stat. at 1051 (current version at 7 U.S.C. § 1441 (1976)).

modities such as margarine and synthetic fibers. At the end of the Korean War in 1953, changes in price support and production control were required. It became obvious that if the price support systems were to succeed, production would have to be controlled.[25]

For the remainder of the decade, controversies within Congress and the Administration raged over levels of support — high, fixed levels versus a flexible scale. Although a flexible level of support became law, the various other attempts to control supply failed during the 1950's. Because of the use of large and improved machinery, fertilizers, and hybrid seed corn, production skyrocketed.

Marketing quotas[26] were established for the 1954 crops of wheat and cotton by Secretary of Agriculture Ezra Taft Benson in June and October of 1953, respectively. Tobacco and peanuts have continued under marketing quotas. Quotas were not imposed on corn, and the dairy program continued to be supported at 90% of parity.

The Agricultural Trade Development and Assistance Act (Public Law 480) became law in July 1954 to help dispose of United States surplus agricultural commodities abroad.[27]

The Soil Bank Act, which was enacted as part of the Agricultural Act of 1956, authorized a program of annual acreage diversion for wheat, corn, rice, cotton, peanuts and various types of tobacco.[28] A long-term land retirement program called the Acreage Reserve Program was also enacted but was terminated in 1958.[29]

The Agricultural Act of 1958 provided a continuation of most farm programs, including dairy.[30] The Act, however, provided for a referendum of corn producers to determine if they favored: (1) continuing the current price support program which made support available within a 75% to 90% of parity range for producers who complied with their acreage allotments, or (2) participating in a new program which discontinued acreage allotments and made support available to all producers at 90% of the average price received by producers during the three preceeding calendar years, but in no event at

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25. Penn, *The Changing Farm Sector and Future Public Policy: An Economy Perspective, Agricultural Food Policy Review: Perspectives for the 1980's*, U.S. Dep't of Agric., AFPR-4, (April 1981).

26. Marketing quotas are a means of regulating the production and marketing of commodities when supplies become excessive. A national marketing quota is the quantity of a particular commodity that will provide adequate and normal supplies. The national acreage needed to produce these supplies is then apportioned among states, counties and individual farms.

27. Agricultural Trade Development Assistance Act of 1954, Pub. L. No. 83-430, 68 Stat. 454 (1954)(current version at 7 U.S.C. § 1691 (1976)).

28. Soil Bank Act, Pub. L. No. 84-540, 70 Stat. 188 (1956) (repealed 1965).

29. Department of Agriculture Organic Act of 1956, Pub. L. No. 84-979, 70 Stat. 1032, 1034 (1956) (current version at 7 U.S.C. §§ 1040, 1392, 1766 (1976)).

30. Agricultural Act of 1958, Pub. L. No. 85-835, 72 Stat. 988 (1958) (current version at 7 U.S.C. § 1443 (1976)).

less than 75% of parity.[31] A majority of the growers favored the new program and it became effective with the 1959 crop.

V. Price Support Programs in the Sixties

The farm programs established in the 1940's continued, largely unchanged, until the 1960's. By 1960, there were severe problems with the existing farm programs. Large stocks of surplus grains, cotton and dairy products were accumulating under government ownership, the cost of the support programs had become very high and the United States was no longer competitive in world markets.

One of President John F. Kennedy's first executive orders in 1961 directed Secretary of Agriculture, Orville L. Freeman, to expand the program of surplus food distribution to needy persons.[32] During this time, a pilot food stamp program was started, the school lunch program was expanded and greater use was made of Public Law 480 to distribute our agricultural surplus abroad.

Perhaps the most important feature of the new farm policy was the Feed Grains program approved March 22, 1961.[33] The purpose of the Act was to establish a one-year emergency program to reduce the production of feed grains in the 1961 crop year, thereby alleviating conditions of oversupply and low prices.[34] This Act represented a shift in supporting farm incomes away from price supports to making direct payments for some commodities. The direct payments were used to supplement farm incomes and at the same time price supports were lowered, reducing their interference with the markets. The Feed Grains Act of 1961 was a forerunner of the 1973 Farm Bill which separated commodity price support from income support and made use of different commodity programs to pursue the objectives independently.[35]

There was no mandatory provision in the emergency program, but it was a voluntary acreage reduction program with high inducements for farmers to participate. The Act provided for a special agricultural conservation program under which acreage previously planted to feed grains would be diverted from production for 1961.[36] Producers were not eligible for price supports under this new program unless they cooperated in the special agri-

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31. *Id.*, 72 Stat. at 993-94 (current version at 7 U.S.C. §§ 1329(a), 1441, 1444(a), (b) (1976)).

32. 26 Fed. Reg. 639 (1961).

33. Agricultural Act of 1961, Pub. L. No. 87-128, 75 Stat. 294, 301-303 (1961) (current version at 16 U.S.C. §§ 590(p), 1444(b) (1976)).

34. *Id.*, 75 Stat. at 294 (current version at 7 U.S.C. § 1911 (1976)).

35. *See* Agricultural and Consumer Protection Act of 1973, Pub. L. No. 93-86, 87 Stat. 221 (1973) (current version at 7 U.S.C. § 1307 (1976)).

36. Agricultural Act of 1961, Pub. L. No. 87-128, 75 Stat. 294, 301-303 (1961) (current version at 7 U.S.C. § 1441(b) and 16 U.S.C. § 590(p) (1976)).

cultural conservation program.[37]

Throughout the 1960's, the basic farm program remained intact, including the programs for corn and dairy. The Food and Agriculture Act of 1965 incorporated the successful features of the farm policies that had evolved over the years.[38] Basically, the Act continued the feed grain diversion and payment programs. It provided for market support of cotton, feed grains and wheat prices through price support loans and payments.[39]

Through an aggressive program during the early 1960's much of our surplus stocks of butter, non-fat dry milk and cheese were disposed of through Public Law 480, the school lunch program, commodity food programs for the poor and the military and public hospitals. Dairy surpluses were also curtailed due to a reduction in feed grain surpluses.

The Act of 1965 began the return to reliance on the marketplace by reducing the interference of price supports with this function, by increasing reliance on direct payments to enhance incomes and by introducing more volunteerism in the supply management programs.

VI. The Seventies

The main provisions of the Agricultural Act of 1970[40] were directed at controlling overproduction through the use of a new "set-aside" authority,[41] increasing exports, providing more production flexibility to the individual farmer and for the first time setting payment limitations for each producer.[42] It was basically market-oriented. The use of rigid acreage allotments and bases for production control were eliminated.

By 1973 the situation had changed. The Agriculture and Consumer Protection Act of 1973[43] was debated and passed when the theme was the need to increase production to meet an expanded export market. Concern shifted

37. *Id.*, 75 Stat. at 297, 301 (current version at 7 U.S.C. § 1441(b) (1976)).

38. Food and Agricultural Act of 1965, Pub. L. No. 89-321, 79 Stat. 1187 (1965) (current version at 7 U.S.C. § 608(c) (1976)).

39. *See, e.g., id.*, 79 Stat. at 1188 (current version at 7 U.S.C. § 1444(b) (1976)).

40. Agricultural Act of 1970, Pub. L. No. 91-524, 84 Stat. 1358, 1358-84 (1970) (current version codified in scattered sections of 7 U.S.C., 13 U.S.C., 16 U.S.C. §§ 590, 1501-1510, and 42 U.S.C. § 3122 (1976)).

41. *Id.*, 84 Stat. at 1362, 1368 (current version at 7 U.S.C. §§ 1445 (a), (b) (1974)). Prior to 1970, under the term "diverted acres," farmers choosing to participate in the program had to limit their acreage planted to feed grains to their base acreage (an average of what they had planted to feed grains in 1959-1960 less the diversion). Under "setaside," participants are eligible for program benefits as long as they plant no harvestable crop on a required percentage of their base acreage. They can plant any crop they choose on all remaining acres. This authority is continued in the 1981 Act.

42. *Id.*, 84 Stat. at 1358 (current version at 7 U.S. C. § 1307 (1974)). The limit was $55,000 per crop. This was lowered to $20,000 in the 1973 Act and increased to $50,000 in the 1981 Act.

43. Agriculture and Consumer Protection Act of 1973, Pub. L. No. 93-86, 87 Stat. 221, 221-50 (1973) (current version codified in scattered sections of 7 U.S.C., 13 U.S.C. § 142, 16 U.S.C. §§ 1501-1510, and 45 U.S.C. § 71 (1974)).

from overproduction and low farm income to shortages, inflation, instability in farm prices and the need to use our agricultural exports to pay for imported oil. The title of the 1973 Act was indicative of the growing strength of urban voters in Congress.

The years 1973-1977 brought adverse global weather and shortfalls in food production in many parts of the world. Record farm prices and record farm incomes resulted.[44] "Fence row to fence row" planting created tremendous problems in soil conservation. Production costs toward the end of the period went up dramatically and commodity prices declined, resulting in a decline in net farm income. Thus the 1977 Act dealt mainly with increasing farm income, addressing the problems of soil loss and incorporating a new feature, the "farmer-held grain reserve."[45]

The years 1978-1981 saw more instability in agriculture. Net farm income went from $17.8 billion in 1977 to $31.0 billion in 1979, followed by a drop to $19.9 billion in 1980.[46] Projected figures for 1981 of less than $23 billion indicated the lowest net farm income, in constant dollars, since 1934.[47] Commodity prices plummeted during 1981, with corn prices falling over 30%. Interest rates soared to 20%. Low-priced feed, and to some extent low-priced cattle, led to more production of milk, and government-held stocks of butter, cheese and non-fat dry milk began to exceed the stock build-ups of 1960-61. Under these circumstances it would have been normal to expect a farm bill with strong price support measures. But 1981 was not a "normal" year. Budgetary concerns became the driving force behind the development of the 1981 Farm Bill, and not what was needed for agriculture.

VII. The 1981 Farm Bill[48]

January 1981 saw the inauguration of a new President, a staunchly conservative Republican, Ronald Reagan. The United States Senate for the first time in twenty-nine years was controlled by the Republican Party. The new chairman of the Senate Agriculture Committee was Senator Jesse Helms of North Carolina. Senator Helms, who was first elected in 1972 and is now serving his second term, replaced the former chairman, Senator Herman Talmadge of Georgia, who was first elected to the Senate in 1956 and served

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44. For the period 1965-1971, net farm income averaged $13.5 billion. For the period 1972-1977, the average was $23.2 billion. For 1973, net farm income was $33 billion. U.S. Dep't of Agriculture, Agricultural Statistics 416 (1980).

45. Food and Agriculture Act of 1977, Pub. L. No. 95-113, 91 Stat. 913, 951 (1977) (current version at 7 U.S.C. § 1445(f) (Supp.IV 1980)).

46. U.S. Dep't of Agriculture, *supra* note 44, at 416.

47. *Id.*

48. A great deal of the information contained in this section comes from Representative Harkin's personal information and observations as a Congressional Representative and for this reason no authority is cited for many of the statements and information contained in this section.

as Chairman of the Senate Agriculture Committee for ten years.

The House, on the other hand, remained narrowly Democratic. The House Agriculture Committee, however, had a new chairman, Representative E. de la Garza from Texas. Representative Tom Foley of Washington who had been chairman since 1975, resigned as chairman to become Democratic Whip in the House.

The initial procedure for development of a farm bill proceeded normally as the various subcommittees of both the Senate and the House Agriculture Committees held hearings and marked up their components of the bill. The Administration submitted its draft "Agricultural Act of 1981"[49] in mid-April to both the House and Senate. This draft proposal was a considerable departure from the past Administration's proposals, and gave the first clue as to the type of farm bill that would be acceptable to the new Administration. Basically, the Reagan proposal would have terminated many programs and shifted nearly all decision-making authority away from Congress to the Secretary of Agriculture.[50]

In dairy, for example, the Administration in its draft proposal, wanted to lower the minimum support level from 75% of parity established in the 1949 law, to 70% and to give the Secretary further authority to lower supports below 70% of parity.[51] For corn, the Administration's bill would have terminated target prices and left loan levels completely discretionary with the Secretary, removed authority for a set-aside, terminated the emergency feed program for livestock and removed the requirement for a producer-owned storage program (the farmer-held grain reserve).[52] Also, in light of further developments which will be discussed later, there was no mention of any Administration support for a sugar program in this draft bill. The Administration's bill received scant attention in both the House and Senate Committees. The House Agriculture Committee passed its version of the Farm Bill, H.R. 3603, on May 19, 1981[53] and the Senate Agriculture Committee passed its bill, S. 884, on May 27, 1981.[54]

However, much of what the Administration was unable to accomplish directly, it did so through the "back door" of the budget process, and this is what made the development of the 1981 Act so different from previous years.

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49. H.R. 3180, 97th Cong., 1st Sess., 127 Cong. Rec. 1460 (1981); S. 943, 97th Cong., 1st Sess., 127 Cong. Rec. 3684 (1981).

50. *See* S. 943, § 901, 97th Cong., 1st Sess. 127 Cong. Rec. S3721 (1981).

51. *See id.* § 101, at S3716.

52. *See id.* § 301, at S3716.

53. H.R. 3603, 97th Cong., 1st Sess., 127 Cong. Rec. 2918 (1981) (passage vacated by H. and S. 884; passed in lieu of on October 22, 1981).

54. S. 884, 97th Cong., 1st Sess., 127 Cong. Rec. 5598 (1981) (approved, Pub. L. No. 97-98 on December 22, 1981).

A. *The Budget Impact*

There were two provisions in the 1981 budget resolution that were not in effect in 1977: First, the reconciliation section, Part A of Title III, and secondly, the enforcement section, Part B of Title III of the first budget resolution.[55]

The first budget resolution passed by the House on May 7, 1981 and by the Senate on May 12, 1981 mandated that committees "shall recommend . . . changes in laws within the jurisdiction of that committee to reduce . . . [budget] authority . . . and outlays . . ." for each fiscal year 1982-1983-1984.[56] For the Agriculture Committee, the reconciliation instructions mandated reductions of $1.9 billion in fiscal year 1982, $2.6 billion in fiscal year 1983 and $3 billion in fiscal year 1984.[57] These "reconciliation instructions" were accompanied by a list of "suggested areas" where each committee could find the mandated reductions. The House Agriculture Committee had to report its "reconciliation" measure to the Budget Committee by June 12. In other words, the full Agriculture Committee had to reconvene and pass a separate bill incorporating the necessary cuts to meet the mandated reductions passed earlier in the reconciliation portion of the first budget resolution. These reductions were incorporated into the Omnibus Budget Reconciliation Act of 1981.[58]

The second provision of the budget resolution that played a key role in the formation of the Farm Bill was section 305,[59] the enforcement section, which provided that no bill could be "enrolled," that is, sent to the President for his signature if such bill provided for spending levels in excess of the levels specified in the first budget resolution.[60] The bill passed by the House Agriculture Committee was $1.047 billion over the first budget resolution for fiscal year 1982, so it had to be reduced or face certain defeat on the House floor.

Members of the House Agriculture Committee met informally over several weeks to reach an agreement to reduce the overall spending level in the bill and still maintain the acceptable commodity support levels reached by the committee. When such an agreement was reached, Congressman Berkley Bedell drafted and offered the amendment to bring the bill in line with the first budget resolution. The amendment was accepted on the floor of the House by a vote of 400 to 14, paving the way for House acceptance of H.R.

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55. H.R. Cong. Res. 115, 97th Cong., 1st Sess. tit. III, 127 Cong. Rec. 5441 (1981) (agreed to by House on May 20, 1981; agreed to by Senate on May 21, 1981).

56. *Id.*

57. *Id.*

58. Omnibus Budget Reconciliation Act of 1981, Pub. L. No. 97-35, 95 Stat. 357, 357-933 (1981).

59. *Id.*, 95 Stat. at ___.

60. *Id.*, 95 Stat. at ___.

3603 on October 22, 1981.[61]

From the first of the year until the first budget resolution passed, the deliberations of both the Senate Agriculture Committee and the House Agriculture Committee dealt with the problems in agriculture and what was needed to address those problems in the new Farm Bill. After the passage of the first budget resolution, the question became one of how to fit the agriculture bill into a budget mandated by the Administration. This was a new and most compelling factor in the political and economic process leading to the adoption of a new farm bill.

There were two other factors that played important roles in guiding the Farm Bill to completion: The split that developed in the farm coalition and the conference committee's deliberation.

There were two, and perhaps three, causes of the eventual split in the farm coalition that occurred later during the meetings of the conference committee.

First, there has been the recent decline in the influence of the general farm organizations. Their influence has been replaced by the separate commodity interests. From the early 1930's through the 1960's, the general farm organizations, such as the American Farm Bureau, the National Farmers Union, The Grange and later the National Farmers Organization, were quite influential in shaping farm legislation. They brought a broad-based view, generally speaking, to developing farm legislation since they represented a variety of commodity interests. Today, however, these same groups dutifully march up to the "Hill" to give their prepared testimony during the early hearings in subcommittee and committee, and then are seldom, if ever, heard from again. On the other hand, during the all-important mark-up sessions in subcommittee and committee, the halls are packed with lobbyists representing commodities such as dairy, cotton, rice, sugar, tobacco and peanuts.

Secondly, the "sugar and peanut factor" contributed to this split in the farm coalition. As mentioned earlier, the Administration's draft bill submitted in April of 1981 made no mention of a sugar support program. In the 1977 Act, sugar had a price support but it was only authorized for two years.[62] In 1979, the House defeated an attempt to renew the sugar loan program.[63]

In May 1981, as the time approached for House debate on the budget, the vote outcome was uncertain. The Administration viewed this vote as the most important one for the President's overall program. President Reagan personally telephoned and visited at the White House with members of the Democratic Party thought to be sympathetic to his program. Most of these

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61. 127 Cong. Rec. H7713 (daily ed. Oct. 22, 1981).

62. Food and Agricultural Act of 1977, Pub. L. No. 95-113, 91 Stat. 913, 949 (1977) (current version at 7 U.S.C. § 1446 (Supp.V 1981)).

63. 125 Cong. Rec. 9553 (daily ed. June 26, 1979).

members comprised the so-called "boll-weevil" group of southern Democrats, and many represented sugar or peanut growing areas. They overwhelmingly supported the President's budget.[64] One Representative, John Breaux, admitted openly that he voted for the budget in return for a Presidential pledge of support for a new sugar program.[65]

The House Agriculture Committee adopted a sugar loan program, but an amendment to delete this section of the bill offered during debate on the House floor carried by a vote of 213 to 190.[66] This section, however, was replaced during conference committee, since the Senate also had a sugar program in its bill. Both the House and Senate Agriculture Committees continued the forty-year-old system of allotments and poundage quotas for peanuts. Senator Lugar of Indiana offered an amendment on the Senate floor to delete the allotment and quota system for peanuts, and to place peanuts under the same type of loan program as for other commodities.[67] On the key vote, his amendment was narrowly defeated, 51 to 47.[68]

In the House, Representative Stanley Lundine of New York, offered an amendment identical to the Lugar amendment and it won overwhelmingly, 250 to 159.[69] Again the peanut section, like the sugar section, was adopted in the conference committee.

Thus, during the long deliberations of the conference committee, it became evident that if the Administration wanted to pass its farm bill, it would have to count on a coalition of "loyal" Republicans and "boll-weevil" Democrats representing sugar and peanut-producing areas. It can safely be said that without the active support of the President, there would be no sugar loan program today and no more peanut allotments or quotas.

The third reason for the split in the farm coalition was the admitted desire of the Director of the Office of Management and Budget, David Stockman, to cause such a split. In an interview with William Greider, Mr. Stockman was quoted as saying, "My strategy is to come in with a farm bill that is unacceptable to the farm guys so that the whole thing begins to splinter."[70]

B. *The Conference Committee*

The third factor to play an important role in the shaping of the Farm Bill was the deliberation of the conference committee.[71]

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64. 127 Cong. Rec. 3926 (daily ed. Oct. 23, 1981).
65. Washington Post, June 27, 1981, at 1, col. 1.
66. 127 Cong. Rec. 9737 (daily ed. Sept. 16, 1981).
67. *Id.* at 9731.
68. *Id.* at 9737.
69. 127 Cong. Rec. 7381 (daily ed. Oct. 15, 1981).
70. 248 Atlantic Monthly, No. 6 at 35, col. 1 (Dec. 1981).
71. A conference committee is the device used to settle differences in bills passed by the House and Senate. House conferees are appointed by the Speaker, on the advice of the chair-

House conferees were optimistic going into conference since, after all, the House was within the budget guidelines and the House Agriculture Committee had complied fully with the reconciliation instructions. All that was left was to reach the usual compromises with the Senate, which normally fell mid-point between the Senate level and the House level for any commodity. That was not to be the case in this, the longest Agricultural Conference on record lasting twenty-one separate sessions, with Senator Helms as chairman.

The Administration had key people from both the Office of Management and Budget (OMB) and the Department of Agriculture (USDA) in attendance at every meeting. This was not in itself unusual, except the extent to which each issue raised in conference was referred to the Administration appointees for their declaration on whether or not the level of support at issue "fit the budget."

At the beginning of the conference, the conferees were presented with new Administration "budget numbers." It appeared that during August, OMB refigured some of its earlier estimates based on the August crop estimates of the Department of Agriculture, and revised their budget levels downward. Thus, what many conferees thought fit into the budget, no longer did. Dairy is a good example. The House-passed bill set the dairy price support level at $13.10 cwt for fiscal year 1982, 72.5% of parity for fiscal year 1983, and for fiscal years 1984-1985 at no less than 70% of parity, except that when estimates of government price support purchases would be less than 3.5 billion pounds (milk equivalent), the support price would not be less than 75% of parity.[72] On two separate votes, the House voted overwhelmingly to support these levels. Dairy was in Title I of the bill,[73] so it was first on the agenda for the conferees. The Administration personnel stated that the House bill exceeded their "August revisions."

After a lengthy negotiating process, the Administration's key person at the conference, Mr. William Lesher, Assistant Secretary of Agriculture for Economics, agreed that the following dairy support levels would fit their "August numbers": (1) $13.10 per cwt in fiscal year 1982; (2) minimum support price of 70% of parity in fiscal years 1983-1985; (3) minimum of 75% of parity if anticipated purchases are less than 4.0 billion pounds (milk equivalent) in fiscal year 1983, 3.5 billion pounds in fiscal year 1984, and 2.69 billion pounds in 1985. Both sides voted to accept these levels, and normally this matter would have been closed.

For corn, the House-passed bill set a minimum loan of $2.65 per bushel for the 1982 crop, and for 1983-1985 to be adjusted proportionately to corn

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man and ranking minority member of the committee with jurisdiction over the bill being considered. Senate conferees are appointed by the Senate as a whole on the advice of the committee chairman and ranking minority members.

72. H.R. 3603, 97th Cong., 1st Sess. § 101, 127 Cong. Rec. H7686 (daily ed. Oct. 22, 1981).

73. *Id.* at H7684.

target price adjustments.[74] The target price was set at $2.90 per bushel for the 1982 crop, and for crop years 1983-1985 would be adjusted to reflect increases in the cost of production (this provision was also in the 1977 Act).[75] In conference, the following agreement was reached: (1) minimum loan of $2.60 per bushel for 1982-1985; (2) a minimum target price of $2.70 per bushel for 1982 with the following increases:

1983	$2.86
1984	$3.03
1985	$3.21[76]

Again both sides voted to accept these levels and the Administration said they fit the "August numbers."

Then after nearly all issues had been decided upon, Senator Helms presented to the conferees a "compromise" proposal on December 3, which lowered the support level for nearly every commodity. Dairy price supports were lowered from a minimum of 70% of parity for fiscal years 1983-1985 to a set dollar level of $13.10 per cwt for fiscal year 1982, $13.25 per cwt for fiscal year 1983, $14.00 for fiscal year 1984, and $14.60 for fiscal year 1985.[77] A minimum of 70% of parity for fiscal year 1983-1985 would be set if anticipated government purchases are less than $1 billion.[78]

For corn, the minimum loan was reduced from $2.60 per bushel to $2.55 per bushel and the target prices were left essentially the same:

1982	$2.70/bushel
1983	$2.86
1984	$3.03
1985	$3.18[79]

Thus, Agriculture Committee members had been told earlier in the year that their committee bill had to conform with the budget levels that passed the House and the Senate in order to be acceptable to the Administration. Later during conference, conferees were told that new and lower levels for support prices were needed to fit a newly revised budget estimate. Now, on this, the 25th day of the conference meetings, conferees were told again that there had to be new cuts to conform with another set of budget estimates. In other words, conferees were told during the conference meetings that the support levels had to fit a certain budget level to be acceptable. Now, having conformed to that mandate, conferees were being told that those earlier numbers were invalid and that more cuts and more compromises had to be

74. *Id.* at H7686.
75. *Id.*
76. *See* Conference Report on S.884, Agriculture and Food Act of 1981, 97th Cong., 1st Sess., 127 Cong. Rec. H9861 (daily ed. Dec. 21, 1981).
77. *See id.* at H9857.
78. *See id.*
79. *See id.*

made. This set the stage for the final two days of the conference. The nine Senate conferees voted to accept the new proposal by a vote of five to four (five Republican "ayes," four Democratic "noes"). The proposal then came to the House conferees for their vote, and it was rejected eight to seven. There were sixteen House conferees: nine Democrats and seven Republicans. On this vote, two Republicans voted "no" and four voted "aye." Six Democrats voted "no" and three voted "aye." Representative Coleman, Republican of Missouri, was absent.

After the vote was announced, Senator Helms angrily asked the clerk to read the names of those voting and how they voted. He wrote the names down on a piece of paper, folded the paper and thrust it into his pocket, banged the gavel, and adjourned the conference until the next day. One Member remarked to the two Republicans who had voted "no" that they had better have thick skins or go into hiding overnight.

When the conference convened the next day, Representative Coleman was in attendance. But if all the votes held as the day before, Coleman's "aye" vote would mean only an eight to eight tie, which would still be a rejection of the Administration proposal offered by Senator Helms, resulting in a deadlock conference committee and the possibility of no farm bill in 1981. On the instructions of Senator Helms, the clerk again called for a roll of the House conferees. The votes, as expected, remained the same, with Representative Coleman voting "aye," but with one startling exception: Representative James Weaver of Oregon, who was present, did not respond when his name was called. On the previous day Weaver had voted "no." So what was an eight to seven vote to reject on the previous day, became an eight to seven vote to accept the Helms proposal on this, the twenty-seventh day of the conference, and the conference adjourned.

The Senate took up the conference report on December 10 and passed it by a vote of sixty-eight to thirty-one.[80] The House took up the conference report as the last bill on the last day of the session, December 16, 1981. After heated debate, the House passed the bill by the narrow vote of 205 to 203, after Representative Dreier of California changed his vote from "no" to "aye."[81] This was the closest vote ever on a major farm bill.

Basically, the 1981 Act was an extension of the provisions contained in the 1977 Farm Bill. With the exception of the sugar and peanuts, the debates and disagreements occurred not on any new program or termination of old programs, but simply upon the level of supports accorded to each particular commodity.

In sum, there were eight basic changes contained in the 1981 bill from the 1977 bill:

1. *Peanuts*. For the first time in over forty years those without allot-

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80. 127 Cong. Rec. S14922 (daily ed. Dec. 10, 1981).
81. 127 Cong. Rec. H9855 (daily ed. Dec. 16, 1981).

ments can grow peanuts; however, this applies only to peanuts for export or for crushing into oil.[82] To grow peanuts for the edible, domestic market, one must still have a government-sanctioned allotment.[83]

2. *Rice*. The 1977 Farm Bill provided a change in the allotment system for rice in that after 1977 those without allotments could grow rice but they could not get any price support for rice not grown on an allotment.[84] The 1981 Act eliminates the allotment system entirely for rice so that everyone who grows rice is eligible for the support program.[85]

3. *Sugar*. The loan program for sugar contained in the 1981 Act is a four-year program;[86] whereas, in the 1977 Farm Bill it was only for two years.[87]

4. *The Food Stamp Program*. Food stamps for Puerto Rico were ended in the 1981 Act and changed to a block grant program.[88]

5. *Export Embargo Language*. The language in the 1981 Act is much more restrictive than that contained in the 1977 bill.[89] Under the 1981 Act, if an embargo is placed on any agricultural commodity other than in connection with a total embargo, the Secretary of Agriculture must: (a) immediately raise the loan rate of such commodity to 100% of parity price for the commodity; or (b) make a direct payment to each producer of the embargoed commodity to make up the difference between the market price of that commodity just prior to the embargo and 100% of parity; or, (c) any combination of (a) and (b).[90]

6. *Storage Facility Loan Program*. This was terminated and made discretionary with the Secretary.[91]

7. *Economic Emergency Loan Program*. Maximum loan authority was set at $600 million and made completely discretionary with the Secretary.[92]

8. *User Fees*. User fees on the inspection and grading of grain, tobacco and cotton were implemented.[93]

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82. Agriculture and Food Act of 1981, 97th Cong. 1st Sess. ___, 127 CONG. REC. H9857 (daily ed. Dec. 16, 1981).

83. *Id.*

84. *See* Food and Agriculture Act of 1977, Pub. L. No. 95-113, 91 Stat. 913, 940 (1977).

85. Agriculture and Food Act of 1981, 97th Cong., 1st Sess. ___, 127 CONG. REC. H9857 (daily ed. Dec. 16, 1981).

86. *Id.* at H9858.

87. The Food and Agricultural Act of 1977, Pub. L. No. 95-113, 91 Stat. 913, 949 (1977).

88. Agriculture and Food Act of 1981, 97th Cong., 1st Sess. ___, 127 CONG. REC. H9864 (daily ed. Dec. 16, 1981).

89. The Food and Agricultural Act of 1977, Pub. L. No. 95-113, 91 Stat. 913 (1977).

90. Agriculture and Food Act of 1981, 97th Cong., 1st Sess. ___, 127 CONG. REC. H9858 (daily ed. Dec. 16, 1981).

91. *Id.* at H9863.

92. *Id.* at H9860.

93. *Id.* at H9858.

VIII. Summary

Since 1938, the framework of our national agricultural program has remained essentially the same. Many important and worthwhile additions have been made, such as the Public Law 480 program and the food stamp program. Changes have been made in the commodity programs by tying increases in some commodity payments to an inflation factor rather than a parity basis, and some old walls torn down, like the allotments and marketing quotas for corn. Some of the successful programs of today are merely new terms for old concepts: The "ever normal granary" of the 1938 Act becomes the "Producer Reserve Program" of the 1981 Act!

One trend is distinguishable, however. The goal of the early programs was to directly increase the income of farmers during the depression of the 1930's. This goal was reaffirmed in the 1949 Act, but by 1970 this was replaced with the present philosophy of farm programs providing a "safety net" for farm incomes.

There have also been two important shifts in power over the last forty years. First, as we mentioned earlier, the influence of the general farm organizations has declined. These organizations, even though they disagreed often and quite strongly on pending farm legislation, brought a broader based view to developing and changing commodity programs. The farm groups have been replaced by separate commodity interests, thus fractionalizing an already existing minority of rural votes in Congress, and making it even more difficult to reach a consensus acceptable to the majority urban members.

Second, during the early years of the 1930's, 1940's and 1950's, the Secretary of Agriculture was more powerful. Legislatively, Congress gave much authority to the Secretary to use his discretion in both administering programs and setting pricing levels. Also, the Secretary of Agriculture was one of the first Cabinet posts established and was an important and integral part of the Executive Office of the President.

During the 1970's, the House and Senate agriculture committees and their various subcommittees became more involved with the fine-tuning of programs, and circumscribing the Secretary's discretion. To some extent this was revised in the 1981 bill, and it is unclear which direction will be taken in the 1980's.

The power of the Secretary of Agriculture has also been eroded because of overlapping jurisdictions with the Secretary of State, the Secretary of the Interior and the Secretary of Commerce. During the past twenty years, the Departments of State and Commerce have increased in power and stature and have increasingly become involved in foreign trade issues and the transporting and sale of agricultural products within the United States.

This raises another point: Many of the important issues facing our farmers today and in the future lie outside the jurisdiction of the agriculture committees. Taxes, energy costs, interest rates, transportation and export markets have a greater impact on the farm economy today than do price support programs. If these factors increase in magnitude in the future, as most believe they will, then the effect of commodity programs on farm income will become even more marginal than at present.

Finally, politics has always played a large part in farm programs because our farm policy and programs shift every few years, so there is a continuing opportunity for commodity groups, farm organizations, processors, exporters, bureaucrats, congressmen and, of course, consumer groups to influence legislation. Throw these together, add a few more depending on the particular issue, and one can understand why the formation of any farm bill is a fascinating and exciting, although sometimes disappointing process. One thing is certain: Whatever the conditions may be for development of the next farm bill, it will be a highly charged battle.