

ument, including the right to privacy.

In the section of the decision that Kennedy read from the bench, and that presumably he wrote, he offered a ringing defense of the right to privacy: "Our law affords constitutional protection to personal decisions relating to marriage, procreation, contraception, family relationships, child rearing and education. ... These matters, involving the most intimate and personal choices a person may make in a lifetime, choices central to personal dignity and autonomy, are central to the liberty protected by the 14th Amendment."

At the same time, O'Connor, Souter and Kennedy argued that *Roe* itself recognized the state's "important and legitimate interest in potential life." They granted Pennsylvania the right to impose a 24-hour waiting period and to require parental consent (with exceptions) for minors on the grounds that states have the right to make sure that the choice of abortion is "thoughtful and informed." But they rejected the requirement of getting a husband's consent because it imposed "an undue burden" on a woman's ability to make this decision. They concluded, "The means calculated to further the interest in potential life must be calculated to inform the woman's free choice not hinder it."

Their decision was immediately attacked by both conservatives and feminists. Former Reagan official Bruce Fein charged that the three had "proclaimed an amorphous constitutional right of privacy that can only be destined for idiosyncratic application." Fein warned that the three would soon begin overturning laws against "public nude dancing, polygamy, homosexual marriage or the experimental or regular use of hallucinogens in the home." (Indeed, sodomy laws would seem like an appropriate next step for the rebel trio.)

Anita Allen, a professor at Georgetown Law Center, charged that the decision "steers the court, and with it American women, on a precarious course of false political compromise" and "may do as much harm as good for American women and their families." Allen rejected granting the state a role in regulating "potential life." The decision, Allen charged, treated women as "'containers' or 'vessels' for the fetus." Allen took the extreme opposite view of those who insist that the fetus is a legal person. She implied instead that the state must not be concerned with a fetus until it emerges as a fully formed child.

In fact, Kennedy, O'Connor and Souter's ruling adroitly balanced fundamental constitutional principles against the diversity of law and custom sanctioned by our federal system. This decision was not expedient, but based on a recognition of America's mix of jurisdictions without which the United States might long ago have gone the way of the Soviet Union or Yugoslavia. Some states like Pennsylvania and Utah may wish to erect waiting periods; others will not; but none of these states will be able to block women from having abortions before a fetus is viable.

Conservatives have attributed Kennedy's change of heart to his wanting to ingratiate himself with Washington high society and the *New York Times*, but as an extensive profile of Kennedy in the October *California Lawyer* makes clear, Kennedy remains a retiring man with little interest in fame and publicity. More likely, his movement away from the doctrinaire conservatism of Rehnquist and Scalia is a result of his having tried it and found it wanting.

Kennedy, along with O'Connor and Souter, has now acknowledged what justices as diverse as William Brennan, Lewis Powell and John Harlan had understood: that in making constitutional decisions, the court invariably has to apply words written in the 18th and 19th century to circumstances that their authors never dreamt of—from blacks who serve as jurors to school classes that include 16 different religions and several atheists to women who carve out identities separate from family and husband.

Scalia and Rehnquist and the whole gang of radical reactionaries masquerading as conservatives refuse to understand this, but Kennedy, O'Connor and Souter do. As they wrote in *Casey*, "Our Constitution is a covenant running from the first generation of Americans to us and then to future generations. We accept our responsibility not to retreat from interpreting the full meaning of the covenant in the light of all of our precedents." ◀

ROUGH CUTS

By JA Reid

Elf-Help Books



A G R I C U L T U R E

Last ditch or front line?

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As their productivity has grown, European farmers have seen their political influence dwindle.

**By Diana
Johnstone**

he tractors have been out in the streets of Strasbourg and Brussels as European farmers protest the late November General Agreement on Tariffs and Trade (GATT) deal between the United States and the European Community (EC). The more complicated the issue, the greater the temptation to translate it into simple terms of national conflict. But burned flags and trade-war dances fail to shed light on what is really at stake.

To many observers and more than a few of the participants, the protests are a desperate last-ditch attempt to fend off the inevitable death of traditional farming. Even people who can work up protective ecological sympathy for indigenous peoples in the Amazon may find it nonsensical to let a handful of archaic European soil-tillers block the

advance of expanding world trade.

A contrasting view holds that agriculture, because it involves such basic essentials as food and the environment, is not just another economic sector to be governed by trade agreements but must be respected as vital to human life itself. In this view, there is pressing need for a fundamental revision of agricultural policy while there are still any rural people left willing and able to farm in a sustainable way. Trade agreements should follow and respect a new agriculture policy, not precede and determine it.

The special status of agriculture was in fact recognized in the '40s and '50s when GATT and the EC were founded. The United States at first chose to keep its own farm policy protected from GATT negotiations. The EC's Common Agricultural Policy (CAP) was designed to ensure decent income to farmers against fluctuations while improving productivity. It succeeded too well, inciting the overproduction that has built up Europe's legendary surplus grain and butter mountains.

While using different technical instruments and different forms of payments to farmers, farm policies in both Europe and the United States have produced similarly perverse effects: overproduction, aggressive export policies, steadily lowered prices, farmer bankruptcy and rural exodus, not to mention the pollution problems caused by heavy chemical inputs and stepped-up livestock production. The only clear winners have been the grain traders and agribusiness corporations, which are assured cheap raw materials, and the governments, which have been able to factor exports in the plus side of the trade balance. More often than not, farmers have been the losers. Even those who were inspired to go into debt to take part in the stirring mission of "feeding a hungry world" see their own books unbalanced and the world hungrier than ever.

As their productivity has grown, European farmers have seen their political influence dwindle. The farm vote has shrunk drastically as people leave the land. The dwindling rural population, caught up in the contradictions of a complex and artificial policy, cannot envision a clear and sensible alternative. The mounting subsidies for excess produce have undermined much of the traditional public support for farmers, causing them to be viewed as parasites rather than essential food producers.

Farmers in most countries feel betrayed by their political leaders. They can expect no sympathetic understanding from "free market" modernizers whose feeling for country folk is about as tender as that of the late Joseph Stalin. Almost everywhere in the world, farming has been sacrificed to industry, in one way or another. The family farms that replaced serfdom centuries ago are being squeezed out by a



new form of industrial feudalism. Big farms flourish on the northern plains, while hillsides are abandoned to erosion and brush fires. The EC has lost over a third of its farming population in the past 15 years.

Those who are left do not give up easily. Before being driven to lonely suicide by arcane agricultural policy changes, French farmers traditionally make their feelings known. They enjoy a popular support in France that is not as irrational as it is portrayed by the hostile English press. The French know well what their world-famous cuisine owes to the work and ingenuity of genuine country people.

Farmers from Belgium and most other EC countries have joined the protests against the GATT deal. Their anger had been building up for months. The November 20 GATT compromise hit the farmers as they were still reeling from the major reform of the EC's CAP decided just last June. That reform, designed by the EC's Irish Commissioner for Agriculture, Ray MacSharry, spelled disastrous loss of farm income. Hand-written signs sprouted in the cornfields warning that "the EC is killing us." Bitterness against the MacSharry reform of the CAP undermined support for European union in rural France.

The old CAP soaked up fully 60 percent of the whole EC budget, mostly spent on disposing of surpluses. The use of export subsidies was almost universally condemned. Drastic change was inevitable. Reform is an occasion to redefine priorities. On this occasion, the EC Commission chose to give priority to the world market.

The major shock of the reform was a whopping 30 percent cut in cereal prices, along with a 15 percent cut in beef prices and other lesser cuts. The cuts should move European prices toward world market levels, thus favoring exports in a way compatible with U.S. and GATT policy. To sugarcoat this very bitter pill, MacSharry promised compensation pay-

ments indexed to previous average yield. To qualify, larger farms must "set aside" 15 percent of their acreage by taking it out of food production.

The reform is supposed to reduce surpluses, but the European Greens' agricultural policy expert, Hannes Lorenzen, predicts it will have the opposite effect. "Price cuts always incite the farmers who are able to do so to further intensify and produce still more. The minority of big industrial farms will intensify still further. The vast majority of Europe's farmers will have to call it quits," Lorenzen says.

Instead of the crop rotation called for by ecologists, MacSharry settled on "set aside," an idea copied from the United States. Hated by farmers, the scheme is full of loopholes they are sure to use to the utmost. The biggest is that non-food industrial crops such as biomass fuels can be grown on set-aside land. With no

chemical residue counts to worry about, this will be even worse for the environment than food crops.

As another sop to environmentalists, the CAP reform came up with an "Agri-Environmental Action Program" offering subsidies to farmers who take up organic farming, cultivate rare threatened plants, or refrain from interfering with natural water systems. Sounds nice, but the tiny budget, hardly more than 1 percent of what the Community currently pays for agriculture, shows that this is mere adornment.

"The most disastrous aspect of the MacSharry reform," says Lorenzen, "is the violent separation between production of crops and protection of the environment." A "reform of the reform" must combine food production with environmental protection, Lorenzen emphasizes. This means encouraging extensive rather than intensive farming.

One necessary tenet of a green policy is to recombine crop growing with livestock production. This is where the conflict with the United States comes in. At the very outset of the EC, the United States obtained a tariff exemption for its soybean animal feed, which it has defended tooth and nail ever since. This has led to serious distortions. In places like the Netherlands, livestock raised industrially on imported U.S. and Third World soybeans pollute the local groundwater. In return, European cereal farmers export their surpluses, causing further tensions on the world market. An ecological farming reform requires a shift back to home-grown feed for European livestock. The whole issue needs to be renegotiated, taking ecological factors into consideration.

The MacSharry reform's sacrifice of farm income was supposed to be understood as a major concession to the Americans in the GATT talks. Unimpressed, the U.S. negotiating team headed by Carla Hills implacably demanded still