No. 401

In the Supreme Court of the United States

OCTOBER TERM, 1935

UNITED STATES OF AMERICA, PETITIONER

v.

WILLIAM M. BUTLER ET AL., RECEIVERS OF HOOSAC MILLS CORPORATION

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIRST CIRCUIT

INDEX

CITATIONS

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PETITION

The Solicitor General, on behalf of the United States of America, prays that a writ of certiorari issue to review the decree of the United States Circuit Court of Appeals for the First Circuit, entered in the above cause on July 13, 1935 (R. 61), reversing the decree of the United States District Court for the District of Massachusetts (R. 18–19). The sole question involved in this proceeding is the constitutionality of those provisions of the Act of Congress of May 12, 1933, known as the Agricultural Adjustment Act, as amended, which impose a processing tax upon the first domestic processing of cot-

ton and other basic agricultural commodities and a corresponding floor stocks tax in connection with articles processed wholly or in chief value from such commodities and held for sale or other disposition on the date the processing tax first takes effect. The processing tax in the case of cotton first became effective August 1, 1933, and has since been in effect.

OPINIONS BELOW

The opinion of the District Court for the District of Massachusetts is reported in 8 F. Supp. 552, under the style *Franklin Process Company* v. *Hoosac Mills Corporation* (R. 19–38). The opinion of the Circuit Court of Appeals has not yet been reported but will be found at page 45 of the Record.

JURISDICTION

The decree of the Circuit Court of Appeals sought to be reviewed was entered on July 13, 1935 (R. 61). Jurisdiction to issue the writ requested is found in the provisions of Section 240 (a) of the Judicial Code, as amended by the Act of February 13, 1925.

QUESTIONS PRESENTED

Whether the processing and floor stocks taxes sought to be imposed by the Agricultural Adjustment Act, as amended, constitute an invalid exercise of the power of Congress under the Constitution:

(1) In that said taxes are direct taxes and therefore should be apportioned under the provisions of Article I, Section 9, clause 4, of the Constitution.

(2) In that said taxes are not uniform and therefore violate the provisions of Article I, Section 8, clause 1, of the Constitution.

(3) In that said taxes amount to the taking of property without due process of law, in violation of the Fifth Amendment to the Constitution.

(4) In that there has been improperly delegated to the executive with respect to said taxes, legislative power granted to the Congress by Article I, Section 8, clause 1, of the Constitution.

(5) In that said taxes are not authorized by any authority vested in Congress under the Constitution, and hence constitute an improper exercise of powers reserved to the states, in violation of the Tenth Amendment to the Constitution.

(6) In that said taxes are not levied or the proceeds appropriated for the general welfare, but rather for a private as distinguished from a public purpose.

(7) In that said taxes are to be expended for a purpose not authorized by any specific, composite or implied grant of constitutional power.

STATUTES INVOLVED

The pertinent provisions of the Act of Congress of May 12, 1933, c. 25, 48 Stat. 31, known as the "Agricultural Adjustment Act", as amended, are set forth in the Appendix, *infra,* pp. 15–22.[1]

[1] There have also been set forth in the Appendix, pp. 23–24, the ratifying provisions of the Act of August 24, 1935, approved after the decision below. See discussion, p. 13, *infra.*

STATEMENT

The facts may be summarized as follows:

On October 7, 1933, a bill of complaint was filed in the District Court by the Franklin Process Company against the Hoosac Mills Corporation (R. 1). On October 17, 1933, a decree appointing receivers of the defendant Hoosac Mills Corporation was filed (R. 1–5). William M. Butler and James A. McDonough were the receivers named in the decree (R. 2).

On or about February 12, 1934, the United States, through Joseph P. Carney, Collector of Internal Revenue for the collection district of Massachusetts, filed a claim with the receivers seeking to collect cotton processing and floor stocks taxes due from the Hoosac Mills Corporation, a processor of cotton, pursuant to the provisions of the Act of Congress approved May 12, 1933, known as the Agricultural Adjustment Act (R. 13).

Said corporation, or its receivers, had previously filed with the Collector of Internal Revenue original and amended floor stocks tax returns containing an inventory of articles processed wholly or in chief value from cotton, held for sale or other disposition by it on August 1, 1933, and showing a tax liability on account thereof for the tax imposed under section 16 and related sections of the Agricultural Adjustment Act, and also monthly processing tax returns for the period August 1, 1933, to October 7, 1933, inclusive, showing the number of pounds of cotton put in process by it during said

period, and showing the tax liability on account thereof for the tax imposed under section 9 and related sections of said Act. A portion of the taxes shown therein was paid by the Hoosac Mills Corporation or the receivers (R. 13–14).

The receivers in their first report on claims (R. 7–11), on various grounds set forth in the report, recommended that the Government's claim be disallowed (R. 11).

The Government's claim is for the unpaid balance (plus interest thereon) of processing tax in the amount of $43,486.09 plus a penalty of $286.30, and for the unpaid balance (plus interest thereon) of floor stocks tax in the amount of $37,466.37 (R. 14–15). In the stages of this litigation subsequent to the receivers' report no specified exception has been taken by the respondents to the denial of their contention that as receivers they were not subject to the penalty or to the payment of interest after the date of the receivership. The District Court found that there is no dispute regarding the amount of the balance due the United States on its claim, that the total amount thereof is now due and owing the United States from the Corporation, and that it has been correctly computed (R. 15).

Pursuant to the provisions of said Act, the Secretary of Agriculture determined and, under date of July 14, 1933, proclaimed that rental and/or benefit payments were to be made with respect to cotton, a basic agricultural commodity (R. 15).

On the same date, the Secretary of Agriculture by regulations approved by the President determined as of August 1, 1933, that the rate of the processing tax on cotton was 4.2 cents per pound of lint cotton, this amount equalling the difference between the current average farm price of cotton and the fair exchange value of cotton (R. 15–16). Pursuant to the formula prescribed by the Act, the fair exchange value of cotton was based upon the average of farm prices of cotton during the period August 1, 1909, to July 1, 1914 (the base period), and an index reflecting increases of current prices paid by farmers for commodities which they bought over such prices during said base period. The current average farm price, the average farm price during the base period, and the index were, respectively, determined in accordance with long-established practice from reports and statistics regularly collected by the Department of Agriculture (R. 16).

The Secretary, with the approval of the President, also determined conversion factors which were established to determine the amount of tax imposed or refunds to be made with respect to articles processed from cotton (R. 16).

The Secretary further determined that the marketing year for cotton began August 1 (R. 15). This determination was consistent with the cotton year recognized by the Department of Agriculture, the Department of Commerce, private agencies in the

United States and foreign countries, as well as by earlier congressional act, and was properly ascertained and prescribed (R. 16).

The receivers do not question the regularity of the acts of the Secretary of Agriculture under the Agricultural Adjustment Act and do not question that his regulations and the provisions thereof were properly and correctly promulgated and were in conformity with the said Act. They also do not question that the rate of tax was properly computed in accordance with the provisions of the said Act. Language questioning the regularity of the acts of the Secretary of Agriculture was stricken from the receivers' report upon the receivers' own motion (R. 12, 17).

The District Court found that (R. 17)—

> The evidence introduced in behalf of the United States discloses and supports the factual grounds upon which the Congress proceeded in its declaration of an emergency and of a legislative policy, and upon which the Secretary of Agriculture proceeded in executing that policy. No evidence has been introduced in behalf of the receivers of the Hoosac Mills Corporation tending to contradict or disprove the findings made by the Congress, and the basis for such findings, in the declaration of emergency set out in the Agricultural Adjustment Act.
>
> In addition to the showing made by the evidence submitted by the United States, as set out above, Government Exhibits * * *,

> which are uncontroverted, show the nature and details of the factual formulae prescribed by Congress which are to be considered in the determination by the Secretary of Agriculture of the rates of processing taxes on basic agricultural commodities. In addition, there is in the record uncontroverted testimony showing the physical basis on which the Secretary of Agriculture ascertained and established the conversion factors to determine the amount of tax imposed or refunds to be made with respect to articles processed from cotton.

The District Court rendered its opinion (R. 19–38) holding that the processing and floor stocks taxes imposed by the Agricultural Adjustment Act, do not violate any of the provisions of the Constitution and that the claim of the United States should be allowed. Upon respondents' appeal to the Circuit Court of Appeals, that court, Senior Circuit Judge Bingham dissenting, reversed the decision of the District Court primarily on the ground that the Act, in violation of the Constitution, delegated the legislative power to tax to the executive branch of the Government, and secondarily on the ground that in the guise of a tax the Act purports to control production of agricultural commodities in violation of the Tenth Amendment to the Constitution. The court failed to pass on the questions as to whether the processing and floor stocks taxes are excises and not direct taxes, whether they are uniform, whether they violate the Fifth Amendment

to the Constitution, and whether they are levied for the general welfare of the United States, for a public purpose and not a private one, all of which questions were argued orally to the court and discussed in the briefs presented to it.

SPECIFICATION OF ERRORS TO BE URGED

The Circuit Court of Appeals erred:

(1) In holding that Congress improperly delegated to the Executive, with respect to the processing and floor stocks taxes, the power granted to it by Article I, Section 8, Clause 1, of the Constitution.

(2) In holding that the processing and floor stocks taxes constitute an improper exercise of power reserved to the States in violation of the Tenth Amendment to the Constitution.

(3) In reversing the decree of the District Court.

The Government also urges that the Circuit Court of Appeals further erred:

(4) In failing to hold that the processing and floor stocks taxes are excises and not direct taxes.

(5) In failing to hold that the processing and floor stocks taxes are uniform throughout the United States.

(6) In failing to hold that the processing and floor stocks taxes are not violative of the Fifth Amendment to the Constitution.

(7) In failing to hold that the processing and floor stocks taxes are levied for the general wel-

fare of the United States, for a public and not a private purpose.

(8) In failing to hold that the respondents are not in a position to object to the expenditure of funds appropriated by Congress for the purposes of the Agricultural Adjustment Act.

(9) In failing to hold that the processing and floor stocks tax provisions of the Agricultural Adjustment Act constitute a valid exercise of the taxing power of Congress under the Constitution.

(10) In failing to hold that the processing and floor stocks taxes are levied pursuant to powers granted to the Congress by the Constitution.

(11) In failing to hold that the claim of the United States for cotton processing and floor stocks taxes under the Agricultural Adjustment Act was a valid claim and in failing to order that such claim should be allowed and paid.

REASONS FOR GRANTING THE WRIT

(1) The questions presented in this case are all questions of constitutional law and of the utmost public importance.

The Agricultural Adjustment Act, essential provisions of which have been declared invalid by the court below in this case, represents the final decision of Congress that Federal assistance was and is needed to restore the normal functioning of the agricultural life of the nation and that such restoration was and remains vital to the halting of the

disastrous period of depression which has threatened the country's very structure. This legislation, it must be remembered, is the result not only of several years of careful and searching consideration by the Congress prior to its adoption, but of more than two additional years of active, continuous observation and approval by Congress of its administration and effect. The provisions challenged in this case directly affect thousands of taxpayers, indirectly affect millions of consumers, and involve hundreds of millions of dollars of internal revenue.

From the date of the passage of the Agricultural Adjustment Act to June 30, 1935, processing-tax collections have amounted to $893,302,994.25. On the other hand, up to May 31, 1935, rental and benefit payments to producers of basic agricultural commodities, pursuant to contracts executed by reason of the provisions of the Act, have amounted to $727,195,627.83, while up to May 31, 1935, $64,-196,026.27 has been expended in the removal of surpluses. To May 31, 1935, administrative expenses have amounted to $31,753,339.98. The total amount paid out, as set forth above, and to be paid out prior to June 30, 1936, in voluntary production-control programs, exclusive of drought relief, is $1,379,565,421.00.

The questions involved in this case vitally affect the national budget both now and for the future. It is urged, therefore, that from this standpoint

alone an early determination thereof is highly desirable for the good of the nation.

A processing tax is in effect on cotton, wheat, rice, tobacco, corn, hogs, sugar beets and sugar cane, paper, jute, peanuts, and rye.[2] In excess of forty thousands of taxpayers have paid and are paying processing taxes on these commodities. Nearly one million taxpayers have paid a floor stocks tax. Already more than a thousand cases are pending in the Federal Courts of the country involving processing and floor stocks taxes under the Agricultural Adjustment Act and it is reasonable to expect that more litigation will follow so long as the questions presented in this case remain undetermined.

It is submitted that the public interest will be promoted by the early settlement in this Court of the questions involved, questions deemed to be of that importance and concern which warrant review by this Court.

(2) The decision of the Circuit Court of Appeals in holding that Congress improperly delegated to the executive with respect to the processing and floor stocks taxes the power granted to it by Article I, Section 8, clause 1, of the Constitution, is not in harmony with the principles laid down by this

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[2] The tax on rye is not actually in effect at the date of the filing of this petition. By Section 12 of the Act of August 24, 1935, a processing tax of 30¢ a bushel is to be levied with respect to rye from Septemer 1, 1935, to December 31, 1937.

Court in *Field* v. *Clark,* 143 U. S. 649, *United States* v. *Shreveport Grain & El. Co.,* 287 U. S. 77, and *Hampton & Co.* v. *United States,* 276 U. S. 394. Precedent for the vesting in the executive of such authority as is conferred by the taxing provisions of the Agricultural Adjustment Act will be found in these cases. Furthermore, since the decision of the court below, the Congress has ratified the actions taken by the executive with respect to these taxes and thus effectively cured any invalidity based upon this ground. Section 32 of the Act approved August 24, 1935, amending the Agricultural Adjustment Act; *United States* v. *Heinszen & Co.,* 206 U. S. 370; *Rafferty* v. *Smith, Bell & Co.,* 257 U. S. 226; *Graham* v. *Goodcell,* 282 U. S. 409; *Charlotte Harbor & Northern Railway Co.* v. *Wells,* 260 U. S. 8, 11, 12; *Tiaco* v. *Forbes,* 228 U. S. 549.

(3) There is also a lack of harmony between the decision of the court below holding that the processing and floor stocks taxes constitute an improper exercise of powers reserved to the States, in violation of the Tenth Amendment to the Constitution, and the principles announced by this Court in *Massachusetts* v. *Mellon,* 262 U. S. 447; *United States* v. *Doremus,* 249 U. S. 86; *McCray* v. *United States,* 195 U. S. 27; and *Veazie Bank* v. *Fenno,* 8 Wall. 533.

(4) The District Court made findings of fact and conclusions of law (R. 13) in accordance with Equity Rule 70½, and the record meets the re-

quirements set forth in *Borden's Co.* v. *Baldwin,* 293 U. S. 194.[3]

Wherefore, it is respectfully submitted that this petition for a writ of certiorari to review the judgment of the Circuit Court of Appeals for the First Circuit should be granted.

STANLEY REED,
Solicitor General.

AUGUST 1935.

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[3] The evidentiary material showing (1) the economic facts upon which Congress proceeded in enacting the Agricultural Adjustment Act and (2) those which formed the basis for the Secretary of Agriculture's actions thereunder, referred to above at pp. 7–8, are to be found in the Addendum to Transcript of Record, printed in accordance with Rule 14, par. 3, of the Rules of the Circuit Court of Appeals for the First Circuit, which appears in the Appendix, p. 24.

APPENDIX

The provisions of the Agricultural Adjustment Act [4] (c. 25, 48 Stat. 31; U. S. C., Sup. VII, Title 7, Sec. 601, etc.) deemed pertinent to a consideration of this petition are:

DECLARATION OF EMERGENCY

That the present acute economic emergency being in part the consequence of a severe and increasing disparity between the prices of agricultural and other commodities, which disparity has largely destroyed the purchasing power of farmers for industrial products, has broken down the orderly exchange of commodities, and has seriously impaired the agricultural assets supporting the national credit structure, it is hereby declared that these conditions in the basic industry of agriculture have affected transactions in agricultural commodities with a national public interest, have burdened and obstructed the normal currents of commerce in such commodities, and render imperative the immediate enactment of title I of this Act.

DECLARATION OF POLICY

SEC. 2. It is hereby declared to be the policy of Congress—

(1) To establish and maintain such balance between the production and consumption of agricultural commodities, and such

[4] From time to time certain of the sections set out herein have been amended. These amendments are not deemed material to a consideration of this petition.

marketing conditions therefor, as will reestablish prices to farmers at a level that will give agricultural commodities a purchasing power with respect to articles that farmers buy, equivalent to the purchasing power of agricultural commodities in the base period. The base period in the case of all agricultural commodities except tobacco shall be the pre-war period, August 1909–July 1914. In the case of tobacco, the base period shall be the post-war period, August 1919–July 1929.

(2) To approach such equality of purchasing power by gradual correction of the present inequalities therein at as rapid a rate as is deemed feasible in view of the current consumptive demand in domestic and foreign markets.

(3) To protect the consumers' interest by readjusting farm production at such level as will not increase the percentage of the consumers' retail expenditures for agricultural commodities, or products derived therefrom, which is returned to the farmer, above the percentage which was returned to the farmer in the pre-war period, August 1909–July 1914.

SECTION 8

In order to effecuate [5] the declared policy, the Secretary of Agriculture shall have power—

(1) To provide for reduction in the acreage or reduction in the production for market, or both, of any basic agricultural commodity, through agreements with producers or by other voluntary methods, and to provide for rental or benefit payments in connection therewith or upon that part of the production of any basic agricultural commodity required for domestic consump-

[5] So in original.

tion, in such amounts as the Secretary deems fair and reasonable, to be paid out of any moneys available for such payments. Under regulations of the Secretary of Agriculture requiring adequate facilities for the storage of any nonperishable agricultural commodity on the farm, inspection and measurement of any such commodity so stored, and the locking and sealing thereof, and such other regulations as may be prescribed by the Secretary of Agriculture for the protection of such commodity and for the marketing thereof, a reasonable percentage of any benefit payment may be advanced on any such commodity so stored. In any such case, such deduction may be made from the amount of the benefit payment as the Secretary of Agriculture determines will reasonably compensate for the cost of inspection and sealing, but no deduction may be made for interest.

SECTION 9

(a) To obtain revenue for extraordinary expenses incurred by reason of the national economic emergency, there shall be levied processing taxes as hereinafter provided. When the Secretary of Agriculture determines that rental or benefit payments are to be made with respect to any basic agricultural commodity, he shall proclaim such determination, and a processing tax shall be in effect with respect to such commodity from the beginning of the marketing year therefor next following the date of such proclamation. The processing tax shall be levied, assessed, and collected upon the first domestic processing of the commodity, whether of domestic production or imported, and shall be paid by the processor. The

rate of tax shall conform to the requirements of subsection (b). Such rate shall be determined by the Secretary of Agriculture as of the date the tax first takes effect, and the rate so determined shall, at such intervals as the Secretary finds necessary to effectuate the declared policy, be adjusted by him to conform to such requirements. The processing tax shall terminate at the end of the marketing year current at the time the Secretary proclaims that rental or benefit payments are to be discontinued with respect to such commodity. The marketing year for each commodity shall be ascertained and prescribed by regulations of the Secretary of Agriculture: *Provided,* That upon any article upon which a manufacturers' sales tax is levied under the authority of the Revenue Act of 1932 and which manufacturers' sales tax is computed on the basis of weight, such manufacturers' sales tax shall be computed on the basis of the weight of said finished article less the weight of the processed cotton contained therein on which a processing tax has been paid

(b) The processing tax shall be at such rate as equals the difference between the current average farm price for the commodity and the fair exchange value of the commodity; except that if the Secretary has reason to believe that the tax at such rate will cause such reduction in the quantity of the commodity or products thereof domestically consumed as to result in the accumulation of surplus stocks of the commodity or products thereof or in the depression of the farm price of the commodity, then he shall cause an appropriate investigation to be made and afford due notice and opportunity for hearing to interested parties. If thereupon the Secretary finds that such result will occur, then

the processing tax shall be at such rate as will prevent such accumulation of surplus stocks and depression of the farm price of the commodity. In computing the current average farm price in the case of wheat, premiums paid producers for protein content shall not be taken into account.

(c) For the purposes of part 2 of this title, the fair exchange value of a commodity shall be the price therefor that will give the commodity the same purchasing power, with respect to articles farmers buy, as such commodity had during the base period specified in section 2; and the current average farm price and the fair exchange value shall be ascertained by the Secretary of Agriculture from available statistics of the Department of Agriculture.

(d) As used in part 2 of this title—

(2) In case of cotton, the term "processing" means the spinning, manufacturing, or other processing (except ginning) of cotton; and the term "cotton" shall not include cotton linters.

SECTION 10

(c) The Secretary of Agriculture is authorized, with the approval of the President, to make such regulations with the force and effect of law as may be necessary to carry out the powers vested in him by this title, including regulations establishing conversion factors for any commodity and article processed therefrom to determine the amount of tax imposed or refunds to be made with respect thereto. Any violation of any regulation shall be subject to such penalty, not in excess of $100, as may be provided therein.

SECTION 11

As used in this title, the term "basic agricultural commodity" means wheat, cotton, field corn, hogs, rice, tobacco, and milk and its products, and any regional or market classification, type, or grade thereof; but the Secretary of Agriculture shall exclude from the operation of the provisions of this title, during any period, any such commodity or classification, type, or grade thereof if he finds, upon investigation at any time and after due notice and opportunity for hearing to interested parties, that the conditions of production, marketing, and consumption are such that during such period this title cannot be effectively administered to the end of effectuating the declared policy with respect to such commodity or classification, type, or grade thereof.

SECTION 12

(a) There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $100,000,000 to be available to the Secretary of Agriculture for administrative expenses under this title and for rental and benefit payments made with respect to reduction in acreage or reduction in production for market under part 2 of this title. Such sum shall remain available until expended.

(b) In addition to the foregoing, the proceeds derived from all taxes imposed under this title are hereby appropriated to be available to the Secretary of Agriculture for expansion of markets and removal of surplus agricultural products and the following purposes under part 2 of this title: Administrative expenses, rental and benefit payments,

and refunds on taxes. The Secretary of Agriculture and the Secretary of the Treasury shall jointly estimate from time to time the amounts, in addition to any money available under subsection (a), currently required for such purposes; and the Secretary of the Treasury shall, out of any money in the Treasury not otherwise appropriated, advance to the Secretary of Agriculture the amounts so estimated. The amount of any such advance shall be deducted from such tax proceeds as shall subsequently become available under this subsection.

SECTION 16

(a) Upon the sale or other disposition of any article processed wholly or in chief value from any commodity with respect to which a processing tax is to be levied, that on the date the tax first takes effect or wholly terminates with respect to the commodity is held for sale or other disposition (including articles in transit) by any person, there shall be made a tax adjustment as follows:

(1) Whenever the processing tax first takes effect, there shall be levied, assessed, and collected a tax to be paid by such person equivalent to the amount of the processing tax which would be payable with respect to the commodity from which processed if the processing had occurred on such date.

(2) Whenever the processing tax is wholly terminated, there shall be refunded to such person a sum (or if it has not been paid, the tax shall be abated) in an amount equivalent to the processing tax with respect to the commodity from which processed.

(b) The tax imposed by subsection (a) shall not apply to the retail stocks of persons engaged in retail trade, held at the date the

processing tax first takes effect; but such retail stocks shall not be deemed to include stocks held in a warehouse on such date, or such portion of other stocks held on such date as are not sold or otherwise disposed of within thirty days thereafter. The tax refund or abatement provided in subsection (a) shall not apply to the retail stocks of persons engaged in retail trade, held on the date the processing tax is wholly terminated.

SECTION 19

(a) The taxes provided in this title shall be collected by the Bureau of Internal Revenue under the direction of the Secretary of the Treasury. Such taxes shall be paid into the Treasury of the United States.

(b) All provisions of law, including penalties, applicable with respect to the taxes imposed by section 600 of the Revenue Act of 1926, and the provisions of section 626 of the Revenue Act of 1932, shall, in so far as applicable and not inconsistent with the provisions of this title, be applicable in respect of taxes imposed by this title: *Provided,* That the Secretary of the Treasury is authorized to permit postponement, for a period not exceeding ninety days, of the payment of taxes covered by any return under this title.

(c) In order that the payment of taxes under this title may not impose any immediate undue financial burden upon processors or distributors, any processor or distributor subject to such taxes shall be eligible for loans from the Reconstruction Finance Corporation under section 5 of the Reconstruction Finance Corporation Act.

The provisions of the Act to amend the Agricultural Adjustment Act, and for other purposes,

approved August 24, 1935, deemed pertinent to a consideration of this petition are:

> SEC. 32. The Agricultural Adjustment Act, as amended, is amended by adding after section 20 the following new section:
>
> SEC. 21. * * *
>
> (b) The taxes imposed under this title, as determined, prescribed, proclaimed, and made effective by the proclamations and certificates of the Secretary of Agriculture or of the President and by the regulations of the Secretary with the approval of the President prior to the date of the adoption of this amendment, are hereby legalized and ratified, and the assessment, levy, collection, and accrual of all such taxes (together with penalties and interest with respect thereto) prior to said date are hereby legalized and ratified and confirmed as fully to all intents and purposes as if each such tax had been made effective and the rate thereof fixed specifically by prior Act of Congress. All such taxes which have accrued and remain unpaid on the date of the adoption of this amendment shall be assessed and collected pursuant to section 19, and to the provisions of law made applicable thereby. Nothing in this section shall be construed to import illegality to any act, determination, proclamation, certificate, or regulation of the Secretary of Agriculture or of the President done or made prior to the date of the adoption of this amendment.
>
> (c) The making of rental and benefit payments under this title prior to the date of the adoption of this amendment, as determined, prescribed, proclaimed and made effective by the proclamations of the Secretary of Agriculture or of the President or by regulations of the Secretary, and the ini-

> tiation, if formally approved by the Secretary of Agriculture prior to such date of adjustment programs under section 8 (1) of this title, and the making of agreements with producers prior to such date, and the adoption of other voluntary methods prior to such date, by the Secretary of Agriculture under this title, and rental and benefit payments made pursuant thereto, are hereby legalized and ratified, and the making of all such agreements and payments, the initiation of such programs, and the adoption of all such methods prior to such date are hereby legalized, ratified, and confirmed as fully to all intents and purposes as if each such agreement, program, method, and payment had been specifically authorized and made effective and the rate and amount thereof fixed specifically by prior Act of Congress.

Revised Rules of the United States Circuit Court of Appeals for the First Circuit, adopted June 1, 1932, effective July 1, 1932:

> RULE 14, PAR. 3. Except in cases where counsel shall agree by written and signed stipulation, which shall be a part of the record, as to what portions of the record and proofs of the case in the court below shall be printed in the transcript of the record for use in this court, the trial judge shall have the power, upon application after reasonable notice to the opposing party or his counsel, to determine what shall be included in such transcript, and his determination shall be signed by him, and made part of the record; he shall include by such signed paper, such portions of the record and of the proofs as he may deem material for the proper dis-

position of the questions to be decided by this court, as also such parts as are specially required by these rules. But if any party desires printed any document or part of the record or proofs directed by the trial judge to be omitted, such party may print the same under separate cover and cause it to be certified and transmitted to this court as an addendum to the transcript of the record. Such printing and certification shall be primarily at the cost of the party who requires it. The cover sheet of such addendum shall contain the title of the cause and shall plainly show that it is an addendum to the transcript and shall show at whose instance it was printed.

U S GOVERNMENT PRINTING OFFICE 1935