

cash production expenses—dropped from nearly five billion dollars to barely a billion and a half dollars. Even this small income represented in considerable part a living on capital, as farmers' expenditures for capital replacements and repairs in 1932 fell short by half a billion dollars of covering current depreciation of building and machinery.⁴

From 1929 to 1932 the reduction in farm income was as sharp as in the major industries most severely affected by the depression. Only in the farm-machinery industry, and in other acutely affected capital goods industries, did the decline in workers' income exceed the decline in agriculture. It is significant that the greatest decline in any single industrial group existed in the manufacture of agricultural implements.⁵

The decline in farm income had far-reaching effects on the volume of business and the credit structure in agricultural areas. Farmers were forced to economize in the purchase of fertilizer, feed, and other products, and to defer replace-

⁴ Cash income from farm production, available after deducting cash production expenses, was estimated at \$4,890,000,000 for 1929, and \$1,473,000,000 for 1932. Expenditures for purchase and repair of farm machinery and buildings in 1932 were estimated at \$261,000,000, while the estimated depreciation of farm-owned buildings and equipment was \$805,000,000 for the same year. See U. S. Dept. of Agric., *Crops and Markets*, Vol. 12, No. 7 (July 1935), pp. 271, 272.

⁵ See Appendix, Part E, pp. 77–78, where pay rolls for various key industries are shown for selected years.

ments of machinery. This led to sharp contraction of industrial sales of such products. (See Chart, Addendum, pp. 28, 52.)⁶

Moreover, farmers were not able to readjust their debt and tax burdens with reductions in farm income. *Ibid.* Widespread defaults, unpaid taxes, and bankruptcies followed. These undermined the financial solvency of States and local governments and of financial institutions dependent upon agriculture, caused heavy bankruptcy among rural banks (see Addendum, p. 53), and a great reduction in the volume of credit. Prior to the bank holiday of March 1933 demand deposits in country banks had fallen to barely half of their predepression level. (See Chart 10, p. 249, *infra*.)

With the inadequacy of farm incomes in many cases to cover taxes and interest, forced sales of farms almost tripled between 1929 and 1932.⁷

⁶ Reproduced from *Economic Bases*, *supra*, note 28, p. 9, and found also in *The Agricultural Situation*, U. S. Dept. of Agric., July 1, 1932, Vol. 16, No. 7, pp. 8-10 (L. H. Bean, *Trends in Gross Income and Expenditures, 1909-1931*).

⁷ The number of forced sales per 1,000 farms in the United States for the years ending March 15, 1930, and 1933 were as follows, for the two types of forced sales:

	1930	1933
Sales for delinquent taxes.....	5.1	15.3
Foreclosures of mortgages, bankruptcy, etc.....	15.7	38.8
Total forced sales.....	20.8	54.1

See Table 12, p. 42, in *The Farm Real Estate Situation, 1932-33*, by B. R. Stauber, U. S. Department of Agriculture, Circular No. 309, December 1933.

The long-continued depression of farm prices led to heavy bank failures in rural regions even before the financial crisis became acute in cities. Bank failures in the Cotton Belt reached their peak in 1931. (See Chart 11, p. 253, *infra*; cf. Addendum, p. 53.) Between 1922 and 1932, one-third of all small rural banks closed their doors. (See *Economic Bases for the Agricultural Adjustment Act*, U. S. Dept. of Agric., December 1933, p. 11.)

The relation of agriculture to the credit structure and to financial institutions is discussed more fully, *infra*, pp. 241–262.

The severity of the farm depression was reflected in failures among general business as well as among banks. In the Cotton Belt, the number of commercial failures and the amount of liabilities involved increased sharply in major districts. (See Addendum, folio pp. 117–124, following p. 68.)

b. The decline of farm prices and incomes from 1919 to 1932 was due to causes beyond the control of farmers

Farmers could not prevent or correct the foreign or domestic demand situation. After the World War, wheat and other exportable farm products were super-abundant, due to the general inability of farmers to reduce their war-expanded acreages as Europe restored her production.⁸

By 1925, Europe had generally restored her agriculture to its prewar productivity. Meanwhile,

⁸ See *The Wheat Situation*, U. S. Dept. of Agriculture, Yearbook of Agriculture, 1923, pp. 95–150.

the war-time expansion in overseas exporting countries continued to press unwanted supplies on European markets. This situation, plus extreme tariff protectionism in this country, resulted in the erection of trade barriers in European countries, aimed at protecting their domestic agriculture and restricting the use of foreign products. As agricultural prices declined in world markets, restrictive measures in Europe became more and more prohibitive, embracing not only tariffs, import quotas and contingents, and domestic consumption restrictions, but numerous other devices, all reducing the volume of foreign trade.⁹

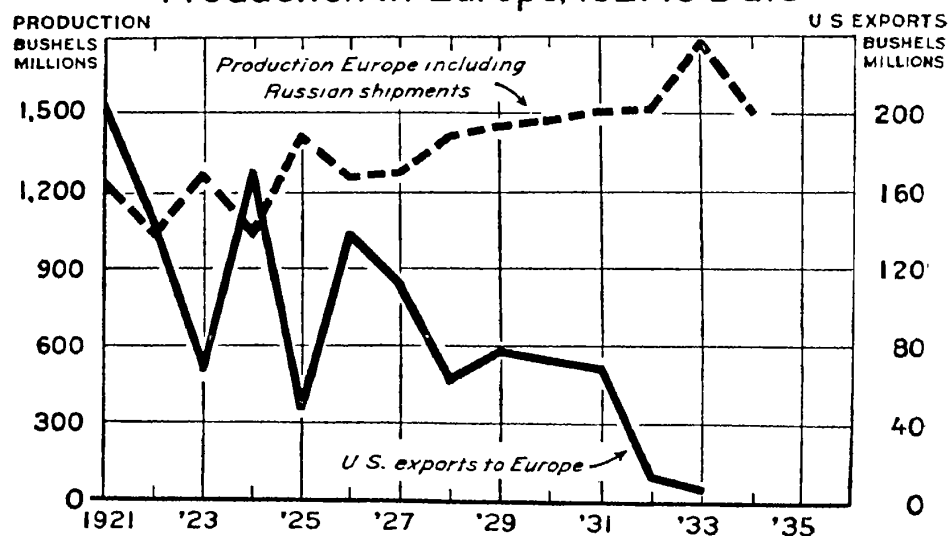
The difficulties of foreign exchange and financial collapse during the depression itself led to further action, including exchange regulation and import rationing and even prohibition of imports abroad, which still further intensified these effects.

⁹ These measures are described in detail in *World Trade Barriers in Relation to American Agriculture*, Senate Document No. 70, 73d Cong., 1st Sess. The report analyzes these measures as applied to 7 major agricultural products, namely, wheat, hog products, tobacco, fruit, cotton, dairy products, and sugar (pp. 145-288). The report also analyzes separately the various types of governmental intervention affecting agriculture (pp. 55-144) and describes agricultural price-supporting measures in 38 foreign countries (pp. 291-540). See also *Economic Bases*, *supra*, at pp. 14-19. Facts as to trade restrictions abroad and as to the decline in American exports were placed before Congress during the hearings which preceded the passage of the Agricultural Adjustment Act. See *Agricultural Adjustment*, Hearings before the Committee on Agriculture, House of Representatives, 72d Cong., 2d Sess., December 14 to 20, 1932, at pp. 142 to 145.

These policies of economic nationalism, especially in Europe, simultaneously expanded agricultural production abroad and narrowed the outlets for American farm products. In wheat, Europe increased her output from 1,050,000,000 bushels in 1922 to 1,500,000,000 bushels in 1932. At the same time, American exports of wheat to Europe declined from 150,000,000 bushels in 1922 to 15,000,000 bushels in 1932. (See Chart 3.¹⁰)

CHART 3

Wheat: U. S. Exports* to Europe, and
Production in Europe, 1921 to Date



U S DEPARTMENT OF AGRICULTURE

NEG 25818 B BUREAU OF AGRICULTURAL ECONOMICS

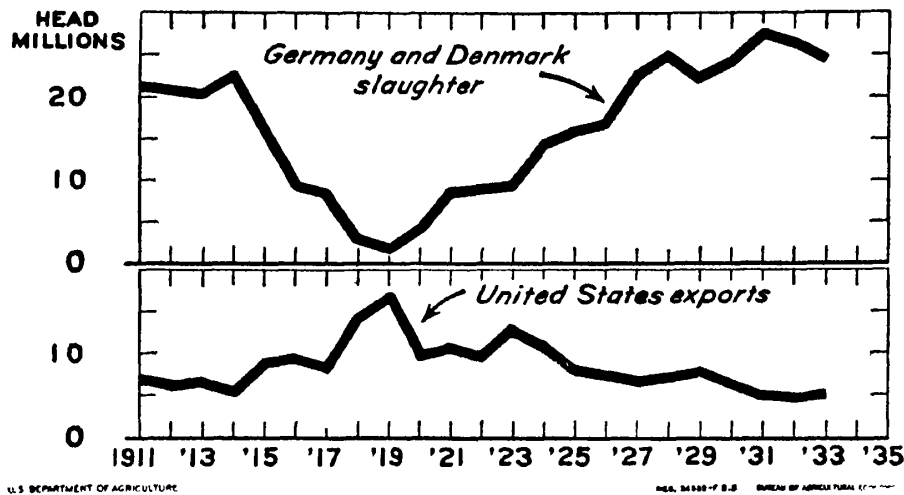
In hogs, production in the leading European countries expanded to well above its pre-war level. Our exports of hog products, which had exceeded the equivalent of ten million hogs a year after the War, fell to barely half that amount by 1931. (See

¹⁰ Negative No. 25818B, Bureau of Agricultural Economics; see also *Economic Bases*, at p. 17, note 2. *supra*, p. 182.

Chart 4.¹¹) In tobacco, exports were cut sharply as foreign production increased. (See *Economic Bases, supra*, p. 18.)

CHART 4

Inspected Hog Slaughter in Germany and Denmark, and United States Exports of Hog Products, 1911-1933



The decline in foreign consumption of American farm products was quite obviously beyond the power of the American farmers to prevent or correct, as the foreign restrictions shut off exports even when prices of farm products were down to extraordinarily low levels.

After 1929, the collapse of farm markets was intensified by the decline in domestic buying power. The income of industrial workers as a whole was cut in half from 1929 to 1932.¹² Farm income from

¹¹ Reproduced from *Economic Bases*, at p. 18, note 2, *supra*, p. 181.

¹² Wages received in mining, manufacturing, construction, and transportation dropped from \$17,179,000,000 in 1929 to \$6,840,000,000 in 1932—a decrease of 60 percent. See *Report on National Income, 1929 to 1932*, Senate Doc. No. 124, 73d Cong., 2d Sess., p. 14.

products for the domestic market—dairy and poultry products, beef and lamb, fruits, and vegetables—declined in the same proportion as industrial pay rolls. (See *Economic Bases, supra*, p. 29.) Export products, especially wheat and cotton,¹³ suffered from the combined effects of reduced foreign demand, reduced domestic demand, and accumulated surplus stocks; farm income from these products started falling before the depression, and dropped by 1933 even more sharply than industrial pay rolls. *Ibid.*

Rigid marketing and transportation costs aggravated reduced demand.—Farmers could do nothing

¹³ In the case of cotton, the specific commodity at issue in this case, the trade restrictions abroad were not so serious as in some of the other exports. But the trade restrictions in the other commodities curtailed economic activity over a large area and thus curtailed the purchasing power for cotton both at home and abroad. The cotton difficulties reflected more particularly continued unrestricted production of cotton during a period in which consumption, both here and abroad, was sharply curtailed by the depression. The production of American cotton exceeded the world consumption of American cotton in every year from 1929 to 1931. The world carryover of American cotton increased from four and one-half million bales in the beginning of the 1929 season to thirteen million bales by the beginning of the 1932 season. (See Addendum, p. 62.) Some decline in acreage, plus a moderate yield per acre, reduced production in 1932 so that there was some reduction in carryover. But in the spring of 1933, farmers again increased cotton acreages planted, and at the time the Act was passed by Congress, growing conditions indicated another bumper crop far in excess of current consumption. See official estimates in *Crops and Markets*, U. S. Dept. of Agriculture, July 1933, p. 234; Aug. 1933, p. 282.

to correct depressed markets. The declines in farm prices and incomes did not result in proportionately low prices to consumers. Freight costs do not respond directly to economic conditions, while marketing margins and other distribution costs change only slowly when prices are declining. Farm prices of representative food products declined 60 percent from 1929 to 1932, while retail prices of the same products declined only 40 percent. See *Economic Bases, supra*, p. 47. Distribution costs, meanwhile, showed practically no decline.¹⁴ *Ibid.*

Farmers could not adjust production.—The inability of farmers to adjust production, and their maintenance of the volume of production of agricultural products in the face of the decline in demand, led to excessive accumulation of surplus stocks and to intensified depression in farm prices.

A sharp price decline for any one agricultural product is usually followed by a curtailment in subsequent production, because farmers then shift land, labor, and equipment to other commodities. But when the price of all agricultural products declines, total production remains constant. This is exactly what occurred during the depression; from 1929 to 1932, the physical volume of farm

¹⁴ For detailed figures on changes in marketing costs, see Frederick V. Waugh, *The Margin Between Farm Prices and Retail Prices of Ten Foods*, Dept. of Agriculture, Bureau of Agricultural Economics, March 1935. Similar data on marketing costs were presented to Congress in the hearings on Agricultural Adjustment legislation. See *Agricultural Adjustment, Hearings before the Committee on Agriculture, House of Representatives, 72d Cong., 2d Sess.*, at pp. 368-372.

production varied around the same level as before the depression. (See Addendum, p. 32.)¹⁵

Farmers cannot set a fixed price, and produce and sell only as much as consumers will buy at such prices, as many industrialists do.¹⁶ A large part of farm labor is supplied by the farm operator and members of the farm family; hence agricultural labor cannot be discharged when demand declines, as is done by other industries. These difficulties were increased by the return of industry's unemployed to agricultural areas. (See Addendum, pp. 30, 54.)

The inability of farmers to adjust production was clearly stated by the Federal Farm Board, in its second annual report:

There are more than 6,000,000 farmers in this country, producing according to their own personal decisions. It is without effect to base appeals on what American farming might do if it were all organized as a single unit, for it is not so organized. Until farmers are organized for production planning it is useless to expect them to act as if they were.¹⁷

The inability of farmers to adjust production resulted in the accumulation of large surpluses which

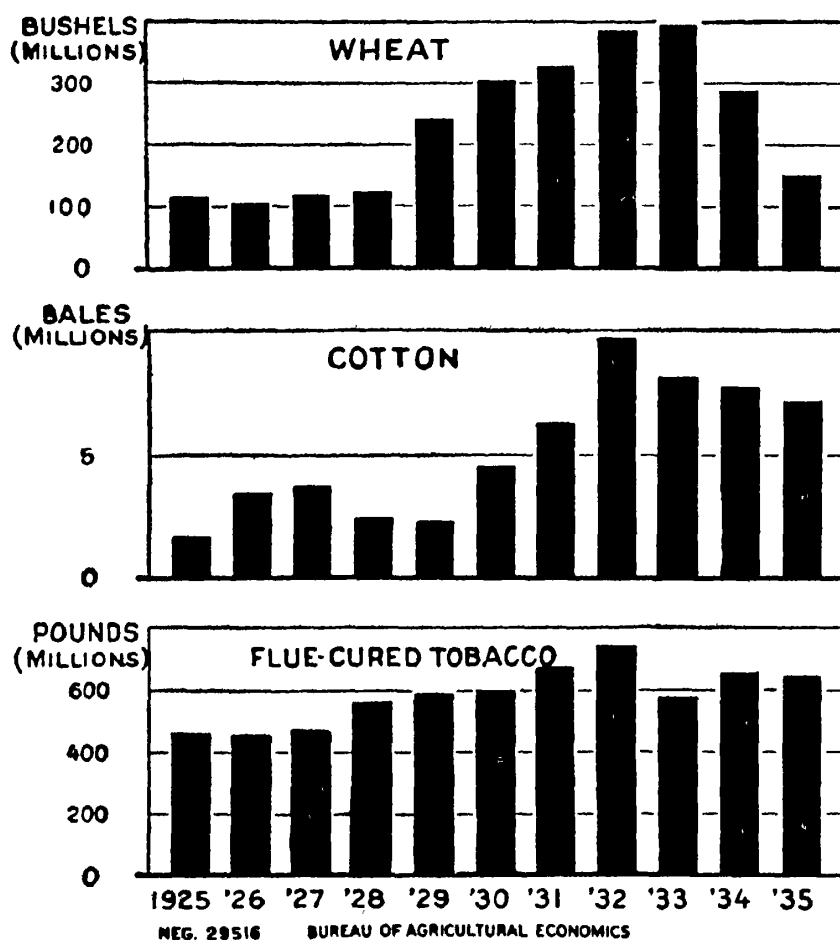
¹⁵ Reproduced from Bean and Chew, at p. 3, note 99, *supra* p. 181.

¹⁶ See G. C. Means, *Industrial Prices and their Relative Inflexibility*, letter from Secretary of Agriculture in response to Senate Res. No. 17 (Senate Doc. No. 13, 74th, Cong., 1st Sess.).

¹⁷ Federal Farm Board, Second Annual Report (1931), p. 58.

depressed farm prices and income.—The extent to which farm production was outrunning the effective demand for farm products, even at the low prices, is shown by the accumulation of excessive stocks of every nonperishable commodity.¹⁸ (See Chart 5¹⁹; cf. Addendum, p. 58.)

CHART 5
COMMODITY CARRY-OVERS IN
THE UNITED STATES AT BEGINNING
OF EACH CROP SEASON



¹⁸ In the case of perishables or semiperishables, such as hog products and fruits and vegetables, which could not be stored for long periods, the excessive supplies were thrown on the overloaded domestic market, forcing prices of these products also down to record low levels.

¹⁹ Reproduced from *Economic Bases*, at p. 19, note 2, *supra*, p. 182, brought to date and published as Negative No. 29516,

24926—35—13

These heavy surpluses exerted a continuously depressing influence on farm prices and income, and so contributed still more to the downward spiral of economic disintegration.²⁰ This was especially true of cotton, wheat, and tobacco.

The price received by farmers for their cotton crop is closely controlled by the supply available. (See Chart 2, Addendum, p. 62.) From 1922 to 1924 cotton supplies were greatly reduced by the boll weevil, and the price rose to a 30-cent peak. Prices then fell in 1926, as supplies rose to a new record level, and then recovered to some extent as supplies were again reduced. During the depression from 1929 on, prices fell steadily as total supplies increased to the peak in 1931 and 1932.²¹ The

Bureau of Agricultural Economics, U. S. Dept. of Agriculture.

The temporary decline in tobacco stocks at the beginning of the 1933 season reflected the abnormally small crop of Flue-cured tobacco, types 11-14, of 376.8 million pounds, as compared with 669.9 million pounds in 1931, and a five-year average, 1927-31, of nearly 750 million pounds (Yearbook of Agriculture, 1935, p. 455). As to the cotton carry-over at the beginning of 1933, see note 13, p. 190, *supra*.

²⁰ These facts as to the piling up of excessive carryovers were before Congress during the development of Agricultural Adjustment legislation. See Hearings before the Committee on Agriculture, House of Representatives, 72d Cong., 2d Sess., at 142, 143, note 9, *supra*, p. 187; and Senate Hearings, Agricultural Adjustment Relief Plan, H. R. 13991, 72d Cong., 2d Sess., p. 432.

²¹ Yearbook of Agriculture for 1935, U. S. Dept. of Agriculture, p. 433.

relation between the total supply of American cotton and the average price received therefor is so close that it can be stated in the form of a mathematical law. (See Addendum, pp. 39 and 62, chart 2.)²² The departures of prices for a given year from the usual average price for that supply are explained by variations in general business activity, the other major factor controlling cotton prices.

The declines in the price of cotton with additional supplies are so great that, under normal conditions, a large supply of cotton has less *total value* at the farm than a small supply. The value of a cotton supply of 10 million bales is approximately 50 percent greater than the value of a cotton supply of 16 million bales. (See Addendum, p. 39; and U. S. Dept. of Agric., Technical Bulletin No. 50, *Factors Affecting the Price of Cotton*, by B. B. Smith, January 1928, at pp. 3-7.)

Between 1924 and 1926, the cotton crop increased 30 percent and farmers' income from cotton and cottonseed fell 27 percent; this in spite of the fact that industrial demand was greater in 1926 than in 1924. From 1926 to 1928, the crop fell 20 percent;

²² Full information as to the relation between cotton supplies and cotton prices had been presented to Congress as early as 1928 during the hearings on the 1927 decline in cotton prices. See statement of Lloyd S. Tenny, Chief, Bureau of Agricultural Economics, in hearings before subcommittee of Senate Committee on Agriculture and Forestry, 70th Cong., 1st Sess., pursuant to Senate Res. No. 142, a resolution to investigate the recent decline in cotton prices, at pp. 1276-1318. These facts were also before Congress during the hearings on Agricultural Adjustment legislation. See Senate Hearings, at p. 358, note 20, *supra*, p. 194.

its value rose 18 percent. During these years industrial activity, the other major factor affecting cotton prices, was relatively steady.²³ In the case of hogs there is a similar relation between production and value. Between 1924 and 1928, a 27-percent decline in hog slaughter was accompanied by a 33-percent increase in farm income; and a 16-percent increase in slaughter, by a 16-percent fall in income produced.²⁴

The more excessive supplies accumulated, the lower both prices and income fell. Action to deal

²³ See the following table:

Year	Index of Industrial Production (1923-25=100)	Relation between size and value of cotton crop		
		Cotton production	Total supply	Farm income from cotton and cottonseed
		<i>1,000 bales</i>	<i>1,000 bales</i>	<i>Million dollars</i>
1924.....	95	13,630	15,508	1,710
1926.....	108	17,978	21,699	1,251
1928.....	111	14,477	17,291	1,470

Source: For industrial production, *Fed. Res. Bull.*, Oct. 1935, p. 665; for cotton production and total supply, U. S. Dept. of Agric., *Yearbook of Agric.*, 1935, pp. 426, 430; for farm income from cotton and cottonseed, *Farm Value, Gross Income, and Cash from Farm Production, 1924-1929*, Part V (U. S. Dept. of Agric., Oct. 1930), pp. 1, 3, 5.

²⁴ Changes in number of hogs slaughtered, and income to farmers from hogs:

Year	Estimated total slaughter	Gross income from hogs
	<i>1,000 head</i>	<i>Million dollars</i>
1924.....	79,631	1,324
1926.....	65,779	1,758
1928.....	76,593	1,474

See, for slaughter, *Yearbook of Agriculture*, 1933, p. 605, for gross income, *Farm Value, Gross Income, and Cash Income from Farm Production, 1924-1929*, U. S. Dept. of Agriculture, Bureau of Agricultural Economics, Mimeographed Report, October 1930, pp. 2, 4, and 6.

with the over-supply problem was imperative. The situation was not correcting itself; it was, as has been shown (chart 5, *supra*), growing steadily worse, causing cumulative, progressive, and general economic distress.

c. Previous private and governmental efforts to promote a more balanced agriculture demonstrated the necessity of assisting farmers in adjusting production

The disparity between farm prices and industrial prices could be corrected only by raising prices of farm products, or reducing prices of industrial products. American industry, however, when faced with declining demand habitually reduces production rather than price.²⁵ From 1929 to the bottom of the depression many great industries chose to hold their prices with but little decline, even though they lost three-quarters or more of their sales.²⁶ No public power to force a downward

²⁵ See *Industrial Prices and their Relative Inflexibility*, note 16, p. 192, *supra*. See also O. M. W. Sprague, *Recovery and Common Sense* (1933), p. 80; F. C. Mills, *Price Aspects of Monetary Problems*, in Proc. Acad. Pol. Sci., April 1934, p. 3; P. Douglas, *Controlling Depressions* (1935), p. 55, *et seq.* Cf. *Report of Canadian Commission on Price Spreads* (1935).

²⁶ The relative declines in prices and in production in various industries, from 1929 to the spring of 1933, are shown in the following table:

	Percent drop in prices	Percent drop in production
Agricultural implements.....	6	80
Motor vehicles.....	16	80
Cement.....	18	65
Iron and steel.....	20	83
Auto tires.....	33	70
Textile products.....	45	30
Food products.....	49	14
Leather.....	50	20
Petroleum.....	56	20
Agricultural commodities.....	63	6

Source: *Industrial Prices and their Relative Inflexibility*, p. 8.

adjustment of such “managed” prices was in existence. If attempted, it might have caused further unemployment and still further declines in farm price levels. Even if it had been possible to force down industrial prices in line with low farm prices, this might have still further weakened assets behind loans, and intensified the general financial instability, causing still more contraction in economic activity. Action to correct farm prices and raise farm incomes by assisting in eliminating the excessive supplies, therefore, offered more real hope than any alternative program of deflating prices of industrial products.

The need for better balance between production and consumption of agricultural products was universally recognized prior to the enactment of the Agricultural Adjustment Act.²⁷ The basic difficulty in private efforts to cope with the problem was the fact that there are over six million farms in the United States, each a competitive unit and each conducted, for the most part, with little regard for the forces affecting the aggregate relation between production and consumption; and the fact that individual farmers can reduce costs but little

²⁷ See excerpts from Reports of Secretaries of Agriculture, Appendix, Part D, p. 70 *et seq.* It is interesting to note that the laws of numerous foreign countries are based on a recognition of the fact that action to correct excessive surpluses was necessary in order to improve farm prices and income. See Appendix, Part F, p. 79 *et seq.*

by reducing production.²⁸ Agriculture is the sole great basic industry in which there has been no development of centralized control of production policies.²⁹

Tariffs had proved incapable of shielding farmers. Although during the same period tariffs were increasingly protecting industrial prices, and holding up the costs of things that farmers buy, during the post-war years, tariffs on farm products were raised along with the other general advances in tariff schedules in the 1922 and 1930 Acts. When a product is sold freely for export, however, protective tariffs have no effect on the price within the exporting country.³⁰ Wheat, cotton, hog products, most types of tobacco, and many fruit products, were all being produced in excess of normal requirements prior to 1933; and under these conditions the tariff rates were practically ineffective.

The existing institutions concerned with agricultural production and distribution were unable,

²⁸A large proportion of agricultural costs are fixed, whereas a large proportion of industrial costs are variable. Industrial concerns can eliminate most of their production expenses by discharging employees and ceasing to purchase materials. Farmers depend largely on their own labor and that of their families. When they reduce production they are unable to make proportionate reductions in upkeep, living expenses, interest, and taxes. These conditions in the past have hampered cooperative efforts of farmers to bring about a satisfactory balance between production and consumption of agricultural products.

²⁹ Compare *Industrial Prices and the Relative Inflexibility*, note 16, *supra*, p. 192.

³⁰ C. E. Griffin, *Principles of Foreign Trade*, p. 396.

for a number of reasons, to provide the requisite control. Those organizations dealing primarily with distribution of agricultural commodities were for the most part not concerned with adjustment of production, and in some cases were antagonistic because of their immediate financial interest in maintaining physical volume. See *Economic Bases, supra*, p. 41. Cooperative marketing agencies, while making substantial progress in certain instances, were unable to develop a general solution of the problem. The localized character of many of these organizations, together with competition from other areas, and in any case the large number of competing nonmembers, have militated against the success of these undertakings in adjusting production on a wide scale. *Idem*, p. 42.³¹

Several cotton States made abortive attempts to bring about a reduction in cotton acreage and production by legislative action. But it was impossible to obtain any coordination of effective effort among the States involved, and the efforts were then abandoned. See p. 272, *infra*.

The Federal Government was increasingly concerned with the problem of a balanced agriculture and increasingly active in encouraging it. The first efforts of the Government consisted in gathering and disseminating information. The Department of Agriculture instituted a series of "intentions

³¹ See also Report of Secretary of Agriculture, 1926, p. 12; and Second Annual Report of Federal Farm Board, 1931, pp. 61-63.

to plant” reports and various price, competition and demand studies. (See Report of Secretary of Agriculture, 1925, p. 15, *et seq.*) The Department employed a staff of analysts to indicate prospective price trends. Annually and semiannually since 1923 the Department issued economic forecasts based upon these studies, in a series of so-called “outlook reports.” See *Economic Bases*, p. 49. Extension agencies brought these reports to the attention of farmers through numerous local meetings.³² Despite the accuracy of these reports and forecasts³³ they had little effect on production.³⁴

In 1929, Congress enacted the Agricultural Marketing Act, c. 24, 46 Stat. 11, which established the Federal Farm Board and gave it power to purchase commodities for stabilization purposes. At one time the Board controlled over 250,000,000 bushels of wheat and 3,500,000 bales of cotton. See *Economic Bases*, p. 50. While these purchases exerted

³² During the 1931–32 season, 2,000,000 outlook reports were distributed, and 2,675,000 were distributed in 1932–33. In 1932–33, 15 percent of all farmers attended local meetings arranged by extension agencies, as compared with 2 percent in 1928–29. See U. S. Department of Agriculture, Extension Service, *Agricultural Economics Extension Work, 1932* (1933), p. 7.

³³ See O. V. Wells, *A Comparison of Outlook Statements with Subsequent Efforts*, U. S. Department of Agriculture, Bureau of Agricultural Economics, 1930; P. C. Campbell, *American Agricultural Policy* (London, 1933), pp. 105–165 and Appendix.

³⁴ See H. R. Tolley, *The History and Objective of Outlook Work*, 13 *Journal of Farm Economics*, pp. 523–534.

some sustaining influence on market prices at the time the purchases were made, they had practically no effect in bringing about the necessary adjustments in production. Subsequently the existence of the stocks tended to depress market prices, and they were disposed of at heavy loss to the Farm Board. *Idem*, pp. 51–52, and *Third Annual Report, Federal Farm Board*, 1932, pp. 63–81.

No one was more aware than the Farm Board itself of the inadequacy of its operations to deal fundamentally with the problem of surpluses. In its First Annual Report the Board stressed the need of measures looking toward the adjustment of production:³⁵

Finally, the board regards measures for prevention of surpluses, through control of excessive production, as absolutely essential to stabilizing farm prices and farm incomes. Cooperative associations and stabilization corporations, supplemented by other devices, may prove able to deal with temporary or occasional surpluses. But none of these, nor all together, nor any Government agency can protect farmers from the consequences of repeated or continuous production in excess of market requirements. Adjustments of production to market requirements are in-

³⁵ This was reiterated in subsequent reports of the Board: *Second Annual Report*, 1931, pp. 36–37; *Third Annual Report*, 1932, pp. 61–62.

dispensable, in agriculture as in industry, to the solution of surplus problems (pp. 25–26).

The Board resorted to exhortation; but this proved as ineffective as surveys and forecasts. In late 1932 the Board recommended specifically that it be given the power—

to provide some means of elevating the returns to farmers from the production of exportable farm products, in such a way as (a) to pay the costs, if any, on a continuous and self-sustaining basis, and (b) to provide an effective system for regulating acreage or quantities sold or both.³⁶

d. The Agricultural Adjustment Act was designed to aid in restoring general economic activity and was soundly constructed for that purpose

The title of the Agricultural Adjustment Act reveals that its first purpose was “to relieve the existing national economic emergency by increasing agricultural purchasing power.” Section 1 of the Act describes briefly the situation with which it was designed to deal and indicates that the Act was expected, by aiding agriculture, to promote the general welfare. The section declares that the “present acute economic emergency” is “in part the consequence of a severe and increasing disparity between the prices of agricultural and other com-

³⁶ See Special Report of Federal Farm Board, House Document No. 489, 72d Cong., 2d Sess., p. 3.

modities, 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.”

The means adopted in the Act to increase agricultural purchasing power were a logical development of prior efforts toward the same end. The Act was designed, however, to avoid the shortcomings of previous measures. The Agricultural Adjustment Act, instead of attempting to support prices through stabilization operations or marketing controls, proposed to assist in the readjustment of supplies themselves, with the expectation that more balanced supplies would themselves result in higher prices and larger incomes. This expectation was in full accord with the background of facts concerning agricultural prices and income, as has previously been shown.

The mechanism provided by the Act to promote adjustment of production of basic products was based upon a voluntary contract between individual producers and the Government. Under these contracts, cooperating farmers agreed to adjust acreage or marketings in return for rental or benefit payments.

The period 1909 to 1914 was chosen by Congress as the objective to which the purchasing power of

farmers should be restored. That period represented generally one of considerable agricultural and industrial stability, with a good balance between the production and consumption of each product, with equilibrium between the purchasing power of city and country, with well sustained industrial activity, and little unemployment.³⁷ The selection of this period set a reasonable limit to the increases in farm prices. Indeed, it would have been reasonable to select a higher standard than the pre-war period, in view of the long-time tendency, already described, for wholesale prices of industrial products to fall (because of decreasing costs of production of industrial products) relative to wholesale prices of agricultural products. See pp. 181–182, *supra*.

The principles of the act were tested in the cotton program in 1933, the wheat program in 1934 and 1935, and the corn-hog program in 1934 and 1935. In each of these programs the great majority of producers voluntarily accepted the necessary adjustment and cooperated in the program; the acreage was readjusted; production was likewise

³⁷ As early as 1921 it was recognized that the pre-war period was the latest period of relative stability. See United States Department of Agriculture, Bulletin 999, August 26, 1921. See also chart, Addendum, p. 56. The period between 1921 and 1929 was marked by abnormal relationships between agricultural and industrial prices and costs and by maladjustments in the various branches of industry and in foreign trade.

readjusted; and the export surpluses were markedly reduced.³⁸

³⁸ The significant developments in these three fully voluntary programs are as follows:

Acreages

Cotton:	
Acreage planted (1932)-----	36,542,000
Acreage planted (1933)-----	40,852,000
Acreage harvested under voluntary program (1933)---	29,978,000
Acreage planted under voluntary program (1934)--- (prelim.)-----	28,412,000
Wheat:	
Acreage planted (1933)-----	66,969,000
Acreage planted under voluntary program (1934)--- (prelim.)-----	60,371,000
Acreage planted under voluntary program (1935)--- (prelim.)-----	65,173,000
Corn:	
Acreage planted (1933)-----	105,982,000
Acreage planted under voluntary program (1934)---	95,402,000
Acreage planted under voluntary program (1935) (July 1 estimate of acreage for harvest)-----	93,590,000

The farmers cooperating in these voluntary adjustment programs operated 78% of the total wheat acreage, 75-80% of the total corn-hog production, and 73% of the total cotton acreage.

Source: (Wheat) *Facts About Wheat*, Wheat Circular No. 1, p. 6; (Corn) *Agricultural Adjustment in 1934*, p. 87, both by the Agricultural Adjustment Administration, U. S. Dept. of Agriculture. (Cotton) *Yearbook of Agriculture 1935*, U. S. Dept. of Agriculture, p. 426.

Production

	Prior to A. A. A.		Subsequent to A. A. A.		
	1931	1932	1933	1934	1935
Wheat (million bu.)-----	932	744	529	497	599 (prelim.).
Cotton (million bales)-----	17.1	13.0	13.0	9.6	11.1 (Nov. 1, est.).
Hogs—slaughter under Federal inspection (million head).	44.8	45.2	47.2	43.8	

The excessive reduction in hog slaughter in 1935 reflected the disastrous drought of 1934. Droughts also accelerated the reduction in wheat production and wheat surpluses.

It was, of course, necessary that the adjustment policies for cotton and wheat be arranged with a view to the fact that they are international commodities and that, consequently, reduction of production in the United States could not correct the world surplus if acreage reductions here were accompanied by offsetting expansions abroad. As the United States ordinarily produces less than one-quarter of the world's wheat,³⁹ control of wheat production in the United States alone could not have coped with the world wheat surplus. Other leading wheat-producing nations agreed to cooperate in adjusting wheat production and exports, under the International Wheat Agreement signed at London on August 25, 1933.⁴⁰ Partly as a result,

<i>Carry-overs</i>				
	Carry-over at beginning of crop season—			
	1932	1933	1934	1935
Wheat (in U. S.), million bushels.....	385	393	286	162
American cotton (world total), million bales.....	13 0	11. 6	10 6	9. 0

Source: U. S. Dept. of Agriculture, *Agricultural Adjustment*, February to December 1934, pp. 45, 71; official reports of Bureau of Agricultural Economics, U. S. Dept. of Agriculture, and preliminary estimates for 1935 from reports of Div. of Crop and Livestock Est., Bureau of Agri. Economics, U. S. Department of Agriculture.

³⁹ Yearbook of Agriculture, U. S. Dept. of Agriculture, 1935, pp. 356–357.

⁴⁰ Congress recognized the existence of this agreement in authorizing the Department to pay its share of the expenses of the joint secretariat. Pub. No. 62, 74th Cong., 1st Sess., p. 38, approved May 17, 1935.

adjustment in wheat acreage in the United States has been accompanied by reductions in other leading export countries.

The world prices of cotton are dominated by the production and price of American cotton. See B. B. Smith, *Factors Affecting the Price of Cotton*, p. 195, *supra*. It was, therefore, reasonable to assume that reduction in the United States could improve the world position. It is true that commercial production of foreign cotton (excluding China) had gradually expanded from a level of about four million bales forty years ago to a level of nine or ten million bales since 1925 (see *Agricultural Adjustment in 1934*, U. S. Dept. of Agriculture, p. 59); and during that period American exports constituted a steadily decreasing proportion of the total foreign cotton consumption. Nevertheless, since prior to the adoption of the American program other countries had seriously reduced their production, and since the area suitable for cotton production in other countries is limited, it was anticipated that the reduction here would not be accompanied by such an expansion in production abroad as to cause a failure of the program. These expectations have in general been borne out by subsequent developments. In 1933, 1934, and 1935 the cotton-adjustment programs in the United States reduced American cotton produc-

tion by ten million bales.⁴¹ During the same period cotton production abroad has totalled approximately one million bales in excess of that which it probably would have reached in the absence of stimulation from the higher prices due to the American adjustment programs.⁴²

⁴¹ A total of 10,497,000 acres growing cotton was taken out of production in 1933 and the harvested crop amounted to 13,047,000 bales. It was estimated that the reduction program reduced the crop by 4,500,000 bales. (See *Agricultural Adjustment in 1934*, pages 45 and 46.) In 1934 a total of 14,603,000 acres of cotton land were rented and kept out of cotton production (although it was made available for producing food, feed, and soil building crops). That program, together with the drought, reduced production to 9,636,000 bales, and the 1935 crop was estimated by the Crop Reporting Board on October 8, 1935, at 11,464,000 bales. In all, American cotton production has been reduced by a total of around 10,000,000 bales below what it otherwise would have been, by the reduction programs of 1933, 1934, and 1935.

⁴² Cotton production in foreign countries was reduced from 12,189,000 bales in 1930-31 to 10,499,000 bales in 1931-32 and 10,937,000 bales in 1932-33, largely by unsatisfactory growing conditions which reduced per acre yields, and the cotton restriction programs in Egypt. In 1933 foreign cotton acreage was increased from 40,561,000 acres to 44,556,000 acres. That was approximately the same relative increase as occurred in the planted acreage of the United States in 1933 and, as in the United States, most of the increase occurred before the cotton-adjustment program was put into operation and before it could possibly have affected plantings. Foreign production in 1933-34 totaled 13,522,000 bales and no important part of the increase could have resulted from the adjustment program in the United States. In 1934-35 foreign cotton production rose to 13,986,000 bales. Production for 1935-36 has not yet been completely reported, but it is expected to be approximately the same as that of 1934-35. It is doubtful, therefore, that more than

The soundness of the voluntary contract system depends both upon the correctness of the adjustments sought to be made for each commodity and upon the sufficiency of the number of farmers co-operating to make the program effective. The initial voluntary programs were entered upon only when farm meetings throughout the regions concerned indicated that a sufficient proportion of farmers would probably sign the contracts. Before entering upon a second program for the same commodities, the willingness of farmers to continue to cooperate was determined by referenda open to *all* producers of the particular commodity. From 67 to 96 percent of the producers concerned voted for continuing the programs.⁴³

1,000,000 bales of foreign production can be attributed to the improved prices resulting from the adjustment programs in the United States as an offset to the reduction of 10,000,000 bales in the American cotton crops of the past three years. (See *World Cotton Situation*, U. S. Dept. of Agriculture, April 1935.)

⁴³ Results of referenda on continuing voluntary adjustment programs:

Commodity program	Date of referenda	Contract-signers		Noncontract signers		Total farmers	
		Voting	Favoring continuance	Voting	Favoring continuance	Voting	Favoring continuance
Corn-hog *.....	Oct 15, '34.....	535,690	69.9%	44,026	33.1%	579,716	67.2%
Wheat *.....	May 25, '35.....	398,277	89.0%	68,443	72.8%	466,720	86.7%
Tobacco *.....	Je, Jy, '35.....	(*)	(*)	(*)	(*)	377,271	95.6%
Corn-Hogs ^d	Oct. 26, '35.....	745,415	91.3%	195,988	67.6%	941,403	86.4%

* Separate figures not available.

^b See U. S. Dept. Agr., Agricultural Adjustment in 1934, pp 108-109, 1935.

^c See U. S. Dept. Agri., Agri. Adj. Adm., "Wheat Production Adjustment", No. 20, June 25, 1935. Revised by addition of figures for Indiana

^e See U. S. Dept. of Agri., Agri. Adj. Adm. Press Releases 32-36 and 268-36, July 6 and Aug 16, 1935

^d Preliminary tabulation See U. S. Dept. Agri. Adj. Adm. Press Release 749-36, Oct. 30, 1935

In view of the known facts regarding the relation of supplies of farm products to farm prices and farm income, and the relative stability of retail prices as compared with farm prices (*supra*, p. 191), it was entirely reasonable to expect that with adjustment of production farm prices and incomes would rise and would do so much more sharply than retail prices. This expectation was borne out by the events. It is recognized that the drought, the monetary policy, and other conditions also influenced developments, so that the rise in farm prices and farm incomes has been greater than might have been expected from the operations of the adjustment program alone. The adjustment of production and consequent reduction of surpluses, however, was no doubt a major factor in producing the accompanying marked rise in farm prices,⁴⁴ the increase in farm income from the products con-

⁴⁴ Changes in farm prices for the major products affected by adjustment programs may be indicated as follows:

	Average prices received by farmers August 15			
	1932	1933	1934	1935
Wheat —¢ per bu.....	38.5	74.7	89.6	81.5
Corn —¢ per bu.....	30.2	48.8	72.7	80.8
Cotton —¢ per pound.....	6.5	8.8	13.1	11.5
Hogs —\$ per 100 lb.....	4.06	3.79	4.61	10.22

Source : Crops and Markets, vol. 12, No. 9, pp. 367, 368.

cerned,⁴⁵ and the greater relative increase in farm prices than in retail prices.⁴⁶

Although the receipt of cash benefit payments contributed materially to the increasing farm income since the Act was passed, the major increase in farm income was due to the resulting improvement in the market situation and the consequent better prices for farm products. Of the increases in farm income in 1933 and 1934 over the low level of 1932, more than two thirds was due to the im-

⁴⁵ Farm income from the major products under adjustment programs (including rental or benefit payments) increased as follows:

	Millions of dollars		
	1932	1933	1934
Grains (largely wheat and corn).....	452	700	749
Cotton and cottonseed.....	464	862	839
Hogs.....	548	617	817
Tobacco.....	108	185	277

Source : Crops and Markets, Vol. 12, No. 7, Table 4, p. 271.

⁴⁶ Costs of a given quantity of ten important foods changed as follows:

	Feb 1933	Feb 1935	In- crease
Farm price.....	\$5 00	\$9. 77	95%
Retail price.....	15. 42	21. 41	39%

Source : Waugh, *supra*, note 14, at p. 13, table 3.

proved market position and less than one third to direct cash payments as such.⁴⁷

The total amount of the benefit payments made out of advances from the general fund of the Treasury, and which the Government is contractually obligated to make, in connection with the adjustment programs for 1933, 1934, and 1935 is \$1,350,616,379. The estimated amount of such payments to be made in connection with 1936 adjustment programs, under contracts now being offered, is \$464,994,288. (Statement of the Director of Finance, A. A. A.-U. S. Dept. of Agriculture, dated November 4, 1935.)

In view of the known facts concerning the relation between farm income and expenditures, it was entirely reasonable to expect that an increase in farm income would be accompanied by economic recovery in related industries. From 1929 to 1932, as gross income to farmers declined, their expenditures for farm supplies such as feed, fertilizer, and implements had likewise fallen. See p. 184, *supra*. Registrations of automobiles in farm states fell 73

⁴⁷ The estimated increases are as follows, in millions of dollars:

	1932	1933	1934 (preliminary)	Increase over 1932	
				1933	1934
Cash income from products sold.....	4,377	5,131	5,673	754	1,296
Benefit payments under AAA adjustment programs.....		278	594	278	594
Total.....	4,377	5,409	6,267	1,032	1,890

Source: *Crops and Markets*, U S Dept of Agric, July 1935, Vol 12, No. 7, p 272

percent from 1929 to 1933.⁴⁸ Their funds for purchases of products for family consumption had fallen even more sharply. See p. 184, note 4, *supra*. Mail order sales (largely sales to farmers) had declined 37 percent,⁴⁹ and department store sales, in cities located in several agricultural regions, had declined 30 to 43 percent.⁵⁰ Farm machinery and

⁴⁸ New passenger automobile registrations, during first half of year:

	Industrial States •	Agricultural States
1929.....	1,266,718	888,639
1933.....	443,824	238,674
Decrease, 1929 to 1933.....percent..	65 0	73.2
1935.....	873,200	588,740
Increase, 1933 to 1935.....percent..	97	147

• All southern states, all midwestern states except Illinois, Indiana, Michigan, and Ohio, and all western states except California were considered agricultural; the remaining states were considered industrial states

See Survey of Current Business, U. S. Dept. of Commerce, Bur. For. & Dom Comm., Sept., 1935, p. 18

⁴⁹ Mail order sales of Montgomery Ward & Company and Sears, Roebuck & Co., combined, were as follows:

	(Monthly average orders)
1929.....	\$61,249,000
1932.....	38,344,000
1934.....	49,640,000
1935 (April to July).....	58,901,000

Source: U. S. Dept. of Commerce, Survey of Current Business, 1932 Annual Suppl., p. 51; March 1933, p. 27; March 1935, p. 27.

⁵⁰ Sales by department stores for the United States and in certain selected Reserve Districts where agriculture predominates, were as follows:

[Index of dollar sales, 1929 = 100]

	1929	1932	1934
United States.....	100	61	68
Atlanta District.....	100	61	80
Dallas District.....	100	57	72
Kansas City District.....	100	67	76
Minneapolis District.....	100	70	73

Source: Computed from data in Survey of Current Business, U. S. Dept. of Commerce, 1932 Annual Suppl., p. 51; March 1933, p. 27; March 1935, p. 27.

buildings were badly run down; purchases and repairs in 1931 and 1932 had replaced less than half the depreciation during those years.⁵¹

Since 1932, the level of mail-order sales increased 54 percent;⁵² sales of department stores in predominately agricultural regions expanded from 13 to 21 percent;⁵³ farmers' expenditures for machinery and buildings increased ninety percent (see Chart 6);⁵⁴ and new-car registrations in typical agricultural states more than doubled.⁵⁵ Shipments of industrial products from industrial states to agricultural states increased thirty-nine percent from 1932 to 1934, and shipments of goods used by farmers in their farm operations increased

⁵¹ In 1931 and 1932, the depreciation of farmer-owned buildings and equipment was estimated to total \$1,648,000,000, the total expenditures on repairs and replacements to total only \$782,000,000. *Crops and Markets*, Vol. 12, No. 7, pp. 271, 272. Cf. note 4, p. 184, *supra*.

⁵² See footnote 49, *supra*.

⁵³ See footnote 50, *supra*.

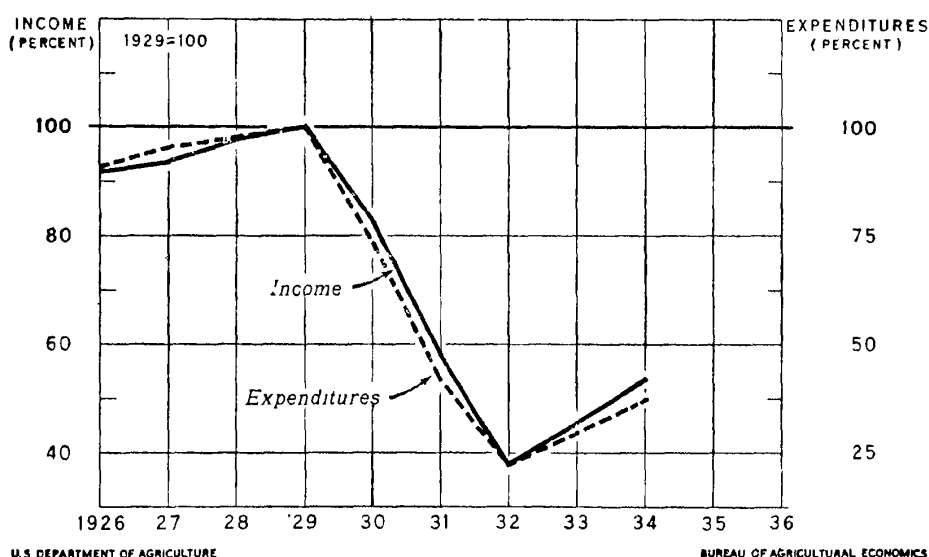
⁵⁴ Negative No. 29514, published by Bur. Agric. Econ. Farmers' expenditures on capital were \$261,000,000 in 1932, \$323,000,000 in 1933, and \$495,000,000 in 1934. *Crops and Markets*, *supra*, note 51, p. 271.

⁵⁵ See *Survey of Current Business*, U. S. Dept. of Commerce, Sept. 1935, p. 18.

seventy-five percent.⁵⁶ In automobiles, the expansion in sales in rural areas was much more than in industrial areas. In the first half of 1935, new-car registrations in agricultural states were 147 percent larger than in the first half of 1933, whereas in predominately industrial states, the increase was 97 percent.⁵⁷

CHART 6

CASH INCOME PER OWNER-OPERATED FARM AND EXPENDITURES
FOR MACHINERY AND IMPROVEMENTS, 1926-34



⁵⁶ These figures represent a tabulation of car-lot shipments on four railroads, originating in 16 states of the industrial northeast, and billed to 10 states of the agricultural southeast. The changes noted were as follows:

	Carload shipments		Increase
	July 1, 1932, to June 30, 1933 (million pounds)	July 1, 1933, to June 30, 1934 (million pounds)	
All industrial and manufactured products except coal...	2,105	2,921	38.8%
Goods used by farmers in farm operations.....	61.5	107.6	75.1%
Domestic and personal goods.....	115.6	182.3	57.6%
Cash farm income in the ten agricultural states (millions)...	\$451.6	\$722.0	59.9%

Source: U. S. Department of Agriculture, *Agricultural Adjustment in 1934*, pp. 272, et seq.

⁵⁷ See note 48, *supra*.

During the decline from 1929 to 1932, industrial activity, employment, and pay rolls in industries producing these products had fallen off as sales had declined. It was reasonable to expect that restored farm income and purchases would lead to renewed production and employment in these industries. This expectation, likewise, was borne out by the subsequent developments. From 1932 to 1934 the purchasing power of employees in the farm machinery industry increased 136 percent; in automobiles, 77 percent; in fertilizer, 56 percent; in cotton goods, 61 percent. (See Appendix, Part E, pp. 77–78.)

It was logical to expect that the recovery in agriculture and in related industries would be reflected broadly in other industries, due to the direct and indirect effects of renewed spending both by farmers and by workers in industries related to farming. A major proportion of the industrial unemployed were out of work directly or indirectly because of farmers' reduced ability to buy.⁵⁸ While by no means all the recovery in pay rolls and employment from 1932 to date can be ascribed to the increased income in agriculture, it is significant that marked increases in the buying power of factory pay rolls occurred in industries directly affected by farm buying power; that similar marked increases oc-

⁵⁸ See analysis of unemployment data in Senate Hearings on Agricultural Adjustment (*supra*, note 20), page 431, and House Hearings on Agricultural Adjustment (*supra*, note 20), pp. 360–361.

curred in related industries, such as iron and steel products, 62 percent; general machinery, 58 percent; rubber, 40 percent; chemicals, 25 percent. This improvement was reflected generally through other industries. (See Appendix, Part E, pp. 77-78.) The physical volume of industrial production expanded 24 percent from 1932 to 1934; the volume of car loadings increased 11 percent; and factory employment increased 24 percent.⁵⁹

During the period of declining farm prices, credit institutions collapsed generally in rural regions, as has already been shown (See *supra*, p. 186). It was reasonable to believe that increases in farm incomes would enable farmers to meet their taxes and interest payments, and to cease their drains on rural bank balances, and that the higher prices of farm products would raise land values, increase the security behind farm loans, and so stabilize rural credit conditions. These expectations have been confirmed by subsequent experience. Improvement in business began in the Cotton Belt, as the first adjustment program got

⁵⁹ On the base of 1923-25=100, the indexes are as follows:

	1932	1934	Percent increase 1932 to 1934
Industrial Production.....	64	79	24
Freight-car Loadings.....	56	62	11
Factory Employment.....	64	79	24

See Federal Reserve Bulletin, October 1935, p. 665.

under way.⁶⁰ Commercial failures in farm regions have shrunk to a small fraction of their previous level; ⁶¹ deposits in country banks have risen sharply (See Chart 10, *infra*, p. 249), and values of farm land have recovered materially.⁶²

That the increase in farm income was a very important factor in the business recovery which has taken place since 1933 is recognized in the monthly publication of the National City Bank of

⁶⁰ See Addendum, folio pp. 131-142, following p. 68.

⁶¹ Liabilities involved in commercial failures in the Atlanta Federal Reserve District, since the cotton-adjustment program began to function, totaled only \$406,000, which, except for the month of May 1931, was the lowest for the period shown since August 1928. In the Richmond Federal Reserve District, commercial failures in February 1934 involved liabilities of only \$850,000, the lowest for the period shown, as compared with \$9,783,000 in liabilities on account of commercial failures in February 1933. (See Addendum, folio pp. 117-123, following p. 68.)

⁶² The estimated value per acre of the farm real estate of the United States, in terms of pre-war average value, on March 1 of selected years was as follows:

[1912-14 Average=100]

March 1, 1929.....	116
March 1, 1933.....	73
March 1, 1935.....	79

For figures through 1933, see The Farm Real Estate Situation, 1932-33, by B. R. Stauber, U. S. Department of Agriculture, Circular No. 309, December 1933, p. 8. For 1935 figures, see Crops and Markets, Vol. 12, No. 5, May 1935, p. 181, published by the U. S. Department of Agriculture.

New York for October 1935, where the following appears, at pages 146 and 147:

It is hardly deniable that the impetus to the general business improvement originated on the farms, in the improved relationship between farm and industrial prices, which gave farm products a greater value in exchange for the products of industry. * * *

All the farm markets have had a vast improvement, through the reduction or elimination of the surpluses accumulated even before the depression. Balanced relationships between supply and demand have been restored, and buyers are no longer afraid of the markets, or unwilling to carry the stocks that accumulate during the season of production. * * *

The increase in farm prices and income was calculated to expand incomes of industrial workers to a greater extent than it would increase living costs.—The foregoing facts make it clear, we believe, that the provisions of the Act under discussion were soundly constructed to promote not only the welfare of agriculture but that of industry generally. By way of summary this conclusion can be made even more plain. The exceedingly low prices of farm products prevailing in 1932 did not mean simply that consumers could secure goods at low cost. On the contrary, such prices meant that farm-

ers had lost in large measure their ability to buy industrial products; that industrial workers were without employment; and that the production and exchange of products between city and country was rapidly coming to a standstill. The expectation that increased prices and higher incomes to farmers would result in expanded production and employment in industry was supported by the experience in the last preceding depression. An expansion in agricultural purchasing power in 1921 to 1922 was a large factor in bringing about subsequent expansion in purchasing power of other groups and emergence from the first phase of the 1920-1921 industrial depression. See *Economic Bases, supra*, at 65-66. That expectation was further supported by the fact that the decline in farm income from 1929 to 1932 had been accompanied by a corresponding decline in the income of factory workers. (See Chart 7.)⁶³ It has been confirmed by the fact that the increase in farm income from 1932 to date has been accompanied by an almost exactly corresponding increase in the income of industrial workers, as shown by the same chart.

⁶³ Reproduced from 1936 Outlook Chart Book on Demand, Credit, Prices (U. S. Dept. of Agric. 1935), p. 2.

222

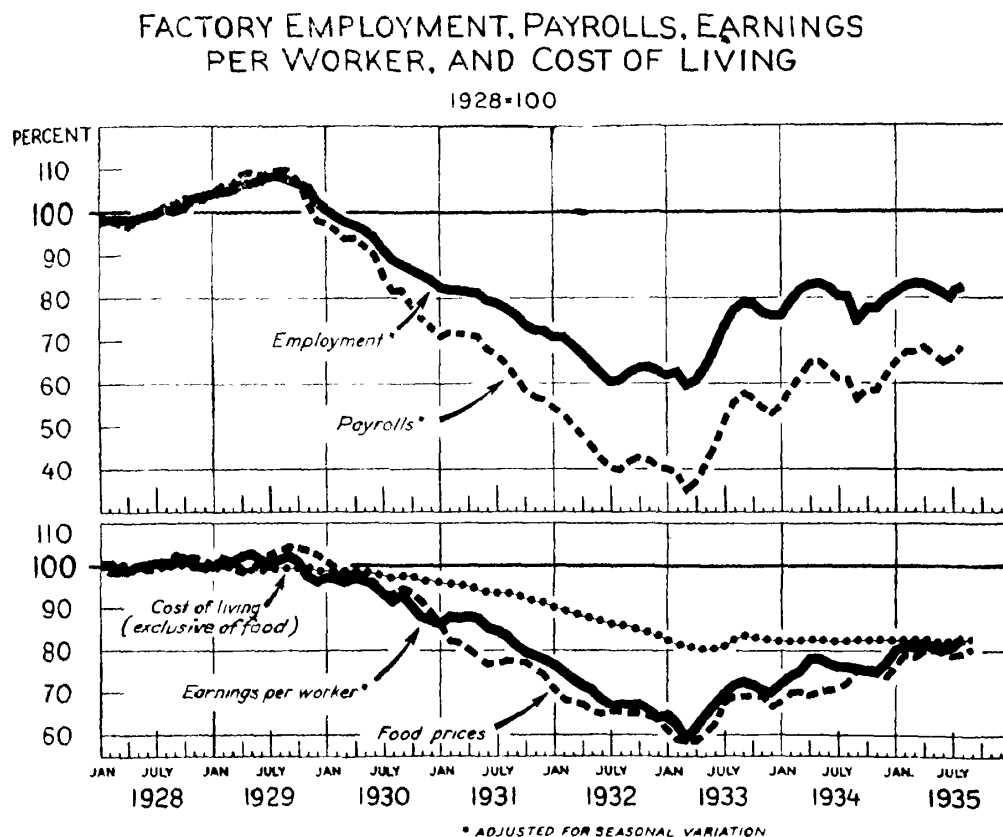
U S DEPARTMENT OF AGRICULTURE

BUREAU OF AGRICULTURAL ECONOMICS



The previous decline in prices had not increased the welfare of industrial workers, since pay rolls had fallen twice as sharply as living costs. (See Chart 8.)⁶⁴ It was therefore logical to assume that

CHART 8



higher prices and restored farm incomes would be accompanied by a more rapid rise in industrial pay rolls than in food prices. This expectation was fulfilled. From 1932 on, industrial pay rolls increased much more sharply than living costs rose, reflecting

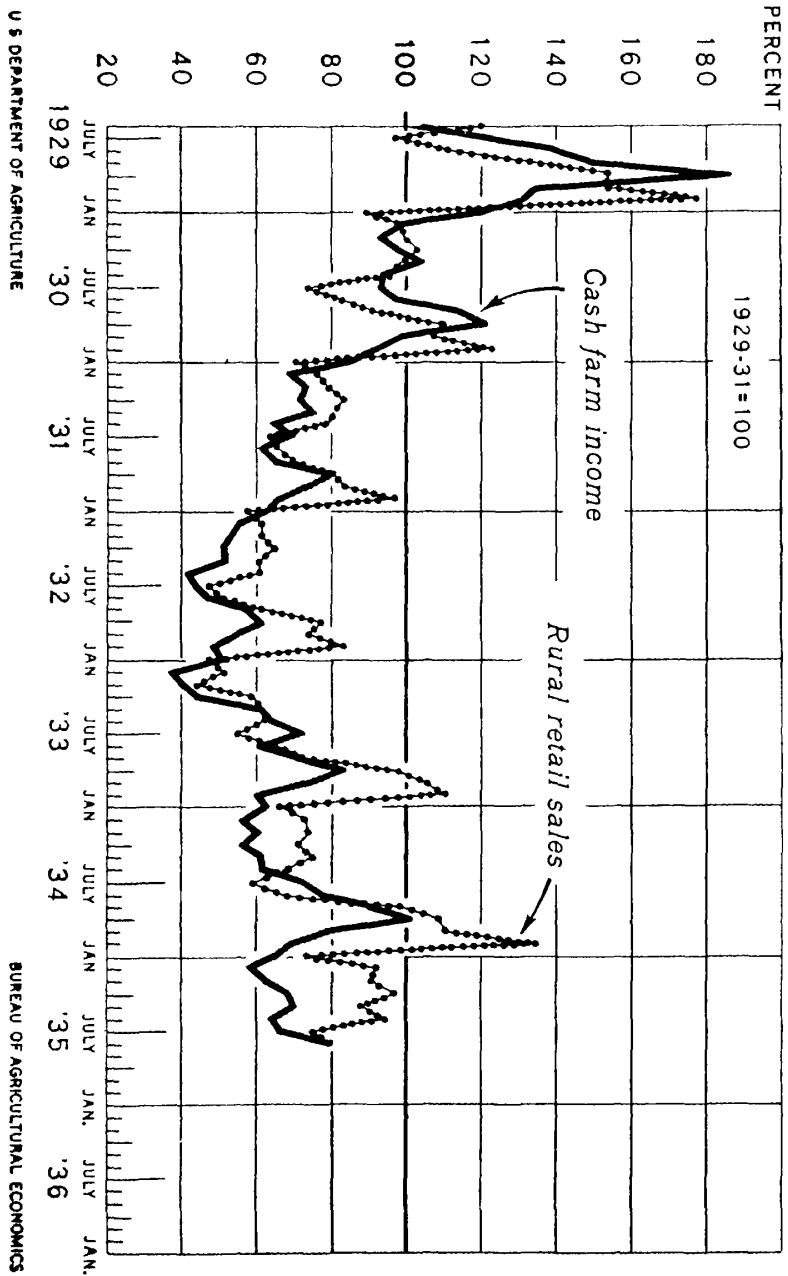
⁶⁴ Negative No. 29542, published by Bur. Agric. Econ.

both increased employment and higher wages; while average wages per worker employed rose more rapidly than their costs of living. From 1932 to 1935, earnings per worker rose and food prices rose in the same proportion; but costs of living other than food, which had declined only half so much before, remained constant. By the middle of 1935, those workers actually employed had, on the average, regained the purchasing power they enjoyed in 1929; and millions more were employed than in 1932. As was expected by Congress when it passed the Agricultural Adjustment Act, higher farm prices were accompanied by increased economic activity and a higher standard of welfare for the general population.

One reason why increased farm income can be expected to be accompanied by increased activity in industry is that farm products are sold and the income from them reflected in farm purchases and general activity, months before those crops are purchased by consumers. Farmers receive a very large part of their year's income during a few months of each year, when crops move to market. (See Chart 9.)⁶⁵ Consumers of farm

⁶⁵ Negative No. 29515, published by Bur. Agric. Econ. During the three months of heaviest movement for each, farmers market 60 percent of their wheat and cotton. Mills process only one-quarter of their annual consumption during the corresponding months. *Yearbook of Agriculture for 1935*, pp. 359, 429, and Production Indexes of Federal Reserve Board showing usual seasonal variation for wheat and cotton milling.

CHART 9
INDEXES OF CASH FARM INCOME AND RURAL RETAIL
SALES, JUNE 1929-AUGUST 1935



products gradually buy these products over the succeeding twelve months or longer, as they need them. Meantime, banks and other credit agencies backed by current market prices advance the funds to move the crops, and thus use their credit to put purchasing power into the hands of farmers ahead of the time when consumers are called upon to make corresponding expenditures. During the period from 1929 to 1932, the declining farm prices constantly reduced the funds advanced by credit agencies to move the crops; the decline in income received by farmers led them to curtail their expenditures; and unemployment in the cities increased in consequence. (Note on Chart 9 how declining farm income in the final quarters of 1930, 1931, and 1932 was reflected in reduced rural sales in the same periods.)

In view of the relationship which had prevailed during preceding years, it was reasonable to expect that higher prices for farm products would increase advances by credit agencies, put more income in the hands of farmers ahead of the increased payments by consumers, increase farmers' demand for industrial products, expand industrial activity and employment, and so expand urban incomes more than food cost would be raised. These expectations were fully borne out, as is clear from Charts 7 to 9, inclusive, and other facts already cited.

~~Thus it is seen that~~ the Act was part of a group of Congressional measures designed to relieve the widespread distress of the greatest depression the

nation has experienced. It was a vital part in a coordinated and deliberate attempt to restore the purchasing power of the farming communities and the economic well-being of the entire country.

The appropriation made to finance this purpose plainly met what Hamilton called “the only qualification” of the power conferred by the welfare clause, “That the object, to which an appropriation of money is to be made, be general, and not local; its operation extending, in fact, or by possibility, throughout the Union, and not being confined to a particular spot.” 3 Hamilton’s Works, Hamilton Ed., p. 250. See also Story on the Constitution, Sec. 922. We submit that the levy of the processing tax and the appropriation of the proceeds thereof, in order to provide funds to make rental and benefit payments to farmers under the Act, were for the general welfare.

8. The tax was laid and the proceeds thereof were appropriated for a public purpose

It has been argued that these taxes are not for a public purpose in that they take property from one class and give it to another class for the private benefit of the latter, and that, therefore, they violate the Fifth Amendment. If by this argument it is meant that the Fifth Amendment might be used to strike down a tax because of its purpose, where the tax was levied for one of the purposes expressly

approved and set forth in Article I, Section 8, Clause 1 of the Constitution, the contention violates fundamental principles of constitutional construction. The purpose *expressly approved* by one part of the Constitution cannot be said to be rendered invalid by *implication* drawn from some other part of that instrument. *Brushaber v. Union Pacific Ry.*, 240 U. S. 1, 24; *Billings v. United States*, 232 U. S. 261, 282; *McCray v. United States*, 195 U. S. 27, 61. In *Billings v. United States*, *supra*, the Court said (p. 282) :

It is also settled beyond dispute that the Constitution is not self-destructive. In other words, that the powers which it confers on the one hand it does not immediately take away on the other; that is to say, that the authority to tax which is given in express terms is not limited or restricted by the subsequent provisions of the Constitution or the amendments thereto, especially by the due process clause of the Fifth Amendment.

In Article I, Section 8, Clause 1, the Constitution gives Congress the power to tax for the purposes of providing for the general welfare. As we have already shown, the tax here was laid for the general welfare. If a tax for this purpose were to be struck down under the Fifth Amendment on the ground that this purpose is invalid, the result would be, as pointed out in *Billings v. United States*, *supra*, p. 283, to render the Constitution

unconstitutional.⁶⁶ In the case of the Federal Government there is no need to resort to implication to determine the purposes for which taxes may be laid, because the Constitution itself specifies those purposes directly and unambiguously. There is no occasion in the field of Federal taxation for the application of any “public purpose” doctrine such as is recognized in the case of States and municipalities. Since the purpose of the levy imposed by Congress is one of those specified in Article I, Section 8, Clause 1, the purpose cannot be held to be invalid under the Fifth Amendment.

There is nothing to the contrary in *Railroad Retirement Board v. Alton R. R. Co.*, 295 U. S. 330. The Railroad Retirement Act was not a revenue measure but was an attempted exercise of the power to regulate commerce. The point presented there was whether a statutory requirement that retired employees should be paid compensation was regulation of commerce between the states within the interstate commerce clause. That presented a

⁶⁶ This principle is not inconsistent with such cases as *Nichols v. Coolidge*, 274 U. S. 531, 542; *Untermeyer v. Anderson*, 276 U. S. 440; *Heiner v. Donnan*, 285 U. S. 312. Those cases dealt with arbitrary exercise of the taxing power. In those cases there was no question of the Fifth Amendment by implication rendering ineffective an express grant of power found in another part of the Constitution. The cases which have most clearly enunciated the rule that the Constitution may not be construed as self-contradictory have recognized that the principle does not deny the application of the Fifth Amendment to prevent arbitrariness in taxation. See *Brushaber v. Union Pac. R. R.*, 240 U. S. 1, 24–25.

question of the right of the Federal Government to enforce compulsory legislation. The case was distinguished (pp. 359, 360) from *Noble State Bank v. Haskell*, 219 U. S. 104, because the imposition there was akin to a tax “in which the share of each party in the benefit of a scheme of mutual protection is sufficient compensation for the correlative burden that it is compelled to assume.”

Rules applicable to municipal taxation are not relevant to the great power of Congress to raise revenues.⁶⁷ The public purposes appropriate for local taxes are not of the same order as the purposes which of necessity Congress must further. The distinction between the two types of taxation is clearly pointed out by Judge Cooley (1 Cooley, *Taxation*, 4th Ed., pp. 388–390):

In considering the legality of the purpose of any tax, a question of first importance

⁶⁷ It is not without significance that while the requirement of public purpose is well recognized as a test to be applied to state and local taxation, no reference to this concept appears in the decisions of this Court dealing with Federal taxation. Cf. *Head Money Cases*, 112 U. S. 580, where this Court in the course of its consideration of the objections raised to the exaction there involved, not only made no mention of “public purpose” as a test of the validity of Federal taxation, but specifically stated (p. 595) that if the statute were to be tested by the criteria applicable to Federal taxes, “it would not be difficult to show” that a levy to raise funds for the relief of immigrants in distress (among other purposes, see p. 590) was “made for the general welfare.” The limited purposes of the levy were merely cited as further grounds (in addition to the title and language of the Act) for the Court’s decision that the statute was not meant to be an exercise of the taxing power, since ordinarily our revenue measures are levied for general rather than specific governmental purposes.

must always concern the grade of the government which assumes to levy it. * * *

There may, therefore, be a public purpose as regards the Federal union, which would not be such a basis for state taxation * * *.

A municipal government is one of delegated and limited powers, whose authority will receive a somewhat strict construction, rendering it necessary that it shall find the purpose for which it may tax clearly and unmistakably confided to its charge by the state. * * *

it is otherwise with the Federal union also, for though its powers are not general like those of the state, but are limited and defined by the Federal Constitution, yet as they concern the most important matters of government and relate to subjects not of domestic concern merely, but of international intercourse, and to other matters which sometimes call for broad and comprehensive views, and make a policy of liberal expenditures wise and statesmanlike, it would be neither reasonable nor prudent to subject its action in the matter of taxation to critical rules. That which it decides to be an object of public expenditure must generally be accepted, and errors in its action must be corrected by discussion and through public opinion and the elections.

Thus, while in local taxation, the courts may, in extreme cases, review the legislative determination that a particular object is for a public purpose (see

1 Cooley, Taxation, 4th Ed., p. 400), in Federal taxation, Congress should be the final arbiter of what constitutes a Federal public purpose. And even if the courts will undertake to review the Congressional action, the determination of what is a public purpose in Federal taxation is not subject to rules as narrow as those applicable to state taxation. The need for a broader and more comprehensive policy with respect to Federal expenditures requires a correlatively broad and comprehensive doctrine of public purpose as applied to Federal taxation. That doctrine should be satisfied if the tax is laid for the general welfare. That which is for the “general welfare” as those words are used in the Constitution, must of necessity also be for a public purpose. It is inconceivable that it could be held that it was not for a public purpose to use the proceeds of taxation to promote the general welfare of the Nation. Since, as we have shown, the tax here was for the general welfare, we submit that, by the same token, it was for a public purpose.

Yet even viewed by the more narrow and critical rules applicable to state taxation, the purpose here was clearly public. In *Loan Association v. Topeka*, 20 Wall. 655, 665, this Court held that one test of what is a State public purpose is “the course and usage of the Government, the objects for which taxes have been customarily and by long course of legislation levied.” Applying this test in the light

of the long history of Federal aid to agriculture, we find no difficulty in concluding that the tax here is for a public purpose.

And in *Green v. Frazier*, 253 U. S. 233, 240–242, this Court held that, even in regard to local taxation, public purpose must be construed in a broad sense to include anything that will tend to promote the “general well-being of society, and advance the present and prospective happiness and prosperity of the people.” See also *Hackett v. Ottawa*, 99 U. S. 86, 93–94; *State ex rel. Reclamation Board v. Clausen*, 110 Wash. 525; *Egan v. San Francisco*, 165 Cal. 576, 581; *Booth v. Woodbury*, 32 Conn. 118. In accordance with this rule it is recognized that aid to agriculture is a fit subject for the expenditure of state funds. *Green v. Frazier*, 253 U. S. 233; *Fallbrook Irrigation District v. Bradley*, 164 U. S. 112; *State v. Robinson*, 35 Neb. 401, 53 N. W. 213; *Cobb v. Parnell*, 183 Ark. 429, 36 S. W. (2d) 388; *State ex rel. Reclamation Board v. Clausen*, 110 Wash. 525, 188 Pac. 538. As stated in *Carman & University of Ky. v. Hickman Co.*, 185 Ky. 630, 637:

* * * public funds may be set apart to develop and promote the general agricultural interest of the State, because it is a matter of common knowledge, of which everybody must take notice, that in the agricultural interest of the state lies its chief

source of wealth, and that the prosperity of the state springing from this source contributes to the growth and importance of every other industry in the state as well as to the comfort and happiness of the whole people. And it is in recognition of this indisputable and thoroughly known fact that appropriations made to stimulate the agricultural interests of the state have always been regarded as made for a public purpose.

It is true that in certain of the earlier state cases taxation for the relief of group distress was classified with unconstitutional grants of aids to individual enterprises, without consideration of the public concern in the alleviation of common disaster. *Lowell v. Boston*, 111 Mass. 454; *Feldman & Co. v. City Council*, 23 S. C. 57; *In re Relief Bills*, 21 Colo. 62; *The State v. Osawkee Township*, 14 Kan. 418. But these cases are contrary to the weight of authority and to the modern trend of permitting municipalities and States a wider range in undertaking to promote the public welfare or enjoyment (*Egan v. San Francisco*, 165 Cal. 576, 581, 133 Pac. 294).⁶⁸ The courts have recognized that the wants

⁶⁸ See Chester Collins Maxey, Is Government Merchandising Constitutional? 52 American Law Review 215; State Taxation for the Relief of Group Distress, 41 Yale Law Journal 779; Frederick N. Judson, Public Purpose for which Taxation is Justifiable, 17 Yale Law Journal, 162; Note, 41 Harvard Law Review 775; Note, 34 Harvard Law Review 207; Jennings & Sullivan, Planning for Agriculture, 42 Yale Law Journal 878, 906-909.

and necessities of the people change and that what could not be deemed a public use a century ago, may, because of changed economic and industrial conditions, be such today. *Green v. Frazier*, 253 U. S. 233, 242; *Sun Publishing Assn. v. Mayor*, 8 App. Div. (N. Y.) 230, 236; *Laughlin v. City of Portland*, 111 Me. 486, followed in *Jones v. Portland*, 113 Me. 123, affirmed 245 U. S. 217; *Stevenson v. Port of Portland*, 82 Ore. 576; *State ex rel. Reclamation Board v. Clausen*, 110 Wash. 525; *Wheelon v. Land Settlement Board*, 43 S. Dak. 551, 560-561. Accordingly in the more recent decisions, taxation for the relief of group distress has been upheld, these later decisions expressly disapproving the earlier cases as being opposed to the weight of authority and the more enlightened view of the subject. *Kenney v. Astoria*, 108 Ore. 514, 217 Pac. 840; *State ex rel. Cryderman v. Wienrich*, 54 Mont. 390, 170 Pac. 942, noted in (1918) 16 Mich. L. Rev. 551; *North Dakota v. Nelson County*, 1 N. Dak. 88, 45 N. W. 33; *State ex rel. New Richmond v. Davidson*, 114 Wis. 563, 90 N. W. 1067; *Cobb v. Parnell*, 183 Ark. 429, 36 S. W. (2d) 388; see *State Taxation for the Relief of Group Distress*, 41 Yale Law Journal 779.⁶⁹

⁶⁹ It should also be noted that the legislature of Kansas has disregarded the case of *The State v. Osawkee Township*, *supra*, in two notable instances, for the relief of drought-stricken farmers in Kansas; (Laws of 1891, c. 42, c. 129, and c. 189; Laws of 1895, c. 242). See *Treadwell v. Beebe*, 107 Kan. 31, 38, 190 Pac. 768, 771; *Beck v. Shawnee County*, 105 Kan. 325, 329-330.

After all, the question is not one “of exclusive legal logic, but is one more or less of policy determinable in the light of public welfare, present and future, in a broad sense” (*State ex rel. Reclamation Board v. Clausen*, 110 Wash. 525), and ordinarily the courts will not disturb the determination of the legislature if there be the “least possibility” that it will promote the public welfare in any degree. *Booth v. Woodbury*, 32 Conn. 118, 128; *Brodhead v. The City of Milwaukee*, 19 Wis. 624, 652; *Schenley v. City of Allegheny*, 25 Pa. St. 128, 130; *Perry v. Keene*, 56 N. H. 514; *State v. Cornell*, 53 Neb. 556. It is significant that this Court, in cases where it has held taxes not to be for a public purpose, has never taken a view contrary to that urged by the public body appearing in the litigation. See *Loan Association v. Topeka*, 20 Wall. 655, 664–665; *Parkersburg v. Brown*, 106 U. S. 487; *Cole v. LeGrange*, 113 U. S. 1.

We submit that the appropriation in this case, being in aid of distressed agriculture and for the national welfare, was such as would satisfy the doctrine of public purpose as applied to State and local taxation.

The fact that the payments are made to individuals does not destroy the public nature of the expenditure. These payments are authorized only “in order to effectuate the declared policy” (Sec. 8 (1)) of balancing production and consumption

of agricultural commodities so as to reestablish farm prices at the defined levels (Sec. 2 (1)). Whenever the Government pays for its typical requirements it of necessity pays to individuals.

Where the individual receiving the money is to perform some service in return, it may be necessary, of course, to look beyond the person to whom the money is paid and to consider the service to be performed in determining whether the money is being used for a proper purpose. If, for example, money is paid to a citizen of the State of New York for the construction of a Federal building, the expenditure would be for a proper purpose because the service which the individual performs for his money is one appropriate to the Federal Government.

The money was not given to the farmer as a gratuity. In return he agreed to reduce production. The end sought was the balancing of production and consumption of basic agricultural commodities, to increase farm prices and income, so that farmers would buy more industrial products, all being with a view to economic recovery. It is well settled that, in determining whether the purpose is public, the courts will be concerned only with the "ultimate use, purpose, and object for which the fund is raised." *Sharpless v. Mayor of Philadelphia*, 21 Pa. 147. The agency or means employed does not and cannot determine the nature of the end to be secured. *Milheim v. Moffat Tunnel*

Dist., 262 U. S. 710, 716; *Mt. Vernon Cotton Co. v. Alabama Power Co.*, 240 U. S. 30, 32; *Georgia v. Cincinnati So. Ry.*, 248 U. S. 26; *Olcott v. The Supervisors*, 16 Wall. 678; *Perry v. Keene*, 56 N. H. 514.

The fact that the expenditure benefits certain individuals or one class of people more immediately than it does other individuals or another class does not rob the expenditure of its public character. *Green v. Frazier*, 253 U. S. 233; *Nobel State Bank v. Haskell*, 219 U. S. 104; *Fallbrook Irrigation District v. Bradley*, 164 U. S. 112. See also *Clark v. Nash*, 198 U. S. 361; *O'Neill v. Leamer*, 239 U. S. 244; *Houck v. Little River Drainage District*, 239 U. S. 254; *Mountain Timber Co. v. Washington*, 243 U. S. 219, 238.

The mere fact that the proceeds of this tax are appropriated so as to benefit one class more immediately than another, does not, as contended by respondent, render the tax invalid as class legislation. The same thing in principle holds true with respect to the tariff. The fact that the tariff indirectly, rather than directly, confers its benefits upon a class (the manufacturers) does not, so far as this contention of respondent's is concerned, destroy the analogy.

From the beginning of our government, the protective tariff has been employed to encourage home industries. The second act adopted by the Congress

(Act of July 4, 1789, c. 2, 1 Stat. 24) contained the following recital:

SEC. 1. Whereas it is necessary for the support of government, for the discharge of the debts of the United States, *and the encouragement and protection of manufacturers*, that duties be laid on goods, wares, and merchandises imported: Be it enacted,
* * *. (Italics supplied.)

The consistent enactment and enforcement of a great number of customs and revenue laws drawn with a motive of maintaining a system of protection, since the revenue law of 1789, are matters of history. Madison, himself, was a strong advocate of the protective tariff, holding that the use of the tariff to protect and encourage home industry was a power intended to be conveyed to the central government. (4 Letters and Writings, 232–266.)⁷⁰ And this Court has, of course, held that it is no objection to the validity of the tariff acts that they benefit manufacturers as well as the country generally. *Field v. Clark*, 143 U. S. 649, 696; *Hampton & Co. v. United States*, 276 U. S. 394, 411.

As we have pointed out, the beneficial effect of those provisions of the Agricultural Adjust-

⁷⁰ As Professor Hare points out, Madison, in advocating a protective tariff as an indirect means of accomplishing an object not included within those powers enumerated in the Constitution after the general welfare clause, was not consistent with his position on the welfare clause. I Hare, *American Constitutional Law*, pp. 243–244.

ment Act here considered are not limited to any class. They are an attempt to aid a depressed industry, which did not share in the post-war prosperity, an increase in the income of which is essential to the restoration of the economic health of the country as a whole. As against any charge of class legislation, it is relevant to point out that these provisions simply apply to agriculture an established Congressional policy toward industry, namely, an attempt to insure a price and income which will provide living wages, a fair return on capital, and the ability to purchase the goods and services of the other groups of our society. The Agricultural Adjustment Act has, not unjustifiably, been called the farmer's tariff. See *Rieder v. Rogan*, decided October 28, 1935 (S. D. Cal.). The country as a whole is as dependent upon the welfare of the farmer as it is upon the welfare of the manufacturer, and the people generally will be directly benefited by any steps looking to the alleviation of the farmer's economic ills. Certainly, money used to benefit the farmer is no less for the public good than the benefit bestowed on manufacturers through the protective tariff.

We have shown that Congress has power to tax (and appropriate) to provide for the general welfare; that "general welfare" is to be construed in a broad sense to comprehend any object that might be conducive to the national good; that the making

of rental and benefit payments to farmers in consideration of reducing production is for the national good and constitutes a proper public purpose. It follows, therefore, that the appropriation of the proceeds of the processing tax to provide for these rental and benefit payments was valid.

As we have indicated above, *supra*, p. 122, most of the respondents' objections to the taxes are, in reality, an objection to the use to which the tax proceeds are put. This use being proper, and the taxes being otherwise valid, it follows, we submit, that the taxes must be sustained. The ruling of the court below that, considering the Act as a whole, it amounts to regulation and control of agricultural production, in violation of the Tenth Amendment, will be considered under point XI, *infra*, pp. 262-279.

X

THE APPROPRIATIONS CONTEMPLATED BY THE AGRICULTURAL ADJUSTMENT ACT ARE A VALID EXERCISE OF THE FISCAL POWER OF CONGRESS

Heretofore the Government has argued that the expenditures of which the respondents complain are justifiable as measures designed to promote the general welfare of the United States during the depression. It is submitted that the expenditures may also be sustained as an exercise of the broad powers vested in Congress to stabilize and preserve

the credit structure of the nation, to protect the banks and other credit agencies which it had already established or sponsored, and to protect the credit of the Government itself.

The Constitution confers upon Congress a series of broad powers—to borrow money on the credit of the United States, to lay and collect taxes, to coin money and regulate the value thereof—which, considered as an aggregate, may be referred to as the “fiscal” power of Congress. The source of this power and its sweeping nature are nowhere better defined than in *Norman v. Baltimore & Ohio R. Co.*, 294 U. S. 240, in which this Court approved a measure by which Congress had attacked this same crisis from another angle—the abolition of the gold clauses (p. 303):

The broad and comprehensive national authority on the subjects of revenue, finance, and currency is derived from the aggregate of powers granted to Congress, embracing the powers to lay and collect taxes, to borrow money, to regulate commerce with foreign nations and among the several States, to coin money, regulate the value thereof, and of foreign coin, and fix the standards of weights and measures, and the added express power “to make all laws which shall be necessary and proper for carrying into execution” the other enumerated powers.

The fiscal power of Congress, in other words, is not derived from any one power granted to Con-

gress, nor is its scope to be measured by the limits of any one power taken alone.⁷¹

At a time when currency, as a medium of exchange, has been supplanted by checks and other instruments of credit in over 90 percent, by dollar volume, of all exchange transactions,⁷² the national currency which Congress is authorized to supply and preserve must be taken to include our present system of loans and payments by means of transfers of deposit credit. The language of Chief Justice White in *First National Bank v. Union Trust Co.*, 244 U. S. 416, is peculiarly appropriate. Considering the power of Congress to make the grant of specific powers effectual, he said (p. 419):

In terms it was pointed out [in *McCulloch v. Maryland*, 4 Wheat. 316, and *Osborn v. Bank*, 9 Wheat. 738] that this broad authority was not stereotyped as of any par-

⁷¹ Compare *United States v. Gettysburg Electric Ry.*, 160 U. S. 668, 683: "The power to condemn for this purpose need not be plainly and unmistakably deduced from any one of the particularly specified powers. Any number of these powers may be grouped together, and an inference from them all may be drawn that the power claimed has been conferred."

⁷² See the statement to this effect by Marriner S. Eccles, Governor of the Federal Reserve Board, in *Hearings on the Banking Bill of 1935* (H. R. 5357), 74th Cong., 1st Sess., p. 213. The figure was estimated at 94.1 percent in the Report of the Comptroller of the Currency, 1919, vol. 2, p. 36, and as 80-85 percent in *The Use of Credit Investments in Payments in the United States*, Sen. Doc. No. 399, 61st Cong., 2d sess., p. 201 (1909). For a general discussion of the significance of credit in present day life, see "The Formation of Capital", by Harold G. Moulton (1935), pp. 84-99, 194-195.

ticular time but endured, thus furnishing a perpetual and living sanction to the legislative authority within the limits of a just discretion enabling it to take into consideration the changing wants and demands of society and to adopt provisions appropriate to meet every situation which it was deemed required to be provided for.

Clearly, Congress has traditionally acted upon this theory. To furnish an adequate and partially controllable system of short-term credit for industry Congress established the National Banks (c. 58, 12 Stat. 665, c. 106, 13 Stat. 99), and later the Federal Reserve System (c. 6, 38 Stat. 251). In 1916, when it became evident that those engaged in agriculture were in need of similar credit facilities, Congress provided the Federal Land Banks, the Joint-Stock Land Banks, and the National Farm Loan Associations (c. 245, 39 Stat. 360), adding in 1923 the Federal Intermediate Credit Banks (c. 252, 42 Stat. 1454), and early in the present decade the Regional Agricultural Credit Corporations (c. 520, 47 Stat. 709, 713), the Production Credit Corporations and Associations (c. 98, 48 Stat. 259), and the Central and Regional Banks for Cooperatives (c. 98, 48 Stat. 257, 261, 264). In recent years it has also become necessary to make more credit available to other classes. Many instances might be cited, but the Reconstruction Finance Act of January 22, 1932 (c. 8, 47 Stat. 5), as amended, providing credit facilities for banks, railroads, insur-

ance companies, and many other classes of borrowers, the Federal Home Loan Bank Act (c. 522, 47 Stat. 725), financing building, saving, and loan associations and similar organizations, and the Home Owners' Loan Act (c. 64, 48 Stat. 128), supplying long-term credit with which to finance home mortgages, serve as examples.

Furthermore, the exercise of this fiscal power by Congress has consistently been approved by this Court. *McCulloch v. Maryland*, 4 Wheat. 316; *Osborn v. Bank*, 9 Wheat. 738; *Farmers' National Bank v. Deering*, 91 U. S. 29; *Veazie Bank v. Fenno*, 8 Wall. 533; *First National Bank v. Union Trust Co.*, 244 U. S. 416. With regard to the system of agricultural credit which it is the purpose of the present Act immediately to protect, the most significant case is *Smith v. Kansas City Title Co.*, 255 U. S. 180, in which the power of Congress to establish the Federal Land Banks was upheld. The intimate relationship between those agencies and the credit structure has recently been recognized in *Federal Land Bank v. Gaines*, 290 U. S. 247, 250:

The Federal Farm Loan Act was adopted in response to a national demand that the federal government should set up a rural credit system by which credit, not adequately provided by commercial banks, should be extended to those engaged in agriculture upon the security of farm mortgages.

Moreover, almost without exception the various institutions are authorized, or required, to invest a

certain portion of their assets in government securities. In this manner they have performed a valuable function by furnishing, and aiding in securing, a broader market for United States bonds. Especially in a time of depression, when huge emergency expenditures had been made, and more were contemplated, to ameliorate widespread suffering and distress (See *Lynch v. United States*, 292 U. S. 571, 580), the solvency and liquidity of these agencies was of substantial importance in sustaining the credit and the borrowing power of the government itself.⁷³ Federal funds which had been deposited in many of them were jeopardized as their position became weaker.

Finally, it cannot be doubted that Congress, once having established these credit agencies in the exercise of its valid powers, has the correlative power to take such measures as are necessary to protect and preserve them. *McCulloch v. Maryland*, *supra*, p. 424; *Farmers' National Bank v. Dearing*, *supra*, p. 34. Even though the means employed, if considered apart from their purpose, might have been without the bounds of Congressional power, they have been upheld if necessary to enable the agencies to survive and perform their

⁷³ The importance of the banks in sustaining the borrowing power of the United States in times of crisis is illustrated by the fact that banks now hold obligations representing over 53 percent of the total national debt, as compared with only 15 percent in 1920. During the fiscal year ending June 30, 1935, the banks absorbed over 91 percent of the new obligations issued by the Federal Government. *American Banker*, Vol. C, No. 243 (October 18, 1935), p. 1.

proper functions. *First National Bank v. Union Trust Co.*, 244 U. S. 416, in which the Court upheld a statute allowing national banks to act as executors and administrators in States in which State banks were so empowered, in order that the national banks might compete on equal terms, furnishes an excellent example. See also *Westfall v. United States*, 274 U. S. 256.

The power of Congress to enact the present statute, therefore, is buttressed from three angles, for by it Congress is maintaining the credit structure of the Nation, protecting the Government's own credit, and preserving the agencies which it has already created to carry out these functions. All that is required, then, is that the means employed be appropriate—"conducive to the execution of any or all of the powers of Congress." *Legal Tender Cases*, 12 Wall. 457, 539. In determining the appropriateness of the measures taken, this Court will take into consideration the economic and financial crisis, and recognize that there may be means which are appropriate "in seasons of exigency, which would be inappropriate at any other time." *Id.*, p. 540. Not that the emergency creates the power, but it is the occasion for the exercise of powers theretofore dormant. *Wilson v. New*, 243 U. S. 332, 348; *Home Building & Loan Ass'n v. Blaisdell*, 290 U. S. 398, 426.

It is submitted that the present Act bears a reasonable relation to the ends sought to be achieved. Obviously taken alone, the benefit payments would

not be adequate to restore the free flow of credit in farm regions and liquidate the "frozen" assets of the banks and other credit agencies, nor would they alone suffice to enable the government to recover the enormous emergency investments which it had made in rural areas, and to preserve this important field for Federal borrowing. Nor were they intended of themselves to have that function. They serve rather as the consideration for the reduction in production, or acreage, or both, which the Act seeks to accomplish in order to bring about a better balance between production and effective demand. When the Act is recognized as designed to carry out a Congressional policy of providing by voluntary methods for the raising of farm prices in order to preserve the national credit structure, it is seen to be a valid means of accomplishing the Congressional purpose.

It was inevitable that the sudden and tremendous decrease in farm incomes should have caused a serious strain on the farm-credit agencies which had already been weakened by the long price decline and general liquidation which had characterized agriculture since 1920. A gross income which had been estimated at about 17 billions of dollars in 1919, and which had varied between 11 and 12 billions from 1923 to 1929, had suddenly dropped, in three years, to less than half of that amount—to \$9,454,000,000 in 1930, to \$6,968,000,000 in 1931, and to \$5,337,000,000 in 1932.⁷⁴ Local credit agen-

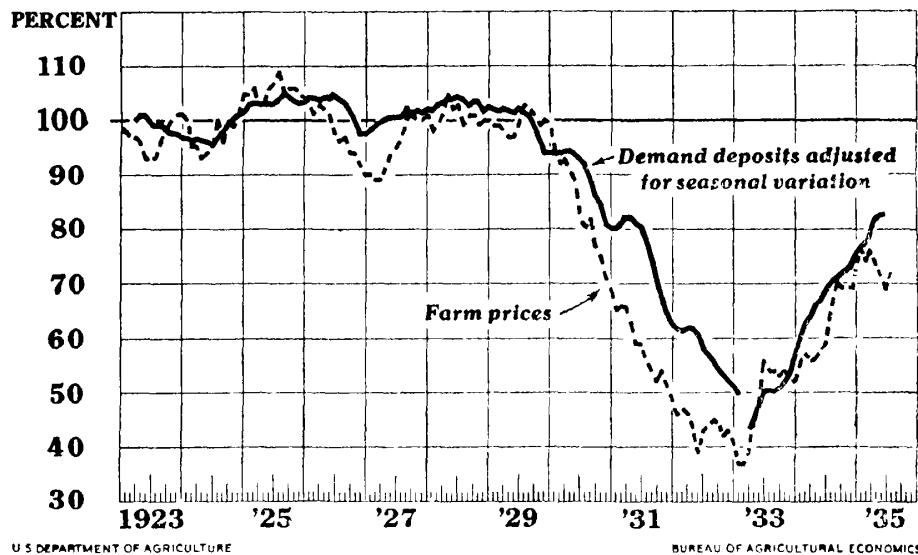
⁷⁴ Yearbook, U. S. Dept. of Agriculture, 1935, p. 673; Addendum, p. 27.

cies were largely dependent for their lending power on the flow of income into their communities, and when farm prices went down this flow decreased or dried up. By the beginning of 1933, demand deposits of country banks, following closely the decrease in farm prices, had fallen to about 50 percent of the average for 1923–1925. (See Chart 10.)⁷⁵ As farm prices advanced, and gross farm income increased to \$6,406,000,000 for 1933 and \$7,300,000,000 for 1934,⁷⁶ demand deposits rose correspondingly.

CHART 10

**Prices Received by Farmers and Demand Deposits of
Country Banks in 20 States, 1923 to Date**

INDEX NUMBERS (1923-1925=100)



Thus, when the flow of farm income was diminished, old loans could not be collected and new loans were not made. What in ordinary times was

⁷⁵ Reproduced from 1936 Outlook Chart Book on Demand, Credit, Prices (U. S. Dept. of Agriculture) p. 25.

⁷⁶ Crops and Markets, Vol. 12, No. 7 (July 1935), p. 270.

actually a very large revolving fund of short-term credit had ceased to revolve. Non-real-estate loans, upon which farmers and banks alike had relied heavily for general short-term financing, decreased sharply as farmers became unable to pay their old loans or to offer adequate security for new ones.⁷⁷ Moreover, the pressure upon rural credit institutions was disproportionately high, because payments of a fixed nature, such as taxes, interest on mortgages, and necessary supplies, many of which had to be made outside the community, showed only a slight decrease.⁷⁸

The decrease in the values of farm products had an equally serious effect both upon the supply of long-term farm mortgage credit, and upon the institutions by which it was furnished. The average per-acre value of farm real estate, which had been slowly declining since 1920, dropped abruptly from 1930 to 1933 with the fall in farm prices, and commercial banks and insurance companies, as well as the Federal agencies which had been set up to supply mortgage credit to agriculture, were faced with a serious decline in the value of the collateral

⁷⁷ In 1923 commercial banks held \$2,943,818,000 in other than real estate loans to farmers. By 1931 this had decreased to \$1,936,360,000, and by 1934 to \$807,613,000. (The figures for other years are not available.) U. S. Dept. of Agriculture, Official Press Release of September 23, 1935.

⁷⁸ Between 1927 and 1932, while gross farm income was decreasing 50 percent, taxes decreased only 20.6 percent and mortgage interest decreased only 7.7 percent. Yearbook, U. S. Dept. of Agriculture, 1935, p. 673; see chart 1, Addendum, p. 53.

securing their advances.⁷⁹ The extent of the farm-mortgage holdings of the leading credit agencies is shown by the following table:

Farm-mortgage loans held by leading agencies

[Millions of dollars]

	Federal land banks	Joint-stock land banks	All life insurance companies	Federal Re- serve mem- ber banks
1925.....	1,006	546	2,022	-----
1926.....	1,008	632	2,115	489
1927.....	1,156	667	2,164	478
1928.....	1,195	605	2,130	444
1929.....	1,199	585	2,100	388
1930.....	1,188	553	2,050	387
1931.....	1,163	530	1,997	359
1932.....	1,129	409	1,850	356
1933.....	1,233	354	1,622	*318
1934.....	1,916	256	1,266	*262
June 30, 1935.....	2,017	208	-----	-----

*Licensed banks only

Figures for Federal Land Banks before 1932 from Yearbook, U. S. Dept. of Agriculture, 1935, p. 694, since 1932, from Federal Reserve Bulletin, Vol. 12, No. 8 (August 1935), p. 520

† Figures for Joint Stock Land Banks before 1932 from Yearbook, *op cit.*, *supra*; since 1932, from The Agricultural Situation, Vol. 19, No. 9 (September 1935), p. 18

‡ Figures for life insurance companies estimated on basis of reports to the Association of Life Insurance Presidents from companies having from 88 to 98 percent of all U. S. legal reserve companies U. S. Department of Agriculture

Figures for Federal Reserve member banks from Yearbook, *op cit.*, *supra*.

Actually the outstanding mortgage contracts were, with the drastic reduction of farm incomes,

⁷⁹ In 1920 the index number for the average value per acre of all farm real estate in the United States reached the high point of 170 percent of the average 1912-1914 value. It dropped to 157 percent in 1921, and from then until 1930 the decline was gradual. However, between 1930 and 1933 the index dropped from 115 percent to 73 percent; Yearbook, U. S. Dept. of Agriculture, 1935, p. 686. Chart 1 in Addendum, p. 53. Since the passage of the Act, it has shown a slight increase. The index number for real estate rose to 76 in 1934 and 79 for 1935. Crops and Markets, Vol. 12, No. 5 (May, 1935), p. 181. The figures are in each case as of March 1.

impossible of fulfillment. The prevailing type of mortgage was for a comparatively short term, averaging 4.7 years⁸⁰ for other than land-bank loans, which comprised less than one-fifth of the total. Approximately \$1,250,000,000 of farm mortgages were normally falling due each year and required refinancing. Decreased real-estate values and wide-spread delinquency in 1932 and 1933, however, disqualified many loans for renewal by their creditor agencies and other sources for re-funding were not available. Collection of loans and of current interest due on them became generally impossible; on January 1, 1933, 45.2 percent of a representative group of 12,000 mortgaged farms, and 52.2 percent of the mortgage debt upon them, were reported delinquent.⁸¹

The result of these combined factors was a wave of commercial bank failures in the rural areas, increasing in numbers as farm prices continued to decline, until the whole banking structure had collapsed. The striking correlation which exists between farm prices and bank failures in predominately agricultural regions is indicated by Chart 11.⁸² Many agricultural communities were left

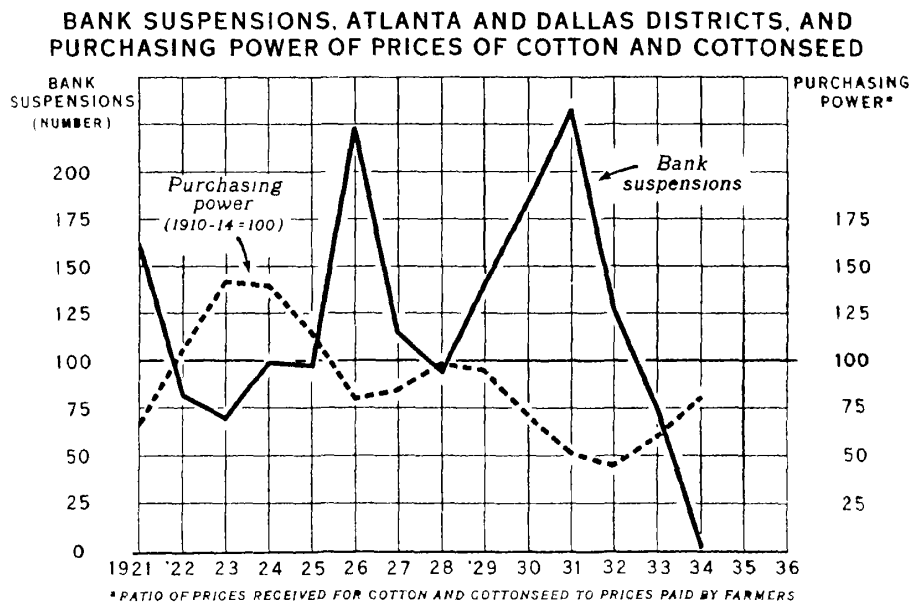
⁸⁰ Wickens, *Farm Mortgage Credit*, U. S. Dept. of Agriculture, Technical Bulletin No. 288, p. 77.

⁸¹ Agricultural Situation, Vol. 18, No. 12 (December 1934), p. 4.

⁸² Published by the Bureau of Agricultural Economics (U. S. Dept. of Agriculture), as Negative 27, 512.

without credit facilities of any sort,⁸³ and even those banks which survived found it necessary to make radical changes in their investment policies, which even further curtailed the credit available.⁸⁴ It was apparent that a more stabilized farm income with which to offset the fixed payments required to enable these institutions to keep their credits in manageable condition was essential to preserve the financial institutions and to keep the credit structure generally intact.

CHART 11



U. S. DEPARTMENT OF AGRICULTURE

BUREAU OF AGRICULTURAL ECONOMICS

Bank failures are given as the total number for each year within the two districts. The decline during 1932, despite falling prices, was undoubtedly a result of the loans made by the Reconstruction Finance Corporation after its organization in the early part of that year

⁸³ During the decade ending December 31, 1932, bank failures had largely been confined to the agricultural areas. 56 percent of the total having occurred in the north central states and 31 percent in the South. Compiled from Federal Reserve Board, Annual Report, 1933, p. 207.

⁸⁴ Many banks, as a result of the lack of confidence on the part of depositors, have felt the necessity of keeping an in-

The Federal credit agencies, particularly the Federal Land Banks and the Joint Stock Land Banks, were in a correspondingly dangerous condition. In 1932 these two groups of institutions held farm-mortgage loans amounting to \$1,536,000,000, or about 18 percent of the total farm-mortgage debt.⁸⁵ (See p. 251, *supra*.) The following table indicates the result of the decrease in farm income and in farm real-estate values. The delinquent loans of the Federal Land Banks increased from \$48,000,000 in 1925 to \$594,000,000 in 1932, and the percentage of their loans which were delinquent increased from 4.8 percent to 53.2 percent during the same period.

creased proportion of their assets invested in readily liquidated securities, which were purchased outside the community. Many country banks, in order to avoid liquidation, were operating under so-called "waiver agreements", under which depositors agreed to withdraw funds only at stated intervals and in stated amounts. This plan of operation required the banks to guide their investment policy by the requirements of depositors for immediate withdrawal of funds. Such banks were unable to provide any large amount of credit. Moreover, large borrowings from correspondent banks, which had made possible the periodic expansion in normal credit requirements, were discouraged, because of fear that they would be interpreted as a sign of weakness. *The Farm Debt Problem*, H. Doc. No. 9, 73d Cong., 1st Sess., p. 32.

⁸⁵ *Id.*, pp. 32-34.

Delinquency of Federal Land Bank Loans

	Farm prices index num- bers, 1909-14= 100	Farm income (millions of dollars)	Unpaid principal of loans delin- quent on Dec 31 (millions of dol- lars)*	Percent- age of loans out- standing Dec 31, which were delin- quent
1925.....	156	11,968	48	4.8
1926.....	145	11,480	67	6.3
1927.....	139	11,616	78	6.8
1928.....	149	11,741	71	6.0
1929.....	146	11,941	78	6.5
1930.....	126	9,454	137	11.6
1931.....	87	6,968	305	26.2
1932.....	65	5,337	594	53.2

* Unpublished data supplied by the Farm Credit Administration.

Figures on farm prices and income from *Crops and Markets*, Vol 12, No. 7 (July 1935), p. 270, *Agricultural Situation*, Vol 19, No 6 (June 1935), p. 16

The "distress assets" of these institutions had also been increasing rapidly. By 1932 they equalled 8.3 percent of the amount of outstanding loans of the Federal Land Banks and 13.4 percent of the amount of the outstanding loans of the Joint Stock Land Banks.⁸⁶ Three of the latter banks

⁸⁶ In December 1931 the Federal Land Banks owned land valued at \$24,347,681.11, and held sheriff's certificates, etc., on \$13,734,819.44 more. By the end of the following year the land owned had increased to \$35,608,099.76, and the sheriff's certificates, etc., to \$25,492,411.84, increases of 46 percent and 86 percent, respectively. The land owned by the Joint Stock Land Banks, excluding those in liquidation through receivership, increased from \$15,856,986.13 in 1931 to \$29,963,691.49 in 1932, an increase of 87 percent, and sheriff's certificates, etc., increased from \$4,163,016.79 at the end of 1931 to \$13,169,125.66, an increase of 214 percent. *Report of the Federal Farm Board for the Year Ending December 31, 1932*, H. Doc. No. 436, 72d Cong., 2d Sess.,

had been forced into receivership and many of the others were actually in voluntary liquidation because of the necessity of purchasing their own bonds at a discount in order to show a profit.⁸⁷

Moreover, these institutions were becoming less able to furnish the credit which they were intended to supply. The price at which their bonds could be sold fell to a point where they could not relend at a rate high enough to meet operating expenses.⁸⁸ The annual amount of new loans by the Federal Land Banks decreased from an average of approximately \$133,000,000 in the three-year period ending in 1927 to \$28,000,000 in 1932, and those by the Joint-Stock Land Banks decreased from \$112,000,000 to \$2,181,000 during the same period.⁸⁹

The effect of decreased farm income and depressed real-estate values on the lending of life-in-

pp. 114-121. Farm land held by corporations (banks, life insurance companies, etc.) which invest in farm mortgages increased from \$293,864,000 in 1930 to \$770,072,000 in 1932, an increase of 262 percent. *Agricultural Situation*, Vol. 16, No. 6 (June 1935), p. 12.

⁸⁷ See *The Farm Debt Problem*, *supra*, pp. 33-34; *Annual Report of the Federal Farm Loan Board*, *supra*, pp. 27-35.

⁸⁸ In 1927 the average interest paid by Federal Land Banks on their borrowings was 4.08 percent. In 1931 the average interest had risen to 5.34 percent, and for a time was higher than 6 percent. Inasmuch as the banks were limited by law to a return of 6 percent on loans granted by them, such rates did not permit the borrowing of funds for making loans at a rate sufficient to include the 1 percent spread for operating expenses which they were permitted. *The Farm Debt Problem*, *supra*, p. 32.

⁸⁹ *Id.*, pp. 32-33.

insurance companies had an equally serious effect on the credit supply. These agencies have supplied or held a greater amount of long-term mortgage credit to agriculture than any other single class of institutions (See table p. 251, *supra*); forty of the largest of them in September 1932 had outstanding \$1,433,000,000 in farm-mortgage loans.⁹⁰ However, the catastrophic decline in the value of farm products and farm real estate and the high percentage of delinquencies (see table p. 255, *supra*) had caused many of them to withdraw their lending from this field and had caused others to curtail their investments drastically.⁹¹ The volume of new investments in farm-mortgage loans reported by twenty-five insurance companies which had averaged \$3,130,000 per week in the last half of 1928 dropped to \$2,827,000 in 1930, \$2,111,000 in 1931, \$904,000 in 1932, and to \$600,000 in the early part of 1933.⁹² The percentage of total new investments which these companies placed in farm mortgages averaged over 9 percent from 1928 to 1932, but fell sharply in the late months of 1933 to 2.2 percent.⁹³ Their farm holdings, in consequence, decreased

⁹⁰ *Id.*, p. 12.

⁹¹ Decreases in farm lending were also made necessary by the sharp rise in demand for premium notes and policy loans, which left less capital available. *Id.*, p. 35.

⁹² *Id.*, p. 34; *The Farm Real Estate Situation, 1933-1934*, U. S. Dept. of Agriculture Circular No. 354, p. 5.

⁹³ *The Farm Real Estate Situation, 1933-1934, supra*, p. 42.

from 17.7 percent of their total assets in 1925 to 8.9 percent in 1932.⁹⁴

This decreased supply of credit could be supplemented in part by increased Federal emergency advances, and such advances on a large scale were made. Even before the crisis of 1933 some action in this direction had been taken. The Agricultural Marketing Act of June 15, 1929 (c. 24, 46 Stat. 11, 14), had established a \$500,000,000 revolving fund to supply credit to cooperative marketing associations. In 1932, \$125,000,000 was appropriated to purchase additional stock in the Federal Land Banks, \$25,000,000 of which was allotted to supply the banks with funds of which they might be deprived by reason of extensions granted to borrowers (c. 9, 47 Stat. 12, 36). Twelve Regional Agricultural Credit Corporations, with an aggregate capital of \$44,500,000, subscribed to wholly by the Reconstruction Finance Corporation, were established in July 1932 (c. 520, 47 Stat. 709, Sec. 201 (a)).

Additional advances were made on a similar scale in 1933. The Emergency Farm Mortgage Act of May 12, 1933 (c. 25, 48 Stat. 41), which is Title II of the statute of which the present act is Title I, authorized an additional \$2,000,000,000 of bonds by the Federal Land Banks and provided a sum of \$200,000,000 for Land Bank Commissioner loans for cases in which special risks were involved, or for

⁹⁴ *Federal Home Loan Bank Rev.*, Vol. 1, No. 6 (March 1935), pp. 200-201.

refinancing indebtedness too large to be covered by Federal Land Bank loans.⁹⁵ The Farm Credit Act of June 16, 1933 (c. 98, 48 Stat. 257), established a revolving fund of \$120,000,000, in addition to setting up twelve Production Credit Corporations, each with an initial capital of \$7,500,000, subscribed for by the United States, and one Central and twelve Regional Banks for Cooperatives. By December 31, 1933, the total volume of outstanding credit of the various lending institutions under the jurisdiction of the Farm Credit Administration amounted to \$1,856,110,403.⁹⁶

When it is recognized, however, that, in the absence of an improvement in farm incomes, such advances can be, essentially, only palliative, the direct and intimate relationship between the increase in the prices of agricultural products and the stability of the credit structure becomes even more clearly evident. Unquestionably, emergency refinancing by direct federal loans was necessary to prevent absolute bankruptcy throughout large parts of the country and the tremendous losses which that would entail, but the essential problem, that of increasing the farmers' incomes to a point where the

⁹⁵ This amount was soon found to be inadequate to carry out the purposes of the Act, and by Section 9 of the Act of January 31, 1934 (c. 7, 48 Stat. 344), the amount was increased to \$600,000,000, to be made available from the \$2,000,000,000 of bonds to be issued by the Farm Mortgage Corporation under Section 4 (a) of the same Act.

⁹⁶ *First Annual Report of Farm Credit Administration*, 1933, p. 1.

ordinary credit system could again be able to function properly, could never be solved by such means. Borrowing is not and cannot be a substitute for income. The tremendous relative increase in fixed charges and the decreased returns per acre from 1920 on (see Addendum, p. 37) had in reality forced large numbers of farmers to live on their capital, actually operating their farms at a loss.⁹⁷ Only by increasing the purchasing power of the farmer could the stability of the financial system be restored and the large investments which the Federal government had made in this field ever be liquidated.

There can be no doubt that Congress, in enacting the present measures, was aware of the dangerous

⁹⁷ In 1932, out of a group of over 6,000 farmers who reported to the Bureau of Agricultural Economics as to their farm operations in that year, 42.6 percent were operating at a loss, and 48 percent more earned less than \$500. Yearbook, U. S. Dept. of Agriculture, 1935, p. 676. As farm prices and farm income increased in 1933 the number which showed a loss dropped to 17 percent. *Ibid.* In 1931 and 1932 the total depreciation of farmer-owned buildings and equipment was estimated at \$1,648 000,000, but the total expenditure for repairs and replacements at only \$782,000,000. *Crops and Markets*, Vol. 12, pp. 271, 272. Many major crops have, for several years, been produced at an average net loss. Cotton was produced in 1932 at an average cost of 10.1 cents per pound, and sold for an average of 6.5 cents. Wheat was produced at an average cost of 67 cents per bushel to producer, and its average value was 31 cents. Corn cost 49 cents per bushel to produce, and its average value was 31 cents. Yearbook, U. S. Dept. of Agriculture, 1934, pp. 702-705, for cost of production, and pp. 459, 387, and 414 for selling prices. See Kern, *Federal Farm Legislation*, 33 Columbia Law Review. pp. 984, 985-986.

effect of low prices for farm products upon the stability and preservation of the credit structure. Indeed, the present Act forms Title I of an Act of which the Emergency Farm Credit Act was Title II. The message of the President submitting the bill to Congress stated that it would serve “greatly to relieve the pressure of farm mortgages and to increase the asset value of farm loans made by our banking institutions.”⁹⁸ The report of the House Committee reflects the policy even more clearly. The report states:⁹⁹

* * * The increased returns will make available in rural communities additional funds, will increase the assets behind our rural banking structure, and, it is believed, will do more to relieve the banking situation in rural communities than any other type of legislation. The increased returns will aid farmers to meet their payments of principal and interest upon their indebtedness and will make liquid a large part of the assets of our credit structure that are now frozen.

Moreover, the Act itself contains a finding of these same facts. Section 1 of the Act, which is entitled Declaration of Emergency, states:

That the present acute economic emergency, being in part the consequences of a severe and increasing disparity between the prices of agricultural and other commodities, which

⁹⁸ H. Doc. No. 5, 73d Cong., 1st Sess., March 16, 1933.

⁹⁹ H. Rep. No. 6, 73d Cong., 1st Sess., p. 7.

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* * * *. (Italics supplied.)

This declaration of Congress is entitled to great weight, *Block v. Hirsh*, 255 U. S. 135, 154; *Home Building & Loan Ass'n v. Blaisdell*, 290 U. S. 398, 444; *Atchison, T. & S. F. Ry. Co. v. United States*, 284 U. S. 248, 260, and will not be disregarded unless it is manifestly without foundation. It is submitted that the picture of the financial and credit situation which has been drawn above shows clearly that the finding of Congress was supported by the facts, and that the appropriations and expenditures here considered were therefore reasonably designed to restore and maintain the credit structure necessary for the economic life of the country.

XI

THE ACT DOES NOT VIOLATE THE TENTH AMENDMENT

Whether the authority upon which the Agricultural Adjustment Act rests be considered as the power to tax for the general welfare or as the fiscal power there is no violation of the Tenth Amendment.

The Tenth Amendment requires only that the Act be a proper exercise of a power granted to Con-

gress by the Constitution. Where an act is rested on the power to lay taxes for the general welfare the inquiry as to whether the act is a proper exercise of that power includes two questions: First, whether the means adopted bear a reasonable relation to the promotion of the general welfare, and second, whether those means are confined to the field of taxation. We have already disposed of the first of these (*supra*, pp. 135-227).

In considering whether the means of promotion of the general welfare adopted here are confined to the field of taxation it should be borne in mind that the power to tax for the general welfare includes not only power of appropriation of the proceeds (*supra*, p. 136) but also the right to spend the money appropriated. As was stated by Madison (9 Madison's Letters and Writings, Hunt Edition, page 425, Note): "A power to appropriate money without a power to apply it in execution of the object of appropriation could have no effect but to lock it up from public use altogether." In making an appropriation, of course, Congress may direct that the money be spent only on specified conditions. *Massachusetts v. Mellon*, 262 U. S. 447. If, therefore, what is done here is no more than the levy of taxes, the appropriation of the proceeds by Congress to be spent upon certain conditions and the spending of the money by the administrative officers in fulfillment of those conditions, then the

act is a proper exercise of the power granted to Congress to lay taxes to provide for the general welfare.

The majority of the court below seem to have felt that what was done was not merely spending but was regulation and control of agriculture, and that power to do this was not vested in Congress. We submit that no power of control over or regulation of agriculture has been asserted, but that, to the contrary, the steps authorized by this Act and taken under it do not go beyond the appropriation and spending of the money.

That no control or regulation is asserted over agriculture is apparent when the Act is carefully examined. No provisions are to be found that are binding on producers of agricultural products. Any commands or restrictions in the Act (other than those concerning the collection of the taxes and those involved in the licensing and marketing agreement provisions which are not here in issue and which are based on an entirely different power) are imposed only upon the use by administrative officials of the money granted. The authority asserted by Congress ends with the expenditure of the money. True, the Secretary of Agriculture is given the right to agree with any farmer who may voluntarily wish to do so, that the United States will compensate him for reduction in production. But entry into these contracts is but a

necessary step and a part of the spending of the money appropriated and does not interfere with the freedom or right of control over local matters possessed by the States or reserved to the People. The Act does not require that production be curtailed or that producers agree with the Secretary to do so. Congress has not gone beyond its power of authorizing an expenditure. It has not sought to force or command citizens to receive the money offered and to perform the conditions upon which the funds are to be disbursed. It is left to the producers of agricultural products, subject to any control over them possessed by the States, to determine whether the provisions of the Act relating to agriculture will have any effect whatsoever. The extent and the manner of agricultural production are to be, as heretofore, the result of the individual decisions of the farmers, undictated by the Federal Government.

The contracts are a matter of negotiation and voluntary agreement and on the part of the United States amount to no more than a method by which the Secretary of Agriculture sees that the money appropriated goes to persons in the class specified by Congress. In these contracts the farmer agrees, in consideration of being paid the money, that he will bring himself within the specified class by reducing production. It is, indeed, probable that the Secretary would be held to have the right to enter

into contracts of this sort even though he had not been specifically authorized by Congress to do so. See *United States v. Fidelity & Deposit Co. of Maryland* (C. C. A. 9th), decided October 23, 1935, not yet officially reported but may be found in C. C. H., 1935, Vol. 3A, Par. 9601. Similar contracts are entered into by administrative officials in almost every case where money is expended for such familiar matters as the construction of buildings and the delivery of supplies.

It would be most unusual to suppose that a contract of this nature, entered into freely by both parties, is an exercise of sovereign regulation and control over one of the parties or over the subject matter with which the contract deals. "The United States, when they contract with their citizens, are controlled by the same laws that govern the citizen in that behalf." *United States v. Bostwick*, 94 U. S. 53, 66. See also *Cook v. United States*, 91 U. S. 389, 398; *Smoots Case*, 15 Wall. 36. No method of enforcement of these contracts has been provided by Congress. The rights of the United States under the contracts are no greater than would be the rights of a private citizen under similar contracts, and enforcement must be by ordinary judicial process according to the law of the forum. The contracts are not derogatory of any sovereign rights of the States; they are carried out pursuant to and under the protection of the

laws of the States. Where money is to be paid out of the United States Treasury in advance of the occurrence of the condition on which it is to be payable, the administrative officers have no way of carrying out their duty, of ensuring that the money will be paid only for those purposes and to the persons of the class specified by Congress, except by resort to the method ordinarily used between individuals—that of contract. The purpose and effect of the contracts so entered into are simply to accomplish the spending of the money on the conditions imposed by Congress, and in authorizing execution of such contracts Congress was not exerting a power outside of the field of appropriation.

A successful challenge of this Act on the ground that it goes beyond taxation and attempts to regulate local matters would have to point out provisions therein which are obligatory in the conduct of local affairs. For regulation implies coercion: rules of conduct, governing principles or laws that must be observed. This Court has defined a regulation as being a law (*Standard Scale Co. v. Farrell*, 249 U. S. 571, 574, 577), and has defined the power to regulate commerce as being the power to prescribe the rule by which commerce is to be governed (*Gibbons v. Ogden*, 9 Wheat. 1, 195). In all cases where it has been held that Congress was invading a state field, rules of conduct were prescribed and coercion was attempted. See for

example *Hammer v. Dagenhart*, 247 U. S. 251; *Child Labor Tax Case*, 259 U. S. 20, 37.

State authority in a field which is covered by an Act of Congress is controlled by that Act, because where Federal power exists, it dominates. *Houston & Texas Ry. v. United States*, 234 U. S. 342, 350. In the Act at bar, however, no provision is found which will supersede State authority in the field of agriculture. To the contrary, the effect of the provisions of the Act affecting agriculture is subject to the control of the States or the individuals. The Government goes no further than offering benefits to those who comply with certain conditions. If power over the matters to which those conditions relate is vested in the States, they remain as free after the passage of this Act as before to pass laws rendering it impossible for any of their inhabitants to comply with such conditions. In so doing the States would not be clashing with any enactment of Congress, even though the result were to terminate completely the administration of the agricultural provisions of the Act in those States. There is no attempt to require the States to take or refrain from action with respect to agricultural land within their borders, a power which this Court in *Kansas v. Colorado*, 206 U. S. 46, has declared does not reside in the Federal Government. On the other hand, insofar as producers are immune from control even by the States in these matters, the

operation of the benefit contract provisions of the Act on any person would be subject entirely to ~~their~~ *his* individual desire and decision. In either event, control over matters of local concern cannot be said to be usurped or interfered with by the Agricultural Adjustment Act.

This result is not changed by the fact that the Secretary of Agriculture has issued a publication entitled "Cotton Regulations Pertaining to Option-Benefit, Benefit, and Option Contracts * * *" (Cotton Regulations, Series 1, Agricultural Adjustment Administration, Department of Agriculture). The "regulations" so promulgated are simply statements of the procedural steps which must be followed by any cotton producer who wishes to secure the benefits offered by the Agricultural Adjustment Act. There is nothing in these "regulations" which has the force of law or is binding upon any farmer or other citizen. The purpose of the publication is merely to elucidate and make known the method by which the farmers may make and perfect their applications for the money which is to be paid under the Act.

The absence of attempt in the Act to oust state authority makes ineffectual any argument based on the constitutional and statutory provisions of many States forbidding monopolies and combinations in restraint of trade. If those provisions are applicable to what is here being accomplished,

Congress has done nothing to prevent their enforcement. No one is required by the Act to violate state law. In any State where it is unlawful for producers to reduce production in order to receive benefits, the state authorities may take the usual steps to prevent the producers from doing so. Any contracts entered into between the Secretary of Agriculture and farmers in such a State would not, we presume, achieve an added validity because of any provision of the Act. Certainly the appropriation which has been made by Congress would not be less valid because farmers in some localities were prevented by state law from performing the conditions which Congress has made prerequisite to the receipt of money from the Treasury. As was said in *Florida v. Mellon*, 273 U. S. 12, 17:

Congress cannot accommodate its legislation to the conflicting or dissimilar laws of the several states * * *.

There is another answer to the argument based on these anti-monopoly statutes. We have examined all laws of this kind that were urged below together with similar laws of many other States, and none that we have seen pertains to the situation at bar. By express statutory provision or by legal interpretation in each of those States, the anti-monopoly laws are held not to apply to producers of agricultural products. These producers

are permitted to combine and cooperate in order to better their position and to protect themselves from oppression. See *Warren v. Alabama etc. Assn.*, 213 Ala. 61, 104 So. 264. Here the Federal Government is using its spending power simply to supply the unifying element to cooperation among farmers, enabling them to work together to protect themselves from the general bankruptcy which they faced. Cooperative action of this sort by farmers does not violate the public policy expressed in the antimonopoly statutes. *Poultry Producers of So. Calif. v. Barlow*, 189 Cal. 278, 208 Pac. 93; *Washington Cranberry Growers Assn. v. Moore*, 117 Wash. 430, 201 Pac. 773; *Burley Tobacco Society v. Gillaspy*, 51 Ind. App. 583, 100 N. E. 89; *Brown v. Staple Cotton Co-op. Assn.*, 132 Miss. 859, 96 So. 849. See also *Appalachian Coals, Inc., v. United States*, 288 U. S. 344, 373, where it was held that a cooperative enterprise which carries with it no monopolistic menace is not to be condemned merely because it may effect a change in marketing conditions, where the change would be in mitigation of recognized evils and would have a wholesome effect upon the public at large. That state public policy is not violated by this Act finds further support, of a nature peculiarly of interest, in the fact that during 1931 and 1932, five southern states passed laws attempting to require, by mandatory provisions, drastic reduction in or complete

elimination of cotton production in their states for the year 1932.¹⁰⁰

It was the hope of Congress, of course, that the expenditure of money authorized by this Act would affect production of and prices received by farmers for basic commodities. But in this hope there is nothing unconstitutional or violative of States' rights. There are familiar instances of heretofore unquestioned validity in which money has been spent by the Federal Government for the express purpose of affecting production or prices. A number of examples are to be found among the appropriations set forth in our discussion of general welfare. (*Supra*, pp. 153-170.) These include the efforts of the Federal Farm Board to raise farm prices, the efforts of the Bureau of Mines to improve mining methods, the efforts of the Department of Labor to better the economic status of

¹⁰⁰ The States were South Carolina (see Code of Laws of South Carolina of 1932, Vol. I, Sec. 1288-A); Louisiana (see Act No. 1, Acts of Legislature of Louisiana, Seventh Extra Session, 1931; Arkansas (see Act No. 1 of Extraordinary Session of the General Assembly of Arkansas beginning October 7, 1931); Mississippi (see Act of October 13, 1931, c. 1, General Laws of Mississippi, Extraordinary Session, 1931); and Texas (Act of October 13, 1931, c. 2, Vernon's Ann. Civ. Stats., arts. 165a-165m). These efforts were unsuccessful because the problem was a national one rather than one which could be remedied by the action of individual states. The Texas statute, because of its mandatory features and penalties for violation, was declared unconstitutional in *State v. Smith*, 47 S. W. (2d) 642 (Tex. Civ. App.).

laboring men and women, the efforts of the Bureau of Fisheries to prevent depletion of the fisheries, and the efforts of the Department of Agriculture to achieve better agricultural conditions by distributing seeds, attempts at elimination of plant and animal diseases, dissemination of weather data, creation and support of experiment stations, and many other activities.

It will be noticed that in these activities, as in the case at bar, Congress has not attempted to *regulate or control* production or prices, but rather has spent money in such a way as to promote the general welfare by *affecting* production and prices. The essential question is whether what is done by the Government is merely the spending of money. Congress, of course, may direct that the money be paid only to certain persons or for certain purposes and if, by means of choosing particular persons or particular purposes, Congress is able to affect production and prices in such a way as to promote the general welfare, the Act is not to be held bad as going beyond the spending power. Where the means adopted are properly within the power of Congress, their validity is not destroyed by the fact that results may be brought about which Congress could not have directly compelled or required. *United States v. Doremus*, 249 U. S. 86; *Child Labor Tax Case*, 259 U. S. 20; *McCray v. United States*, 195 U. S. 27.

What is done here is the payment of benefits to individuals who, by performing or agreeing to perform certain conditions, have brought themselves within a class specified by Congress. Use by Congress of its power over the purse to achieve Congressional purposes by paying benefits on like conditions is by no means a recent innovation. It was done by the First Congress in the Act of July 4, 1789, c. 2, 1 Stat. 24, 27 (amended by c. 11, 1 Stat. 55, 65), which provided for a bounty on the exportation of fish. The Second Congress, by the Act of February 16, 1792, c. 6, 1 Stat. 229, substituted for this a bounty to the owner and crew of fishing boats that spent at least four months of the fishing season at sea. It will be observed that these early legislators did not attempt to *require* or *coerce* the export of fish nor to *require* or *coerce* fishing vessels to spend at least four months at sea, but they used the spending power of the Government to extend benefits to those whose conduct contributed to the desired result.

The distinction between an application of the Federal lawmaking power to enforce compliance with the desire of Congress and the use of the spending power to offer benefits which might persuade people to that end, recognized in this manner by these first Congresses, was pointed out by this Court in *Schechter Corp. v. United States*, 295 U. S. 495, where it was said (p. 529):

But the statutory plan is not simply one for voluntary effect. It does not seek merely to

endow voluntary trade or industrial associations or groups with privileges or immunities. It involves the coercive exercise of the law-making power. The codes of fair competition which the statute attempts to authorize are codes of laws. If valid, they place all persons within their reach under the obligation of positive law, binding equally those who assent and those who do not assent.

The vital difference in their effect upon the States and the People between the exercise of the lawmaking power and the offer of benefits is illustrated by the case of *Federal Compress Co. v. McLean*, 291 U. S. 17. A cotton compress had been licensed under the United States Warehouse Act, and it was contended that the supremacy of the laws of the United States prevented the State of Mississippi from imposing an excise tax on the privilege of operating the compress. This Court said (pp. 22-23) :

Appellant's license under the United States Warehousing Act did not confer upon it immunity from state taxation, for neither the appellant nor its business was, by force of the license, converted into an agency or instrumentality of the federal government. The Warehousing Act confers upon licensees certain privileges and secures to the national government, by means of the licensing provisions, a measure of control over those engaged in the business of storing agricultural products who find it advantageous to apply for the license. The gov-

ernment exercises that control in the furtherance of a governmental purpose to secure fair and uniform business practices. But the appellant, in the enjoyment of the privilege, is engaged in its own behalf, not the government's, in the conduct of a private business for profit. It can no longer be thought that the enjoyment of a privilege conferred by either the national or a state government upon the individual, even though to promote some governmental policy, relieves him from the taxation by the other of his property or business used or carried on in the enjoyment of the privilege or of the profits derived from it. *Susquehanna Power Co. v. Tax Commission*, 283 U. S. 291; *Fox Film Corp. v. Doyal*, 286 U. S. 123; *Broad River Power Co. v. Query*, 288 U. S. 178, 180.

When the United States goes no further than extending benefits to citizens who arrange their affairs in a manner thought beneficial by Congress, there is no direct exercise of Federal power on those affairs and they remain subject to the unhampered control of the States. Consequently, in a case of this nature, the effect which the Act of Congress will have in a State is dependent entirely upon the voluntary action of that State and its inhabitants. In the case at bar, as we have pointed out, Congress has done nothing more than offer the benefits. Acceptance has not been required or coerced. When this is all that is done there can be no invasion of the powers of the State. The situa-

tion is much like that in *Massachusetts v. Mellon*, 262 U. S. 447, where it was said (p. 480):

Probably, it would be sufficient to point out that the powers of the State are not invaded, since the statute imposes no obligation but simply extends an option which the State is free to accept or reject.

There it was further held (pp. 482-483):

Nor does the statute require the States to do or to yield anything. If Congress enacted it with the ulterior purpose of tempting them to yield, that purpose may be effectively frustrated by the simple expedient of not yielding.

In the last analysis, the complaint of the plaintiff State is brought to the naked contention that Congress has usurped the reserved powers of the several States by the mere enactment of the statute, though nothing has been done and nothing is to be done without their consent; and it is plain that that question, as it is thus presented, is political and not judicial in character, and therefore is not a matter which admits the exercise of the judicial power.

So, here, the statute does not require the States or the People to do or yield anything. There is no regulation. If power over agricultural production was reserved to the States or the People, they still have it unimpaired. The Agricultural Adjustment Act does not attempt to take any of that power from them or to interfere with their use of it. The decision as to how agricultural production is to be af-

fectured is still theirs. All Congress has done is to appropriate money and direct that it be spent upon certain conditions. In doing so Congress has not gone beyond its power of taxation and appropriation for the general welfare.

Furthermore, the taxes here involved would not be invalid even if it were to be held that the paying of benefits and the entering into contracts to pay such benefits to farmers on condition that the farmers reduce production operated to regulate agriculture. We have heretofore demonstrated the taxes to be valid when considered apart from the use of the proceeds. Under the Act, as we have pointed out, the proceeds of these taxes go to a purpose designed to promote and having a reasonable relation to the promotion of the general welfare. As we have also pointed out, when the money is used to promote the general welfare it is used for a public purpose. Not only, then, are the levies in this case valid as taxes but the proceeds are used for a purpose within the power of Congress. All possible objections to the taxes are satisfied, and if the expenditure of the money results in regulation of matters normally within state control, that result cannot deprive Congress of the right of taxation for the general welfare given it by the Constitution. *McCray v. United States*, 195 U. S. 27.

Similarly, in considering this Act as an exercise of the fiscal powers of Congress, we have already shown that the means adopted have a reasonable

relation to the exercise of those powers. (*Supra*, pp. 241–262.) This being true, the Act is not a violation of the Tenth Amendment when viewed as a fiscal measure. An Act which is an exercise of the fiscal powers is not invalid because it invades state fields. *First National Bank v. Union Trust Co.*, 244 U. S. 416; *Legal Tender Cases*, 12 Wall. 457, 539.

We conclude that, considered under either power, the Act does not violate the Tenth Amendment.

CONCLUSION

We submit the taxes sought to be imposed in this case constitute a valid exercise of the powers of Congress under the Constitution. Considering the taxes apart from the appropriation, they are valid excises, geographically uniform, and not violative of the Fifth Amendment. There has been no improper delegation of legislative authority, and even if there had been, the subsequent ratification by Congress has cured the defect. The taxes *qua* taxes being valid, the respondents have no standing to question the uses made by Congress of the revenues derived therefrom. Even if they may question the appropriation, the use of the revenues to make rental and benefit payments to producers, to bring about increased farm income and a resurgence of business activity, by balancing production and consumption, was clearly for the “general welfare” within the proper meaning of

that term. There is no violation of the Tenth Amendment, the action taken being confined strictly to authorizing expenditures. Aside from the taxing power, the act may be sustained under the fiscal powers of Congress. Wherefore, it is submitted the decision below should be reversed.

Respectfully submitted.

HOMER S. CUMMINGS,
Attorney General.

STANLEY S. REED,
Solicitor General.

FRANK J. WIDEMAN,
JAMES W. MORRIS,
Assistant Attorneys General.

SEWALL KEY,
ANDREW D. SHARPE,
ROBERT N. ANDERSON,
ALGER HISS,

Special Assistants to Attorney General.

MASTIN G. WHITE,
Solicitor, Department of Agriculture.

PREW SAVOY,
*Special Attorney, Department of
Agriculture, Of Counsel.*

NOVEMBER 1935.