# PERMITTING PRODUCERS OF HOPS TO ENTER INTO MARKETING AGREEMENTS UNDER AGRICULTURAL ADJUSTMENT ACT. pdf

## 1: Â§ Powers and duties of Director

*Act of , which generally authorized the Secretary of Agriculture to enter into agreements with producers and to license handlers, in order to "restore normal economic conditions in the marketing of'.*

Your note is for you and will not be shared with anyone. Because you are a member of panel, your positions on legislation and notes below will be shared with the panel administrators. The summary below was written by the Congressional Research Service, which is a nonpartisan division of the Library of Congress. Agricultural Programs Title II: Domestic Food Programs Title V: Other Assistance Subtitle C: Livestock Mandatory Reporting Subtitle A: Livestock Mandatory Reporting Subtitle B: Agricultural Programs - Appropriates funds for FY for the following Department of Agriculture programs and services: Conservation Programs - Appropriates funds for the: Domestic Food Programs - Appropriates funds for the following: General Provisions - Specifies certain uses and limits on or prohibitions against the use of funds appropriated by this Act. Sets forth related provisions. Russell National School Lunch Act. Amends the Agricultural Adjustment Act of to authorize the Secretary to release tobacco production and marketing information to State trusts or similar organizations engaged in the distribution of national trust funds to tobacco producers and other related persons, to the extent that such release is: Directs the Secretary, prior to release of such information, to allow at least 15 days for persons whose release consent would otherwise be required to elect to be exempt from such release. Requires a person obtaining released information to maintain records and not to use such information for other than permitted purposes. Provides penalties for knowing violations of the provisions of this Act. Exempts from the provisions of this section: Authorizes the Secretary to require cranberry handlers and importers to provide acquisition, inventory, and disposition data. Authorizes FY through appropriations. Crop and Market Loss Assistance - Directs the Secretary to provide emergency assistance to producers who have disaster-caused losses including livestock, fisheries, and trees from which a crop is harvested. States that producers with crop insurance shall not be discriminated against respecting such assistance. Provides tenant and sharecropper protection shared payments. Permits, upon producer referendum approval, sale of flue-cured tobacco allotments or quotas to same-State farms. Other Assistance - Amends the Agricultural Market Transition Act to extend through FY authority for advance production flexibility contract payments. Provides for privatization of the Center. Administration - Obligates specified funds for livestock and dairy producers. Livestock Mandatory Reporting - Amends the Agricultural Marketing Act of to define specified terms relating to livestock reporting, including cattle, lamb, and swine reporting. Requires the Secretary of Agriculture to establish mandatory price reporting programs for live cattle and swine that: Sets forth reporting provisions for the Secretary and packers. Requires mandatory packer reporting of boxed beef sales. Authorizes the Secretary to establish a reporting price information program for lamb. Sets forth enforcement provisions. Prohibits the Secretary from charging user or service fees. Requires the Secretary to encourage voluntary reporting by packers not subject to the mandatory requirements of this title. Requires the Secretary to publish at least monthly information on retail prices for food products made from beef, pork, chicken, turkey, veal, or lamb. Related Beef Reporting Provisions - Amends the Agricultural Trade Act of to include beef within the agricultural export commodities subject to weekly reporting by the Secretary. Related Swine Reporting Provisions - Requires the Secretary to publish on a monthly basis the Hogs and Pigs Inventory Report, including a separate category for gestating sows. Implementation - Sets forth implementing provisions. Terminates the provisions of this Act five years after enactment of this Act.

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## 2: PARKER, Director of Agriculture, et al. v. BROWN. | US Law | LII / Legal Information Institute

*Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing in the interests of producers and to enter into marketing agreements with.*

Decided December 9, Attorney s appearing for the Case Frederick U. Martyn Owen, Theodore M. Clearwaters and Dudley H. Freyer and David R. Andrea Limmer, Washington, D. This is a certified appeal under 28 U. Plaintiff Fairdale Farms, Inc. RCMA illegally fixed raw milk prices. We affirm that part of the order granting defendants summary judgment on the section 1 claim. We vacate that portion of the order dealing with the section 2 claim and remand to the district court for further proceedings consistent with this opinion. Plaintiff Fairdale is both a producer and dealer-processor of milk. Yankee is a milk producers cooperative with a membership of approximately 6, New England farmers. In minimum dairy prices for the northeastern United States, set by the government under the Agricultural Marketing Agreements Act of , 7 U. Between and , these prices were usually higher than the federal order prices. Until , Fairdale bought a large portion of its milk from Yankee members. However, in Fairdale objected to paying the over-order price and, when negotiations with defendants proved fruitless, discontinued its purchases from Yankee farmers. In , Fairdale brought this suit charging defendants with price fixing, monopolizing, and attempting to monopolize. Defendants alleged as an affirmative defense that the Capper-Volstead Act, 7 U. The Section 1 Count Price fixing arrangements are generally held to be per se violations of section 1 of the Sherman Act. United States, U. The Capper-Volstead Act provides, however, that farmers may act together in associations in collectively marketing their goods, and the associations may make the necessary contracts to effect this purpose. Examining the legislative history of Capper-Volstead, Justice Black found that Congress intended to permit farmers to organize together to "fix prices at which their cooperative will sell their produce. Fairdale contends, however, that RCMA does not have the same price-fixing right as does Yankee, and advances two arguments in support of its contention. It asserts first that Capper-Volstead gives only single cooperatives, not associations of cooperatives, the right to fix prices. Second, it contends that a cooperative association organized for the sole purpose of fixing prices is not entitled to Capper-Volstead protection. The district court rejected both contentions for reasons with which we agree. The Capper-Volstead Act permits the formation of "associations" which may perform marketing functions and which may have "marketing agencies in common. Capper-Volstead provides that farmers may act together in associations in collectively "processing, preparing for market, handling, and marketing" their products. Fairdale contends that RCMA must do more than just fix prices in order to get the benefit of this statute. In the only two prior proceedings in which this argument was made, it was rejected. Northern California Supermarkets, Inc. The establishment of price is an integral part of marketing. It would be strange indeed if participation in this portion of the marketing process, standing alone, would subject a cooperative to antitrust liability, when the exercise of the full range of activities covered by Capper-Volstead would not. We agree with the district court that Fairdale had no section 1 claim against the defendants. The Section 2 Count Section 2 of the Sherman Act makes it unlawful for any person to monopolize, attempt to monopolize, or conspire with another to monopolize, trade. There is an inherent conflict between this provision and those of Capper-Volstead which legitimize the collective action of farmers in the marketing of their products. By exempting farmers from Sherman Act limitations on the ability to combine into cooperatives, Capper-Volstead gives farmers the right to combine into cooperative monopolies. The Act places no limits on combination; it does not forbid farmers from combining after their cooperative reaches a certain size. For a court to impose such limits and hold cooperatives liable for treble damages if they run afoul of a judicial standard would discourage the growth of these cooperatives. The Capper-Volstead Act recognizes that farmer cooperatives may grow into monopolies and includes precautions to prevent abuse of monopoly power. Section 2 of the Act, 7 U. Moreover, their growth was inhibited by both state and federal antitrust laws. Maryland and Virginia Milk Producers Association v. United States, supra, U. When the

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Sherman Act was under consideration in , an amendment was proposed that would have exempted agricultural cooperatives from the proscriptions of the Act. However, without explanation, it was deleted from the bill as enacted. The tremendous growth of the California fruit industry brought about a drastic change in the merchandising of farm commodities. When California growers discovered the advantages of collectively processing and marketing their perishable fruit, large-scale, single commodity cooperatives quickly assumed a dominant role in the industry. Shortly after World War I, the concept of large-scale, cooperative commodity marketing began to spread to other parts of the country. Wheat, cotton, and tobacco growers, in particular, became involved in the regional commodity cooperative movement. See Liberty Warehouse Co. Legislatures in many states enacted enabling statutes excepting organizations of this type from the coverage of state antitrust laws. The American Cotton Association was organized in , and in a plan for the organization of state marketing cooperatives was adopted. Congress was not unaware of what was taking place. Clearly, cooperatives "of such size and general activities" were contemplated by the proposed Act. Proponents of Capper-Volstead, the prototype of which was introduced in , see H. In the presidential election of , both party platforms stressed the need for legislative protection of the cooperative movement. In , Congress organized a Joint Commission of Agricultural Inquiry to investigate, among other things, the causes of the agricultural depression and the reason for the difference between the prices paid farmers and costs to consumers. Knapp, supra, at  He assured the conferees that they would be afforded "ample provision of law under which they [might] carry on in cooperative fashion those business operations which lend themselves to that method It is little wonder, then, that Capper-Volstead and the major pieces of farm legislation that followed it strongly supported the cooperative movement. Where section 6 spoke only in terms of cooperative purposes, i. In the Cooperative Marketing Act of , 44 Stat. That division was to render services to agricultural cooperatives, to confer and advise with producers desirous of forming cooperatives, and to promote the knowledge of cooperative principles. Cooperative associations were also authorized to exchange and disseminate market and economic information among themselves. The declared policy of the Agricultural Marketing Act of , 46 Stat. This would be accomplished in part "by encouraging the organization of producers into effective associations or corporations under their own control for greater unity of effort in marketing and by promoting the establishment and financing of a farm marketing system of producer-owned and producer-controlled cooperative associations and other agencies. The Federal Farm Board, created by the Act, was authorized to make loans to cooperatives to assist them in "extending" their membership by educating producers in the advantages of cooperative marketing. If, in the judgment of the Board, the producers of any commodity were "not organized into cooperative associations representative of the commodity", the Board was authorized to make the benefits of the Act available to other cooperatives dealing in the same commodity. Specifically included within these purposes was the "effective merchandising of agricultural commodities. Congress declared that the "marketing and bargaining position of individual farmers will be adversely affected unless they are free to join together voluntarily in cooperative organizations as authorized by law", 82 Stat. The consistent tenor of the enactments shows that Congress wanted and expected farmers to be represented by strong and effective cooperatives, so extensively organized as to be representative of individual commodities. Unity of effort was encouraged in order to give farmers the same "unified competitive advantage" available to businessmen acting through corporations. In short, when Congress enacted the Capper-Volstead Act, it did not intend to prohibit the voluntary and natural growth that agricultural cooperatives needed to accomplish their assigned purpose of effective farmer representation. See United States v. Rock Royal Co-Operative, Inc. This is the interpretation that has been placed upon Capper-Volstead by practically every scholar in the antitrust field. In Sunkist Growers, Inc. National Broiler Marketing Assn. Denver Milk Producers, Inc. Even the Federal Trade Commission, ever in the vanguard of the attack on monopolization, has stated that if an agricultural cooperative attains a monopoly position even percent "without resort to predatory or anti-competitive practices, but through natural growth or the voluntary affiliation with or attraction of new members, no illegality would attach. Of course, a cooperative may neither acquire nor exercise monopoly

power in a predatory fashion by the use of such tactics as picketing and harassment, Otto Milk Co. United States, F. Neither may it use its legitimately acquired monopoly power in such a manner as to stifle or smother competition. In refusing to dismiss the section 2 claims, the district court relied on Grinnell v. United States, supra, which stated the following requirements for a monopolization claim: Our review of the above authorities persuades us that the effect of Capper-Volstead is to prevent the full application of the second element of this test to agricultural cooperatives. Capper-Volstead permits the formation of such cooperatives and places no limitation on their size. As the cooperative grows, so, normally, does its power over the market. Thus, while the formation, growth and operation of a powerful cooperative is obviously a "willful acquisition or maintenance of such power," and will rarely result from "a superior product, business acumen, or historic accident," id. We conclude that Grinnell does not apply to monopoly power that results from such acts as the formation, growth and combination of agricultural cooperatives, but applies only to the acquisition of such power by other, predatory means. It is not a violation of the Sherman Act for the members of an agricultural cooperative to carry out the legitimate objectives of their association which follow naturally from their attempts to achieve unity of effort and the voluntary elimination of competition among themselves. See Connell Construction Co. Defendants also asserted a counterclaim against Fairdale for alleged violation of the Agricultural Fair Practices Act of , 7 U. The pertinent provisions of the Capper-Volstead Act read: Persons engaged in the production of agricultural products Such associations may have marketing agencies in common; and such associations and their members may make the necessary contracts and agreements to effect such purposes Capper-Volstead was an enlargement of section 6 of the Clayton Act, 15 U.

## 3: [USC10] 7 USC Ch. AGRICULTURAL ADJUSTMENT ACT OF

*(2) To enter into marketing agreements with processors, asso- ciations of producers, and others engaged in the handling, in the cur- rent of interstate or foreign commerce of any agricultural commodity.*

Effective at the beginning of such two-year period, the minimum prices for milk of the highest use classification shall be adjusted for the locations at which delivery of such milk is made to such handlers. C In order to accomplish the purposes set forth in paragraphs A and B of this subsection, providing a method for making adjustments in payments, as among handlers including producers who are also handlers , to the end that the total sums paid by each handler shall equal the value of the milk purchased by him at the prices fixed in accordance with paragraph A of this subsection. D Providing that, in the case of all milk purchased by handlers from any producer who did not regularly sell milk during a period of 30 days next preceding the effective date of such order for consumption in the area covered thereby, payments to such producer, for the period beginning with the first regular delivery by such producer and continuing until the end of two full calendar months following the first day of the next succeeding calendar month, shall be made at the price for the lowest use classification specified in such order, subject to the adjustments specified in paragraph B of this subsection. E Providing i except as to producers for whom such services are being rendered by a cooperative marketing association, qualified as provided in paragraph F of this subsection, for market information to producers and for the verification of weights, sampling, and testing of milk purchased from producers, and for making appropriate deductions therefor from payments to producers, and ii for assurance of, and security for, the payment by handlers for milk purchased. F Nothing contained in this subsection is intended or shall be construed to prevent a cooperative marketing association qualified under the provisions of sections and of this title, engaged in making collective sales or marketing of milk or its products for the producers thereof, from blending the net proceeds of all of its sales in all markets in all use classifications, and making distribution thereof to its producers in accordance with the contract between the association and its producers: Provided, That it shall not sell milk or its products to any handler for use or consumption in any market at prices less than the prices fixed pursuant to paragraph A of this subsection for such milk. G No marketing agreement or order applicable to milk and its products in any marketing area shall prohibit or in any manner limit, in the case of the products of milk, the marketing in that area of any milk or product thereof produced in any production area in the United States. I Establishing or providing for the establishment of research and development projects, and advertising excluding brand advertising , sales promotion, educational, and other programs designed to improve or promote the domestic marketing and consumption of milk and its products, to be financed by producers in a manner and at a rate specified in the order, on all producer milk under the order. Producer contributions under this subparagraph FOOTNOTE 2 may be deducted from funds due producers in computing total pool value or otherwise computing total funds due producers and such deductions shall be in addition to the adjustments authorized by paragraph B of this subsection. Provision may be made in the order to exempt, or allow suitable adjustments or credits in connection with, milk on which a mandatory checkoff for advertising or marketing research is required under the authority of any State law. Such agency may expend such funds for any of the purposes authorized by this subparagraph FOOTNOTE 2 and may designate, employ, and allocate funds to persons and organizations engaged in such programs which meet the standards and qualifications specified in the order. All funds collected under this subparagraph FOOTNOTE 2 shall be separately accounted for and shall be used only for the purposes for which they were collected. Programs authorized by this subparagraph FOOTNOTE 2 may be either local or national in scope, or both, as provided in the order, but shall not be international. Order provisions under this subparagraph FOOTNOTE 2 shall not become effective in any marketing order unless such provisions are approved by producers separately from other order provisions, in the same manner provided for the approval of marketing orders, and may be terminated separately whenever the Secretary makes a determination with respect to such

provisions as is provided for the termination of an order in subsection 16 B of this section. Disapproval or termination of such order provisions shall not be considered disapproval of the order or of other terms of the order. Notwithstanding any other provision of this chapter, any producer against whose marketings any assessment is withheld or collected under the authority of this subparagraph, FOOTNOTE 2 and who is not in favor of supporting the research and promotion programs, as provided for herein, shall have the right to demand and receive a refund of such assessment pursuant to the terms and conditions specified in the order. J Providing for the payment, from the total sums payable by all handlers for milk irrespective of the use classification of such milk and before computing uniform prices under paragraph A and making adjustments in payments under paragraph C , to handlers that are cooperative marketing associations described in paragraph F and to handlers with respect to which adjustments in payments are made under paragraph C , for services of marketwide benefit, including but not limited to - i providing facilities to furnish additional supplies of milk needed by handlers and to handle and dispose of milk supplies in excess of quantities needed by handlers; ii handling on specific days quantities of milk that exceed the quantities needed by handlers; and iii transporting milk from one location to another for the purpose of fulfilling requirements for milk of a higher use classification or for providing a market outlet for milk of any use classification. K i Notwithstanding any other provision of law, milk produced by dairies - I owned or controlled by foreign persons; and II financed by or with the use of bonds the interest on which is exempt from Federal income tax under section of title 26; shall be treated as other-source milk, and shall be allocated as milk received from producer-handlers for the purposes of classifying producer milk, under the milk marketing program established under this chapter. L Providing that adjustments in payments by handlers under paragraph A need not be the same as adjustments to producers under paragraph B with regard to adjustments authorized by subparagraphs 2 and 3 of paragraph A and clauses b , c , and d of paragraph B ii. A Limiting, or providing methods for the limitation of, the total quantity of any such commodity or product, or of any grade, size, or quality thereof, produced during any specified period or periods, which may be marketed in or transported to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof, during any specified period or periods by all handlers thereof. B Allotting, or providing methods for allotting, the amount of such commodity or product, or any grade, size, or quality thereof, which each handler may purchase from or handle on behalf of any and all producers thereof, during any specified period or periods, under a uniform rule based upon the amounts sold by such producers in such prior period as the Secretary determines to be representative, or upon the current quantities available for sale by such producers, or both, to the end that the total quantity thereof to be purchased, or handled during any specified period or periods shall be apportioned equitably among producers. D Determining, or providing methods for determining, the existence and extent of the surplus of any such commodity or product, or of any grade, size, or quality thereof, and providing for the control and disposition of such surplus, and for equalizing the burden of such surplus elimination or control among the producers and handlers thereof. E Establishing or providing for the establishment of reserve pools of any such commodity or product, or of any grade, size, or quality thereof, and providing for the equitable distribution of the net return derived from the sale thereof among the persons beneficially interested therein. F Requiring or providing for the requirement of inspection of any such commodity or product produced during specified periods and marketed by handlers. G In the case of hops and their products in addition to, or in lieu of, the foregoing terms and conditions, orders may contain one or more of the following: The total quantity of hops available or estimated will become available for market by each producer from his production during such period; the normal production of the acreage of hops operated by each producer during such period upon the basis of the number of acres of hops in production, and the average yield of that acreage during such period as the Secretary determines to be representative, with adjustments determined by the Secretary to be proper for age of plantings or abnormal conditions affecting yield; such normal production or historical record of any acreage for which data as to yield of hops are not available or which had no yield during such period shall be determined by the Secretary on the basis of the

yields of other acreage of hops of similar characteristics as to productivity, subject to adjustment as just provided for. H Providing a method for fixing the size, capacity, weight, dimensions, or pack of the container, or containers, which may be used in the packaging, transportation, sale, shipment, or handling of any fresh or dried fruits, vegetables, or tree nuts: Provided, however, That no action taken hereunder shall conflict with the Standard Containers Act of 15 U. I Establishing or providing for the establishment of production research, marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of any such commodity or product, the expense of such projects to be paid from funds collected pursuant to the marketing order: Provided, That with respect to orders applicable to almonds, filberts otherwise known as hazelnuts , California-grown peaches, cherries, papayas, carrots, citrus fruits, onions, Tokay grapes, pears, dates, plums, nectarines, celery, sweet corn, limes, olives, pecans, eggs, avocados, apples, raisins, walnuts, tomatoes, or Florida-grown strawberries, such projects may provide for any form of marketing promotion including paid advertising and with respect to almonds, filberts otherwise known as hazelnuts , raisins, walnuts, olives, and Florida Indian River grapefruit may provide for crediting the pro rata expense assessment obligations of a handler with all or any portion of his direct expenditures for such marketing promotion including paid advertising as may be authorized by the order and when the handling of any commodity for canning or freezing is regulated, then any such projects may also deal with the commodity or its products in canned or frozen form: Provided further, That the inclusion in a Federal marketing order of provisions for research and marketing promotion, including paid advertising, shall not be deemed to preclude, preempt or supersede any such provisions in any State program covering the same commodity. J In the case of pears for canning or freezing, any order for a production area encompassing territory within two or more States or portions thereof shall provide that the grade, size, quality, maturity, and inspection regulation under the order applicable to pears grown within any such State or portion thereof may be recommended to the Secretary by the agency established to administer the order only if a majority of the representatives from that State on such agency concur in the recommendation each year. A Prohibiting unfair methods of competition and unfair trade practices in the handling thereof. B Providing that except for milk and cream to be sold for consumption in fluid form such commodity or product thereof, or any grade, size, or quality thereof shall be sold by the handlers thereof only at prices filed by such handlers in the manner provided in such order. C Providing for the selection by the Secretary of Agriculture, or a method for the selection, of an agency or agencies and defining their powers and duties, which shall include only the powers: No person acting as a member of an agency established pursuant to this paragraph shall be deemed to be acting in an official capacity, within the meaning of section g of this title, unless such person receives compensation for his personal services from funds of the United States. There shall be included in the membership of any agency selected to administer a marketing order applicable to grapefruit or pears for canning or freezing one or more representatives of processors of the commodity specified in such order: Provided, That in a marketing order applicable to pears for canning or freezing the representation of processors and producers on such agency shall be equal. D Incidental to, and not inconsistent with, the terms and conditions specified in subsections 5 to 7 of this section and necessary to effectuate the other provisions of such order. Provided, That no order issued pursuant to this subsection shall be effective unless the Secretary of Agriculture determines that the issuance of such order is approved or favored: A That the refusal or failure to sign a marketing agreement upon which a hearing has been held by the handlers excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order of more than 50 per centum of the volume of the commodity or product thereof except that as to citrus fruits produced in any area producing what is known as California citrus fruits said per centum shall be 80 per centum specified therein which is produced or marketed within the production or marketing area specified therein tends to prevent the effectuation of the declared policy of this chapter with respect to such commodity or product, and B That the issuance of such order is the only practical means of advancing the interests of the producers of such commodity pursuant to the declared policy, and is approved or

favored: No order shall be issued under this chapter prohibiting, regulating, or restricting the advertising of any commodity or product covered thereby, nor shall any marketing agreement contain any provision prohibiting, regulating, or restricting the advertising of any commodity, or product covered by such marketing agreement. B Except in the case of milk and its products, orders issued under this section shall be limited in their application to the smallest regional production areas or regional marketing areas, or both, as the case may be, which the Secretary finds practicable, consistently with carrying out such declared policy. C All orders issued under this section which are applicable to the same commodity or product thereof shall, so far as practicable, prescribe such different terms, applicable to different production areas and marketing areas, as the Secretary finds necessary to give due recognition to the differences in production and marketing of such commodity or product in such areas. B No order issued under this chapter shall be applicable to any producer in his capacity as a producer. The Secretary may issue an order assessing a civil penalty under this paragraph only after notice and an opportunity for an agency hearing on the record. The validity of such order may not be reviewed in an action to collect such civil penalty. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary of Agriculture, with the approval of the President. After such hearing, the Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law. B The District Courts of the United States in any district in which such handler is an inhabitant, or has his principal place of business, are vested with jurisdiction in equity to review such ruling, provided a bill in equity for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to him a copy of the bill of complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either 1 to make such ruling as the court shall determine to be in accordance with law, or 2 to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to this subsection 15 shall not impede, hinder, or delay the United States or the Secretary of Agriculture from obtaining relief pursuant to section a 6 of this title. Any proceedings brought pursuant to section a 6 of this title except where brought by way of counterclaim in proceedings instituted pursuant to this subsection 15 shall abate whenever a final decree has been rendered in proceedings between the same parties, and covering the same subject matter, instituted pursuant to this subsection  B The Secretary shall terminate any marketing agreement entered into under section b of this title, or order issued under this section, at the end of the then current marketing period for such commodity, specified in such marketing agreement or order, whenever he finds that such termination is favored by a majority of the producers who, during a representative period determined by the Secretary, have been engaged in the production for market of the commodity specified in such marketing agreement or order, within the production area specified in such marketing agreement or order, or who, during such representative period, have been engaged in the production of such commodity for sale within the marketing area specified in such marketing agreement or order: Provided, That such majority have, during such representative period, produced for market more than 50 per centum of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or have, during such representative period, produced more than 50 per centum of the volume of such commodity sold in the marketing area specified in such marketing agreement or order, but such termination shall be effective only if announced on or before such date prior to the end of the then current marketing period as may be specified in such marketing agreement or order. C Except as otherwise provided in this subsection with respect to the termination of an order issued under this section, the termination or suspension of any order or amendment thereto or provision thereof, shall not be considered an order within the meaning of this section. Provided, That notice of a hearing upon a proposed amendment to any order issued pursuant to this section, given not less than three days prior to the date fixed for such hearing, shall be deemed due notice thereof: Provided further, That if one-third or more of the producers as defined in a milk order apply in writing for a hearing on a proposed amendment of such order, the Secretary shall call such a hearing if the proposed amendment is one that may legally be made to

such order. Subsection 12 of this section shall not be construed to permit any cooperative to act for its members in an application for a hearing under the foregoing proviso and nothing in such proviso shall be construed to preclude the Secretary from calling an amendment hearing as provided in subsection 3 of this section. The Secretary shall not be required to call a hearing on any proposed amendment to an order in response to an application for a hearing on such proposed amendment if the application requesting the hearing is received by the Secretary within ninety days after the date on which the Secretary has announced the decision on a previously proposed amendment to such order and the two proposed amendments are essentially the same. The prices which it is declared to be the policy of Congress to establish in section of this title shall, for the purposes of such agreement, order, or amendment, be adjusted to reflect the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk or its products in the marketing area to which the contemplated marketing agreement, order, or amendment relates. Whenever the Secretary finds, upon the basis of the evidence adduced at the hearing required by section b of this title or this section, as the case may be, that the parity prices of such commodities are not reasonable in view of the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk and its products in the marketing area to which the contemplated agreement, order, or amendment relates, he shall fix such prices as he finds will reflect such factors, insure a sufficient quantity of pure and wholesome milk to meet current needs and further to assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs, and be in the public interest. Thereafter, as the Secretary finds necessary on account of changed circumstances, he shall, after due notice and opportunity for hearing, make adjustments in such prices. The requirements of approval or favor under any such provision shall be held to be complied with if, of the total number of producers or processors, or the total volume of production, as the case may be, represented in such referendum, the percentage approving or favoring is equal to or in excess of the percentage required under such provision. The terms and conditions of the proposed order shall be described by the Secretary in the ballot used in the conduct of the referendum. The nature, content, or extent of such description shall not be a basis for attacking the legality of the order or any action relating thereto. Nothing in this subsection shall be construed as limiting representation by cooperative associations as provided in subsection 12 of this section. July 1, , 12 F.

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## 4: Prentice Hall Documents Library: Agricultural Adjustment Act

*H.R. (97 th): A bill to amend the Agricultural Adjustment Act to terminate the authority of the Secretary of Agriculture to enter into marketing agreements, to issue marketing orders, and to enforce such agreements and orders, with respect to fruits, vegetables, hops, and tree nuts.*

Syllabus from pages intentionally omitted Messrs. Graves, of Chicago, Ill. Padway, of Washington, D. Frederic Burnham, Donald F. Crouse, Howard Neitzert, and Miles G. Seeley, all of Chicago, Ill. Hart, Irving Herriott and L. Isidore Fried, Herbert B. Fried, and Bernard A. Stol, all of Chicago, Ill. Carmell, of Chicago, Ill. Deneen, Roy Massena, and Donald N. Schaffer, all of Chicago, Ill. Matthews and James P. Dillie, both of Chicago, Ill. Mantynband, of Chicago, Ill. The Government appeals from a judgment of the District Court sustaining demurrers and dismissing an indictment charging combination and conspiracy in violation of Section one of the Sherman Anti-Trust Act, 15 U. The trade and commerce alleged to be involved is the transportation to the Chicago market of fluid milk produced on dairy farms in Illinois, Indiana, Michigan and Wisconsin and the distribution of the milk in that market. The indictment, which was filed in November, , contains four counts. The several defendants challenged it by demurrers and motions to quash on various grounds. The District Court held with respect to counts one, two and four, that the production and marketing of agricultural products, including milk, are removed from the purview of the Sherman Act by the Agricultural Marketing Agreement Act of , 50 Stat. Sections one and two of the Capper-Volstead Act, 7 U. With respect to count three, the District Court held that it was duplicitous, in the view that it charged several separate conspiracies and also that it did not definitely charge a restraint of interstate commerce. The judgment expressly overruled the demurrers and motions to quash so far as they challenged the constitutionality of the Sherman Act or the sufficiency of the allegations of unlawful conspiracy, and also so far as it was contended that interstate commerce was not involved in counts one, two and four. The judgment ends by dismissing the indictment as to all defendants. The first question presented concerns our jurisdiction. The exceptional right of appeal given to the Government by the Criminal Appeals Act is strictly limited to the instances specified. The decision below was not predicated upon invalidity of the statute. The established principles governing our review are these: In that case we cannot disturb the judgment and the question of construction becomes abstract. The first two of these principles, as the Government concedes, preclude our review of the decision below as to count three. For that count was held bad upon the independent ground that it is defective as a pleading, being duplicitous and also lacking in definiteness. The appeal as to count three must be dismissed. After a general description of the averments of the indictment, which was explicitly founded on Section one of the Sherman Act, the District Court construed counts one, two and four as follows 28 F. This construction of the indictment is binding upon this Court on this appeal. Hastings, supra, U. The District Court, thus construing counts one, two and four, held as a matter of substance that, because of the effect of the later statutes, these counts did not charge an offense under Section one of the Sherman Act. This was necessarily a construction of the Sherman Act. Patten, supra; United States v. We are not impressed with the argument that the court simply construed the later statutes. The effect of those statutes was considered in determining whether the Sherman Act has been so modified and limited that it no longer applies to such combinations and conspiracies as are charged in counts one, two and four. Thus the Sherman Act was not the less construed because it was construed in the light of the subsequent legislation. We have jurisdiction under the Criminal Appeals Act to determine whether the construction thus placed upon the Sherman Act is correct. With respect to the Clayton Act, 2 the court said in its opinion: But the court did not hold that, by these provisions of the Clayton Act, either the defendants Pure Milk Association and its officers and agents or the defendants Milk Wagon Drivers Union, Local , and its officials, albeit these organizations were not in themselves illegal combinations or conspiracies were rendered immune from prosecution under the Sherman Act for their alleged participation in the combinations and conspiracies charged in counts one, two and four of the indictment. The

court invoked the Capper-Volstead Act, 3 as its judgment shows, only in relation to certain defendants, that is, the Pure Milk Association, an agricultural cooperative organization, and its officers and agents. We shall consider later the effect of that statute upon the charge against those defendants. The court dismissed the indictment as to all defendants, and we think it manifest that this ruling in its bearing upon counts one, two and four was due to the effect upon the Sherman Act which the court attributed to the Agricultural Marketing Agreement Act. As to that Act, the court said: If conditions require, he must act; if they do not require action, then all marketing conditions are deemed satisfactory and the purpose of the act is effectuated. Non-action by the Secretary of Agriculture, in any given marketing area, is equivalent to a declaration that the policy of the act, in that area, is being carried out. If the policy of the act, in any given milk area, is being violated it becomes the duty of the Secretary of Agriculture to intervene and invoke the powers conferred upon him by the act. It follows further that the Secretary of Agriculture cannot by his own action, or inaction, divest himself of this power so long as the statute remains in force. The marketing of the agricultural products, including milk, covered by the Agricultural Marketing Agreement Act, is removed from the purview of the Sherman Act. It will be observed that the District Court attributes this effect to the Agricultural Marketing Agreement Act per se, that is, to its operation in the absence, and without regard to the scope and particular effect, of any marketing agreements made by the Secretary of Agriculture or of any orders issued by him pursuant to the Act. In the opinion of the court below, the existence of the authority vested in the Secretary of Agriculture, although unexercised, wholly destroys the operation of Section 1 of the Sherman Act with respect to the marketing of agricultural commodities. We are of the opinion that this conclusion is erroneous. No provision of that purport appears in the Agricultural Act. While effect is expressly given, as we shall see, to agreements and orders which may validly be made by the Secretary of Agriculture, there is no suggestion that in their absence, and apart from such qualified authorization and such requirements as they contain, the commerce in agricultural commodities is stripped of the safeguards set up by the Anti-Trust Act and is left open to the restraints, however unreasonable, which conspiring producers, distributors and their allies may see fit to impose. We are unable to find that such a grant of immunity by virtue of the inaction, or limited action, of the Secretary has any place in the statutory plan. When there are two acts upon the same subject, the rule is to give effect to both if possible. United States, U. It is not sufficient as was said by Mr. Justice Story in Wood v. United States, 16 Pet. See, also, Posadas v. National City Bank, U. The Sherman Act is a broad enactment prohibiting unreasonable restraints upon interstate commerce, and monopolization or attempts to monopolize, with penal sanctions. The Agricultural Act is a limited statute with specific reference to particular transactions which may be regulated by official action in a prescribed manner. To carry out that policy a particular plan is set forth. Farmers and others are not permitted to resort to their own devices and to make any agreements or arrangements they desire, regardless of the restraints which may be inflicted upon commerce. The statutory program to be followed under the Agricultural Act requires the participation of the Secretary of Agriculture who is to hold hearings and make findings. The obvious intention is to provide for what may be found to be reasonable arrangements in particular instances and in the light of the circumstances disclosed. The methods which the Agricultural Act permits to attain that result are twofold, marketing agreements and orders. To give validity to marketing agreements the Secretary must be an actual party to the agreements. Section 8c 3 4. As to agreements and arrangements not thus agreed upon or directed by the Secretary, the Agricultural Act in no way impinges upon the prohibitions and penalties of the Sherman Act, and its condemnation of private action in entering into combinations and conspiracies which impose the prohibited restraint upon interstate commerce remains untouched. It is not necessary to labor the point, for the Agricultural Act itself expressly defines the extent to which its provisions make the antitrust laws inapplicable. That definition is found in Section 8b 9 of the Agricultural Adjustment Act carried into the Agricultural Marketing Agreement Act in relation to marketing agreements, and provides as follows: The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States, and any such agreement shall be deemed to be lawful: Another provision is found in Section 3 d 10 of the Agricultural Marketing Agreement

Act, relating to awards or agreements resulting from the arbitration or mediation by the Secretary of Agriculture or by a designated officer or employee of the Department of Agriculture as provided in Section 3 a , 11 and meetings for that purpose and awards or agreements resulting therefrom which have been approved by the Secretary of Agriculture as rovided in Section 3 b. These explicit provisions requiring official participation and authorizations show beyond question how far Congress intended that the Agricultural Act should operate to render the Sherman Act inapplicable. An agreement made with the Secretary as a party, or an order made by him, or an arbitration award or agreement approved by him, pursuant to the authority conferred by the Agricultural Act and within the terms of the described immunity, would of course be a defense to a prosecution under the Sherman Act to the extent that the prosecution sought to penalize what was thus validly agreed upon or directed by the Secretary. Further than that the Agricultural Act does not go. We have no occasion to decide whether in any particularcase an indictment under the Sherman Act by reason of its particular terms would be subject to demurrer, or to a motion to quash, upon the ground that the indictment ran against the provisions of such an agreement or order. We have no such situation here. There is indeed a contention that there was a license No. But the allegations of the indictment are that the unlawful conspiracies continued throughout all the period mentioned in the indictment, that is, up to the time of its presentment in November,  This clearly imports that the conspiracies were operative after the license came to an end and thus in the absence of any license. A conspiracy thus continued is in effect renewed during each day of its continuance. It is also said that there is a recent marketing order under date of August 29, , 14 which relates to the Chicago marketing area, and hence that this cause is moot. But that order affects a period subsequent to the time covered by the indictment. These contentions are unavailing in relation to the question before us. Our conclusion is that the Agricultural Adjustment Act as reenacted and amended by the Agricultural Marketing Agreement Act affords no ground for construing the Sherman Act as inapplicable to the charges contained in counts one, two and four. There remains the question whether the court below rightly held that the Capper-Volstead Act 15 had modified the Sherman Act so as to exempt the Pure Milk Association, a cooperative agricultural organization, and its officers and agents, from prosecution under these counts. As to the Capper-Volstead Act the Court said: To that extent it modifies the Sherman Act. It removes from the Sherman Act those organizations, cooperative in their nature, which come within the purview of the Capper-Volstead Act. Prior to the Capper-Volstead Act farmers were treated no differently than others under the anti-trust laws, so far as price fixing was concerned.

# PERMITTING PRODUCERS OF HOPS TO ENTER INTO MARKETING AGREEMENTS UNDER AGRICULTURAL ADJUSTMENT ACT. pdf

## 5: BERNING v. GOODING | F.2d () | 2d | www.enganchecubano.com

*The Agricultural Adjustment Act of and the Agricultural Marketing Agreement Act of were both derived from the Agricultural Adjustment Act of , 48 Stat. 31, 7 U.S.C.A. Â§ et seq., and are coordinate parts of a single plan for raising farm prices to parity levels.*

Argued and Submitted Nov. Graves, of Chicago, Ill. Padway, of Washington, D. Frederic Burnham, Donald F. Crouse, Howard Neitzert, and Miles G. Seeley, all of Chicago, Ill. Hart, Irving Herriott and L. Isidore Fried, Herbert B. Fried, and Bernard A. Stol, all of Chicago, Ill. Carmell, of Chicago, Ill. Deneen, Roy Massena, and Donald N. Schaffer, all of Chicago, Ill. Matthews and James P. Dillie, both of Chicago, Ill. Mantynband, of Chicago, Ill. Advertisement 1 The Government appeals from a judgment of the District Court sustaining demurrers and dismissing an indictment charging combination and conspiracy in violation of Section one of the Sherman Anti-Trust Act, 15 U. The Government divides the defendants into five groups,â€" 1 distributors and allied groups which include a number of corporations described as major distributors and their officers and agents, the Associated Milk Dealers, Inc. The several defendants challenged it by demurrers and motions to quash on various grounds. The District Court held with respect to counts one, two and four, that the production and marketing of agricultural products, including milk, are removed from the purview of the Sherman Act by the Agricultural Marketing Agreement Act of , 50 Stat. Sections one and two of the Capper-Volstead Act, 7 U. With respect to count three, the District Court held that it was duplicitous, in the view that it charged several separate conspiracies and also that it did not definitely charge a restraint of interstate commerce. The judgment ends by dismissing the indictment as to all defendants. The exceptional right of appeal given to the Government by the Criminal Appeals Act is strictly limited to the instances specified. The decision below was not predicated upon invalidity of the statute. In that case we cannot disturb the judgment and the question of construction becomes abstract. The first two of these principles, as the Government concedes, preclude our review of the decision below as to count three. For that count was held bad upon the independent ground that it is defective as a pleading, being duplicitous and also lacking in definiteness. The appeal as to count three must be dismissed. After a general description of the averments of the indictment, which was explicitly founded on Section one of the Sherman Act, the District Court construed counts one, two and four as follows 28 F. This construction of the indictment is binding upon this Court on this appeal. Hastings, supra, U. The District Court, thus construing counts one, two and four, held as a matter of substance that, because of the effect of the later statutes, these counts did not charge an offense under Section one of the Sherman Act. This was necessarily a construction of the Sherman Act. Patten, supra; United States v. We are not impressed with the argument that the court simply construed the later statutes. The effect of those statutes was considered in determining whether the Sherman Act has been so modified and limited that it no longer applies to such combinations and conspiracies as are charged in counts one, two and four. Thus the Sherman Act was not the less construed because it was construed in the light of the subsequent legislation. But the court did not hold that, by these provisions of the Clayton Act, either the defendants Pure Milk Association and its officers and agents or the defendants Milk Wagon Drivers Union, Local , and its officials, albeit these organizations were not in themselves illegal combinations or conspiracies were rendered immune from prosecution under the Sherman Act for their alleged participation in the combinations and conspiracies charged in counts one, two and four of the indictment. We shall consider later the effect of that statute upon the charge against those defendants. As to that Act, the court said: If conditions require, he must act; if they do not require action, then all marketing conditions are deemed satisfactory and the purpose of the act is effectuated. Non-action by the Secretary of Agriculture, in any given marketing area, is equivalent to a declaration that the policy of the act, in that area, is being carried out. If the policy of the act, in any given milk area, is being violated it becomes the duty of the Secretary of Agriculture to intervene and invoke the powers conferred upon him by the act. It follows further that the Secretary of Agriculture cannot by his own action, or

inaction, divest himself of this power so long as the statute remains in force. The marketing of the agricultural products, including milk, covered by the Agricultural Marketing Agreement Act, is removed from the purview of the Sherman Act. In the opinion of the court below, the existence of the authority vested in the Secretary of Agriculture, although unexercised, wholly destroys the operation of Section 1 of the Sherman Act with respect to the marketing of agricultural commodities. No provision of that purport appears in the Agricultural Act. While effect is expressly given, as we shall see, to agreements and orders which may validly be made by the Secretary of Agriculture, there is no suggestion that in their absence, and apart from such qualified authorization and such requirements as they contain, the commerce in agricultural commodities is stripped of the safeguards set up by the Anti-Trust Act and is left open to the restraints, however unreasonable, which conspiring producers, distributors and their allies may see fit to impose. We are unable to find that such a grant of immunity by virtue of the inaction, or limited action, of the Secretary has any place in the statutory plan. When there are two acts upon the same subject, the rule is to give effect to both if possible. United States, U. It is not sufficient as was said by Mr. Justice Story in Wood v. United States, 16 Pet. See, also, Posadas v. National City Bank, U. The Agricultural Act is a limited statute with specific reference to particular transactions which may be regulated by official action in a prescribed manner. To carry out that policy a particular plan is set forth. Farmers and others are not permitted to resort to their own devices and to make any agreements or arrangements they desire, regardless of the restraints which may be inflicted upon commerce. The statutory program to be followed under the Agricultural Act requires the participation of the Secretary of Agriculture who is to hold hearings and make findings. The obvious intention is to provide for what may be found to be reasonable arrangements in particular instances and in the light of the circumstances disclosed. The methods which the Agricultural Act permits to attain that result are twofold, marketing agreements and orders. To give validity to marketing agreements the Secretary must be an actual party to the agreements. Section 8c 3 4. As to agreements and arrangements not thus agreed upon or directed by the Secretary, the Agricultural Act in no way impinges upon the prohibitions and penalties of the Sherman Act, and its condemnation of private action in entering into combinations and conspiracies which impose the prohibited restraint upon interstate commerce remains untouched. That definition is found in Section 8b 9 of the Agricultural Adjustment Act carried into the Agricultural Marketing Agreement Act in relation to marketing agreements, and provides as follows: The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States, and any such agreement shall be deemed to be lawful: Further than that the Agricultural Act does not go. We have no such situation here. There is indeed a contention that there was a license No. But the allegations of the indictment are that the unlawful conspiracies continued throughout all the period mentioned in the indictment, that is, up to the time of its presentment in November, This clearly imports that the conspiracies were operative after the license came to an end and thus in the absence of any license. A conspiracy thus continued is in effect renewed during each day of its continuance. It is also said that there is a recent marketing order under date of August 29, , 14 which relates to the Chicago marketing area, and hence that this cause is moot. But that order affects a period subsequent to the time covered by the indictment. These contentions are unavailing in relation to the question before us. There remains the question whether the court below rightly held that the Capper-Volstead Act 15 had modified the Sherman Act so as to exempt the Pure Milk Association, a cooperative agricultural organization, and its officers and agents, from prosecution under these counts. To that extent it modifies the Sherman Act. It removes from the Sherman Act those organizations, cooperative in their nature, which come within the purview of the Capper-Volstead Act. Prior to the Capper-Volstead Act farmers were treated no differently than others under the anti-trust laws, so far as price fixing was concerned. The Act then, by section 2 thereof, commits to an officer of the executive department, the Secretary of Agriculture, the power of regulation and visitation. We cannot find in the Capper-Volstead Act, any more than in the Agricultural Act, an intention to declare immunity for the combinations and conspiracies charged in the present indictment. They were not to be held illegal combinations. The Capper-Volstead Act, enacted in , 17 was made applicable as well to

cooperatives having capital stock. Such a combined attempt of all the defendants, producers, distributors and their allies, to control the market finds no justification in Section one of the Capper-Volstead Act. Thereupon the Secretary is to serve upon the association a complaint, stating his charge with notice of hearing. Provision is made for judicial review. That this provision of the Capper-Volstead Act does not cover the entire field of the Sherman Act is sufficiently clear. The Sherman Act authorizes criminal prosecutions and penalties. The Capper-Volstead Act provides only for a civil proceeding. The Sherman Act hits at attempts to monopolize as well as actual monopolization. And Section two of the Capper-Volstead Act contains no provision giving immunity from the Sherman Act in the absence of a proceeding by the Secretary. We think that the procedure under Section two of the Capper-Volstead Act is auxiliary and was intended merely as a qualification of the authorization given to cooperative agricultural producers by Section one, so that if the collective action of such producers, as there permitted, results in the opinion of the Secretary in monopolization or unduly enhanced prices, he may intervene and seek to control the action thus taken under Section one. But as Section one cannot be regarded as authorizing the sort of conspiracies between producers and others that are charged in this indictment, the qualifying procedure for which Section two provides is not to be deemed to be designed to take the place of, or to postpone or prevent, prosecution under Section one of the Sherman Act for the purpose of punishing such conspiracies. Having dealt with the construction placed by the court below upon the Sherman Act, our jurisdiction on this appeal is exhausted. We are not at liberty to consider other objections to the indictment or questions which may arise upon the trial with respect to the merits of the charge. For it is well settled that where the District Court has based its decision on a particular construction of the underlying statute, the review here under the Criminal Appeals Act is confined to the question of the propriety of that construction. Keitel, supra; United States v.

# PERMITTING PRODUCERS OF HOPS TO ENTER INTO MARKETING AGREEMENTS UNDER AGRICULTURAL ADJUSTMENT ACT. pdf

## 6: The New Deal | Pepperdine School of Public Policy

*"enter into marketing agreements with processors, producers, associations of producers and others engaged in the handling of any agricultural commodity or product thereof, only with respect to such handling as is in the current of interstate or foreign commerce.*

That the present acute economic emergency being in part the consequence of a severe and increasing disparity between the prices of agricultural and other commodities, which disparity has largely destroyed the purchasing power of farmers for industrial products, has broken down the orderly exchange of commodities, and has seriously impaired the agricultural assets supporting the national credit structure, it is hereby declared that these conditions in the basic industry of agriculture have affected transactions in agricultural commodities with a national public interest, have burdened and obstructed the normal currents of commerce in such commodities, and render imperative the immediate enactment of title I of this Act. It is hereby declared to be the policy of Congress -- 1 To establish and maintain such balance between the production and consumption of agricultural commodities, and such marketing conditions therefor or, as will reestablish prices to farmers at a level that will give agricultural commodities a purchasing power with respect to articles that farmers buy, equivalent to the purchasing power of agricultural commodities in the base period. The base period in the case of all agricultural commodities except tobacco shall be the prewar period, August - July  In the case of tobacco, the base period shall be the postwar period, August - July  Provided, That in no event shall the producer be held responsible or liable for financial loss incurred in the holding of such cotton or on account of the carrying charges therein: Provided further, That such agreement to curtail cotton production shall contain a further provision that such cotton producer shall not use the land taken out of cotton production for the production for sale, directly or indirectly, of any other nationally produced agricultural commodity or product In order to effectuate the declared policy, the Secretary of Agriculture shall have power -- 1 To provide for reduction in the acreage or reduction in the production for market, or both, of any basic agricultural commodity, through agreements with producers or by other voluntary methods, and to provide for rental or benefit payments in connection therewith or upon that part of the production of any basic agricultural commodity required for domestic consumption, in such amounts as the Secretary deems fair and reasonable, to be paid out of any moneys available for such payments The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States, and any such agreement shall be deemed to be lawful Such licenses shall be subject to such terms and conditions, not in conflict with existing Acts of Congress or regulations pursuant thereto, as may be necessary to eliminate unfair practices or charges that prevent or tend to prevent the effectuation of the declared policy and the restoration of normal economic conditions in the marketing of such commodities or products and the financing thereof. The Secretary of Agriculture may suspend or revoke any such license, after due notice and opportunity for hearing, for violations of the terms or conditions thereofâ€¦. When the Secretary of Agriculture determines that rental or benefit payments are to be made with respect to any basic agricultural commodity, he shall proclaim such determination, and a processing tax shall be in effect with respect to such commodity from the beginning of the marketing year therefor next following the date of such proclamation. The processing tax shall be levied, assessed, and collected upon the first domestic processing of the commodity, whether of domestic production or imported, and shall be paid by the processor If thereupon the Secretary finds that such result will occur, the processing tax shall be at such rate as will prevent such accumulation of surplus stocks and depression of the farm price the commodity Such sum shall remain available until expended. If the Secretary of Agriculture finds, after investigation and due notice and opportunity for hearing to interested parties, that such disadvantages in competition exist, or will exist, he shall proclaim such finding. The Secretary shall specify in this proclamation the competing commodity and the compensating rate of tax on the processing thereof necessary to prevent such disadvantages in competition. Thereafter there shall be levied, assessed, and

collected upon the first domestic processing of such competing commodity a tax, to be paid by the processor, at the rate specified, until such rate is altered pursuant to a further finding under this section, or the tax or rate thereof on the basic agricultural commodity is altered or terminated. In no case shall the tax imposed upon such competing commodity exceed that imposed per equivalent unit, as determined by the Secretary, upon the basic agricultural commodity. The tax refund or abatement provided in subsection a shall not apply to the retail stocks of persons engaged in retail trade, held on the date the processing tax is wholly terminated. Provided, That when any such notes are used for such purpose the bond or other obligation so acquired or taken up shall be retired and canceled. There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, an amount sufficient to enable the Secretary of the Treasury to retire and cancel 4 percentum annually of such outstanding notes, and the Secretary of the Treasury is hereby directed to retire and cancel annually 4 percentum of such outstanding notes. Such notes and all other coins and currencies heretofore or hereafter coined or issued by or under the authority of the United States shall be legal tender for all debts public and private. Section 19 of the Federal Reserve Act, as amended, is amended by inserting immediately after paragraph c thereof the following new paragraph:

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## 7: United States v. Borden Co. :: U.S. () :: Justia US Supreme Court Center

*also can enter into marketing agreements with processors, producers, associa- tions of producers and others engaged in the handling of milk as a further instru- ment of market stabilization.*

Bowers, of Los Angeles, Cal. Walton, of Fresno, Cal. Levin Aynesworth, of Fresno, Cal. Stern, of Washington, D. The questions for our consideration are whether the marketing program adopted for the raisin crop under the California Agricultural Prorate Act 1 is rendered invalid 1 by the Sherman Act, 15 U. After a trial upon oral testimony, a stipulation of facts and certain exhibits, the district court held that the raisin marketing program was an illegal interference with and undue burden upon interstate commerce and gave judgment for appellee granting the injunction prayed for. As appears from the evidence and from the findings of the district court, almost all the raisins consumed in the United States, and nearly one-half of the world crop, are produced in Raisin Proration Zone No. Between 90 and 95 per cent of the raisins grown in California are ultimately shipped in interstate or foreign commerce. The harvesting and marketing of the crop in California follows a uniform procedure. The grower of raisins picks the bunches of grapes and places them for drying on trays laid between the rows of vines. At this point the curing process is complete. The packers process them at their plants and then ship them in interstate commerce. Those raisins which are to be marketed in clusters are sometimes merely packed, unstemmed, in suitable containers, but are more often cleaned, fumigated, and, when necessary, steamed to make the stems pliable. Most of the raisins are not sold in clusters; such raisins are stemmed before packing, and most packers also clean, grade and sort them. One variety is also seeded before packing. The packers sell their raisins through agents, brokers, jobbers and other middlemen, principally located in other states or foreign countries. Until he is ready to ship the raisins the packer stores them in the form in which they have been received from producers. The packers frequently place orders with producers for fall delivery, before the crop is harvested, and at the same time enter into contracts for the sale of raisins to their customers. The California Agricultural Prorate Act authorizes the establishment, through action of state officials, of programs for the marketing of agricultural commodities produced in the state, so as to restrict competition among the growers and maintain prices in the distribution of their commodities to packers. The other eight members are appointed for terms of four years by the Governor and confirmed by the Senate, and are required to take an oath of office. The Director, with the approval of the commission, is then required to select a program committee from among nominees chosen by the qualified producers within the zone, to which he may add not more than two handlers or packers who receive the regulated commodity from producers for marketing. If the proposed program, as approved by the Commission, is consented to by 65 per cent in number of producers in the zone owning 51 per cent of the acreage devoted to production of the regulated crop, the Director is required to declare the program instituted. Authority to administer the program, subject to the approval of the Director of Agriculture, is conferred on the program committee. The seasonal proration marketing program for raisins, with which we are now concerned, became effective on September 7, The committee is required to establish receiving stations within the zone to which every producer must deliver all raisins which he desires to market. The raisins are graded at these stations. The committee is authorized to pledge the raisins held in those pools in order to secure funds to finance pool operations and make advances to growers. The complaint alleges that he is engaged within the marketing zone both in producing and in purchasing and packing raisins for sale and shipment interstate; that before the adoption of the program he had entered into contracts for the sale of crop raisins; that unless enjoined appellants will enforce the program against respondent by criminal prosecutions and will prevent him from marketing his crop, from fulfilling his sales contracts, and from purchasing for sale and selling in interstate commerce raisins of that crop. It also appears that the district court having awarded the final injunction prayed, appellee has proceeded with the marketing of his crop and has disposed of all except twelve tons, which remain on hand. Railway Express Agency, U. We may assume for present purposes that the

California prorate program would violate the Sherman Act if it were organized and made effective solely by virtue of a contract, combination or conspiracy of private persons, individual or corporate. We may assume also, without deciding, that Congress could, in the exercise of its commerce power, prohibit a state from maintaining a stabilization program like the present because of its effect on interstate commerce. See Adams Express Co. Atlantic Coast Line, U. Central Illinois Public Service Co. But it is plain that the prorate program here was never intended to operate by force of individual agreement or combination. It derived its authority and its efficacy from the legislative command of the state and was not intended to operate or become effective without that command. We find nothing in the language of the Sherman Act or in its history which suggests that its purpose was to restrain a state or its officers or agents from activities directed by its legislature. The Sherman Act makes no mention of the state as such, and gives no hint that it was intended to restrain state action or official action directed by a state. A state may maintain a suit for damages under it, State of Georgia v. That its purpose was to suppress combinations to restrain competition and attempts to monopolize by individuals and corporations, abundantly appears from its legislative history. See Apex Hosiery Co. United States, U. True, a state does not give immunity to those who violate the Sherman Act by authorizing them to violate it, or by declaring that their action is lawful, Northern Securities Co. It is the state which has created the machinery for establishing the prorate program. Although the organization of a prorate zone is proposed by producers, and a prorate program, approved by the Commission, must also be approved by referendum of producers, it is the state, acting through the Commission, which adopts the program and which enforces it with penal sanctions, in the execution of a governmental policy. The prerequisite approval of the program upon referendum by a prescribed number of producers is not the imposition by them of their will upon the minority by force of agreement or combination which the Sherman Act prohibits. The state itself exercises its legislative authority in making the regulation and in prescribing the conditions of its application. The required vote on the referendum is one of these conditions. The state in adopting and enforcing the prorate program made no contract or agreement and entered into no conspiracy in restraint of trade or to establish monopoly but, as sovereign, imposed the restraint as an act of government which the Sherman Act did not undertake to prohibit. Such orders may allot the amounts which handlers may purchase from any producer by means which equalize the amount marketed among producers; may provide for the control and elimination of surpluses and for the establishment of reserve pools of the regulated produce. We may assume that the powers conferred upon the Secretary would extend to the control of surpluses in the raisin industry through a pooling arrangement such as was promulgated under the California Prorate Act in the present case. See United States v. We may assume also that a stabilization program adopted under the Agricultural Marketing Agreement Act would supersede the state act. But the federal act becomes effective only if a program is ordered by the Secretary. Since the Secretary has not given notice of hearing and has not proposed or promulgated any order regulating raisins it must be taken that he has no reason to believe that issuance of an order will tend to effectuate the policy of the Act. From this and the whole structure of the Act, it would seem that it contemplates that its policy may be effectuated by a state program either with or without the promulgation of a federal program by order of the Secretary. It follows that the adoption of an adequate program by the state may be deemed by the Secretary a sufficient ground for believing that the policies of the federal act will be effectuated without the promulgation of an order. It is evident, therefore, that the Marketing Act contemplates the existence of state programs at least until such time as the Secretary shall establish a federal marketing program, unless the state program in some way conflicts with the policy of the federal act. The only possibility of conflict would seem to be if a State program were to raise prices beyond the parity price prescribed by the Federal Act, a condition which has not occurred. These loans were ultimately liquidated by sales of 76, tons to packers and 33, tons to the Federal Surplus Marketing Administration, an agency of the Department of Agriculture, 6 for relief distribution and for export under the Lend-Lease program. We are informed by the Government, which at our request filed a brief amicus curiae, that under the loan agreement prices and sales policies as to the pledged raisins were to be controlled by a committee appointed by the Secretary, and that

officials of the Department of Agriculture collaborated in drafting the state raisin program. Section of the Agricultural Adjustment Act of requires the Commodity Credit Corporation to make non-recourse loans to producers of certain agricultural products at specified percentages of the parity price, and authorizes loans on any agricultural commodity. The conditions imposed by the Secretary of Agriculture in the loan agreement with the State of California, and the collaboration of federal officials in the drafting of the program, must be taken as an expression of opinion by the Department of Agriculture that the state program thus aided by the loan is consistent with the policies of the Agricultural Adjustment and Agricultural Marketing Agreement Acts. We find no conflict between the two acts and no such occupation of the legislative field by the mere adoption of the Agricultural Marketing Agreement Act, without the issuance of any order by the Secretary putting it into effect, as would preclude the effective operation of the state act. We have no occasion to decide whether the same conclusion would follow if the state program had not been adopted with the collaboration of officials of the Department of Agriculture and aided by loans from the Commodity Credit Corporation recommended by the Secretary of Agriculture. Validity of the Program under the Commerce Clause The court below found that approximately 95 per cent of the California raisin crop finds its way into interstate or foreign commerce. It is not denied that the proration program is so devised as to compel the delivery by each producer, including appellee, of over two-thirds of his raisin crop to the program committee, and to subject it to the marketing control of the committee. The program, adopted through the exercise of the legislative power delegated to state officials, has the force of law. It clothes the committee with power and imposes on it the duty to control marketing of the crop so as to enhance the price or at least to maintain prices by restraints on competition of producers in the sale of their crop. The program operates to eliminate competition of the producers in the terms of sale of the crop, including price. And since 95 per cent of the crop is marketed in interstate commerce the program may be taken to have a substantial effect on the commerce, in placing restrictions on the sale and marketing of a product to buyers who eventually sell and ship it in interstate commerce. The question is thus presented whether in the absence of congressional legislation prohibiting or regulating the transactions affected by the state program, the restrictions which it imposes upon the sale within the state of a commodity by its producer to a processor who contemplates doing, and in fact does work upon the commodity before packing and shipping it in interstate commerce, violate the Commerce Clause. The governments of the states are sovereign within their territory save only as they are subject to the prohibitions of the Constitution or as their action in some measure conflicts with powers delegated to the National Government, or with Congressional legislation enacted in the exercise of those powers. This Court has repeatedly held that the grant of power to Congress by the Commerce Clause did not wholly withdraw from the states the authority to regulate the commerce with respect to matters of local concern, on which Congress has not spoken. Minnesota Rate Cases Simpson v. Shepard , U. A fortiori there are many subjects and transactions of local concern not themselves interstate commerce or a part of its operations which are within the regulatory and taxing power of the states, so long as state action serves local ends and does not discriminate against the commerce, even though the exercise of those powers may materially affect it. Crescent Cotton Oil Co. Corporation Commission U. And such regulations of manufacture have been sustained where, aimed at matters of local concern, they had the effect of preventing commerce in the regulated article. Corporation Commission, supra; Sligh v. Consolidated Gas Utilities Corp. Bayside Fish Flour Co. A state is also free to license and tax intrastate buying where the purchaser expects in the usual course of business to resell in interstate commerce. And no case has gone so far as to hold that a state could not license or otherwise regulate the sale of articles within the state because the buyer, after processing and packing them, will, in the normal course of business, sell and ship them in interstate commerce. All of these cases proceed on the ground that the taxation or regulation involved, however drastically it may affect interstate commerce, is nevertheless not prohibited by the Commerce Clause where the regulation is imposed before any operation of interstate commerce occurs. Applying that test, the regulation here controls the disposition, including the sale and purchase, of raisins before they are processed and packed preparatory to

interstate sale and shipment. The regulation is thus applied to transactions wholly intrastate before the raisins are ready for shipment in interstate commerce. It is for this reason that the present case is to be distinguished from Lemke v. There the state regulation held invalid was of the business of those who purchased grain within the state for immediate shipment out of it. The Court was of opinion that the purchase of the wheat for shipment out of the state without resale or processing was a part of the interstate commerce. This distinction between local regulation of those who are not engaged in commerce, although the commodity which they produce and sell to local buyers is ultimately destined for interstate commerce, and the regulation of those who engage in the commerce by selling the product interstate, has in general served, and serves here, as a ready means of distinguishing those local activities which, under the Commerce Clause, are the appropriate subject of state regulation despite their effect on interstate commerce. But courts are not confined to so mechanical a test. When Congress has not exerted its power under the Commerce Clause, and state regulation of matters of local concern is so related to interstate commerce that it also operates as a regulation of that commerce, the reconciliation of the power thus granted with that reserved to the state is to be attained by the accommodation of the competing demands of the state and national interests involved. See Di Santo v. Eisenberg Farm Products, U. Central Illinois Public Service Comm. Filburn, supra, not because they control interstate activities in such a manner as only to affect the commerce rather than to command its operations.

# PERMITTING PRODUCERS OF HOPS TO ENTER INTO MARKETING AGREEMENTS UNDER AGRICULTURAL ADJUSTMENT ACT. pdf

## 8: US United States v. Borden Co | OpenJurist

*The Agricultural Marketing Agreement Act of was enacted to assure dairy producers a price for milk, "which shall reflect the price of feeds, the available supply of feeds and other economic conditions.*

A judgment quashing a count upon the ground of duplicity is not appealable to this Court under the Criminal Appeals Act. A decision of the District Court holding that an indictment failed to charge an offense under the Sherman Anti-Trust Act because of the effect on that Act of later statutes, held a construction of the Sherman Act and reviewable under the Criminal Appeals Act. Repeals by implication are not favored. When there are two Acts upon the same subject, effect should be given to both if possible. The Agricultural Marketing Agreement Act of does not operate to repeal the Sherman Anti-Trust Act in its application to agreements of producers, distributors and others, restricting interstate commerce in milk, when such agreements are not participated in or directed by the Secretary of Agriculture in pursuance of the former Act. Further than that the Agricultural Act does not go. A license issued by the Secretary of Agriculture with respect to the marketing of milk in a given area is not a defense to an indictment under the Sherman Act for conspiracies in restraint of that commerce, alleged to have been continued after the license had expired. An order issued under the Agricultural Marketing Agreement Act regulating marketing of milk is not a defense to an indictment of producers, distributors and others under the Sherman Act charging conspiracies engaged in before the period covered by the order. The Capper-Volstead Act, in authorizing producers of agricultural products, including dairymen, to act together in collectively processing, preparing for market, handling and marketing their products in interstate and foreign commerce, and to have marketing agencies in common and make necessary agreements to effect these purposes, did not authorize a conspiracy of dairymen with distributors, labor officials, municipal officials, and others, to maintain artificial and noncompetitive prices to be paid to all producers for all fluid milk produced in Illinois and neighboring States and marketed in the Chicago area, which would compel independent distributors to exact a like price from their customers and would control the supply of fluid milk permitted to be brought to the city. Where the District Court has based its decision on a particular construction of the underlying statute, the review here under the Criminal Appeals Act is confined to the question of the propriety of that construction. Distinguishing United States v. As to one of the counts, the appeal is dismissed. The Government divides the defendants into five groups -- 1 distributors and allied groups which include a number of corporations described as major distributors and their officers and agents, the Associated Milk Dealers, Inc. The indictment, which was filed in November, , contains four counts. The several defendants challenged it by demurrers and motions to quash on various grounds. The District Court held with respect to counts one, two and four that the production and marketing of agricultural products, including milk, are removed from the purview of the Sherman Act by the Agricultural Marketing Agreement Act of 50 Stat. With respect to count three, the District Court held that it was duplicitous in the view that it charged several separate conspiracies and also that it did not definitely charge a restraint of interstate commerce. The judgment expressly overruled the demurrers and motions to quash so far as they challenged the constitutionality of the Sherman Act or the sufficiency of the allegations of unlawful conspiracy, and also so far as it was contended that interstate commerce was not involved in counts one, two and four. The judgment ends by dismissing the indictment as to all defendants. The first question presented concerns our jurisdiction. The exceptional right of appeal given to the Government by the Criminal Appeals Act is strictly limited to the instances specified. The established principles governing our review are these: In that case, we cannot disturb the judgment, and the question of construction becomes abstract. The first two of these principles, as the Government concedes, preclude our review of the decision below as to count three. For that count was held bad upon the independent ground that it is defective as a pleading, being duplicitous and also lacking in definiteness. The appeal as to count three must be dismissed. This construction of the indictment is binding upon this Court on this appeal. The District Court, thus construing counts one, two and four, held as a

matter of substance that, because Page U. This was necessarily a construction of the Sherman Act. Patten, supra; United States v. We are not impressed with the argument that the court simply construed the later statutes. The effect of those statutes was considered in determining whether the Sherman Act has been so modified and limited that it no longer applies to such combinations and conspiracies as are charged in counts one, two and four. Thus, the Sherman Act was not the less construed because it was construed in the light of the subsequent legislation. We have jurisdiction under the Criminal Appeals Act to determine whether the construction thus placed upon the Sherman Act is correct. With respect to the Clayton Act, [ Footnote 2 ] the court said in its opinion: Such cooperative organizations, in and of themselves, were not to be construed as illegal combinations or conspiracies in restraint of trade under the antitrust laws. But the court did not hold that, by these provisions of the Clayton Act, either the defendants Pure Milk Association and its officers and agents or the defendants Milk Wagon Drivers Union, Local , and its officials, albeit these organizations were not in themselves illegal combinations or conspiracies were rendered immune from prosecution under the Sherman Act for their alleged participation in the combinations and conspiracies charged in counts one, two and four of the indictment. The court invoked the Capper-Volstead Act, [ Footnote 3 ] as its judgment shows, only in relation to certain defendants, that is, the Pure Milk Association, an agricultural cooperative organization, and its officers and agents. We shall consider later the effect of that statute upon the charge against those defendants. The court dismissed the indictment as to 11 defendants, and we think it manifest that this ruling, in its bearing upon counts one, two and four, was due to the effect upon the Sherman Act which the court attributed to the Agricultural Marketing Agreement Act. If conditions require, he must act; if they do not require action, then all marketing conditions are deemed satisfactory, and the purpose of the act is effectuated. Nonaction by the Secretary of Agriculture, in any given marketing area, is equivalent to a declaration that the policy of the act, in that area, is being carried out. If the policy of the act, in any given milk area, is being violated, it becomes the duty of the Secretary of Agriculture to intervene and invoke the powers conferred upon him by the act. It follows further that the Secretary of Agriculture cannot, by his own action or inaction, divest himself of this power so long as the statute remains in force. The marketing of the agricultural products, including milk, covered by the Agricultural Marketing Agreement Act, is removed from the purview of the Sherman Act. In other words, so far as the marketing of agricultural commodities, including milk, is concerned, no indictment will lie under section 1 of the Sherman Act. It will be observed that the District Court attributes this effect to the Agricultural Marketing Agreement Act per se, that is, to its operation in the absence, and without regard to the scope and particular effect, of any marketing agreements made by the Secretary of Agriculture or of any orders issued by him pursuant to the Act. In the opinion of the court below, the existence of the authority Page U. We are of the opinion that this conclusion is erroneous. No provision of that purport appears in the Agricultural Act. While effect is expressly given, as we shall see, to agreements and orders which may validly be made by the Secretary of Agriculture, there is no suggestion that, in their absence, and apart from such qualified authorization and such requirements as they contain, the commerce in agricultural commodities is stripped of the safeguards set up by the Anti-Trust Act and is left open to the restraints, however unreasonable, which conspiring producers, distributors and their allies may see fit to impose. We are unable to find that such a grant of immunity by virtue of the inaction, or limited action, of the Secretary has any place in the statutory plan. We cannot believe that Congress intended to create "so great a breach in historic remedies and sanctions. When there are two acts upon the same subject, the rule is to give effect to both if possible. United States, U. The intention of the legislature to repeal "must be clear and manifest. It is not sufficient, as was said by Mr. Justice Story in Wood v. United States, 16 Pet. National City Bank, U. The Sherman Act is a broad enactment prohibiting unreasonable restraints upon interstate commerce, and monopolization or attempts to monopolize, with penal sanctions. The Agricultural Act is a limited statute with specific reference to particular transactions which may be regulated by official action in a prescribed manner. The Agricultural Act [ Footnote 6 ] declares it to be the policy of Congress, "through the exercise of the powers conferred upon the Secretary of Agriculture under this chapter, to establish and maintain such

orderly marketing conditions for agricultural commodities in interstate commerce as will establish prices to farmers at a level that will give agricultural commodities a purchasing power with respect to articles that farmers buy, equivalent to the purchasing power of agricultural commodities in the base period" described. To carry out that policy, a particular plan is set forth. Farmers and others are not permitted to resort to their own devices and to make any agreements or arrangements they desire, regardless of the restraints which may be inflicted upon commerce. The statutory program to be followed under the Agricultural Act requires the participation of the Secretary of Agriculture, who is to hold hearings and make findings. The obvious intention is to provide for what may be found to be reasonable arrangements in particular instances and in the light of the circumstances disclosed. The methods which the Agricultural Act permits to attain that result are two-fold, marketing agreements and orders. To give validity to marketing agreements, the Secretary must be an Page U. As to agreements and arrangements not thus agreed upon or directed by the Secretary, the Agricultural Act in no way impinges upon the prohibitions and penalties of the Sherman Act, and its condemnation of private action in entering into combinations and conspiracies which impose the prohibited restraint upon interstate commerce remains untouched. It is not necessary to labor the point, for the Agricultural Act itself expressly defines the extent to which its provisions make the antitrust laws inapplicable. The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States, and any such agreement shall be deemed to be lawful: Provided, That no such agreement shall remain in force after the termination of this chapter. An agreement made with the Secretary as a party, or an order made by him, or an arbitration award or agreement approved by him pursuant to the authority conferred by the Agricultural Act and within the terms of the described immunity, would, of course, be a defense to a prosecution under the Sherman Act to the extent that the prosecution sought to penalize what was thus validly Page U. We have no occasion to decide whether, in any particular case, an indictment under the Sherman Act, by reason of its particular terms, would be subject to demurrer, or to a motion to quash, upon the ground that the indictment ran against the provisions of such an agreement or order. We have no such situation here. There is indeed a contention that there was a license No. But the allegations of the indictment are that the unlawful conspiracies continued throughout all the period mentioned in the indictment, that is, up to the time of its presentment in November,  This clearly imports that the conspiracies were operative after the license came to an end, and thus in the absence of any license. A conspiracy thus continued is, in effect, renewed during each day of its continuance. It is also said that there is a recent marketing order under date of August 29, , [ Footnote 14 ] which relates to the Chicago marketing area, and hence that this cause is moot. But that order affects a period subsequent to the time covered by the indictment. These contentions are unavailing in relation to the question before us. Our conclusion is that the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act, affords no ground for construing Page U. As to the Capper-Volstead Act, the court said: To that extent, it modifies the Sherman Act. It removes from the Sherman Act those organizations, cooperative in their nature, which come within the purview of the Capper-Volstead Act. Prior to the Capper-Volstead Act, farmers were treated no differently than others under the antitrust laws, so far as price-fixing was concerned. The Act then, by section 2 thereof, commits to an officer of the executive department, the Secretary of Agriculture, the power of regulation and visitation. We are unable to accept that view. We cannot find in the Capper-Volstead Act, any more than in the Agricultural Act, an intention to declare immunity for the combinations and conspiracies charged in the present indictment. Section 6 of the Clayton Act, enacted in , [ Footnote 16 ] had authorized the formation and operation of agricultural organizations provided they did not have capital stock or were conducted for profit, and it was there provided that the antitrust laws should not be construed to forbid members of such organizations "from lawfully carrying out the legitimate objects thereof. The Capper-Volstead Act, enacted in , [ Footnote 17 ] was made applicable as well to cooperatives having capital stock. They may have "marketing agencies in common," and they may make "the necessary contracts and agreements to effect such purposes. In this instance, the conspiracy charged is not that of merely forming a collective association of producers to market their products,

but a conspiracy, or conspiracies, with major distributors and their allied groups, with labor officials, municipal officials, and others, in order to maintain artificial and noncompetitive prices to be paid to all producers for all fluid milk produced in Illinois and neighboring States and marketed in the Chicago area, and thus, in effect, as the indictment is construed by the court below, "to compel independent distributors to exact a like price from their customers," and also to control "the supply of fluid milk permitted to be brought to Chicago. Section 2 of the Capper-Volstead Act does provide a special procedure in a case where the Secretary of Agriculture has reason to believe that any such association "monopolizes" or restrains interstate trade "to such an extent that the price of any agricultural product is unduly enhanced. And if, upon such hearing, the Secretary is of the opinion that the association "monopolizes" or does restrain interstate trade to the extent above mentioned, he then is to issue an order directing Page U. Provision is made for judicial review. We find no ground for saying that this limited procedure is a substitute for the provisions of the Sherman Act, or has the result of permitting the sort of combinations and conspiracies here charged unless or until the Secretary of Agriculture takes action.

# PERMITTING PRODUCERS OF HOPS TO ENTER INTO MARKETING AGREEMENTS UNDER AGRICULTURAL ADJUSTMENT ACT. pdf

## 9: FAIRDALE FARMS v. YANKEE | F.2d () | 2d | www.enganchecubano.com

*The Agricultural Adjustment Act of authorized the Secretary of Agriculture to enter into marketing agreements with handlers, processors, and others and.*

Supreme Court compares the long-term actions of the federal government to the misdeeds of the Soviet Union. But it happened on April 22, , when the Court heard oral arguments in the case of Horne v. United States Department of Agriculture. At issue was the U. He implored the justices to leave the confiscatory practice in place. Central planning was thought to work very well in , the year in which Congress passed the Agricultural Marketing Agreement Act. That sweeping New Deal law empowered the secretary of agriculture to fix prices, set production quotas, and otherwise attempt to plan the entire agricultural economy of the United States of America. USDA is more than just the story of small farmers fighting back against big government. The market was saturated, prices were plummeting, and the entire agricultural sector appeared to be on the verge of collapse. Roosevelt proposed a bold solution. In exchange for lucrative federal goodies such as subsidies, loans, price supports, and tariffs, he explained to the Democratic faithful, farmers would be expected to toe a new line set by the best and brightest in Washington. His dream of central planning was made real via the Agricultural Adjustment Act of  This far-reaching piece of federal legislation empowered the secretary of agriculture to fix prices, set quotas, and bring about a "reduction in the acreage or reduction in the production for market, or both, of any basic agricultural commodity. Other times they told farmers not to grow any crops at all. Some farmers were even paid to burn crops or slaughter livestock. Whatever the means, the end was always the same: Create an "orderly" market by restricting the number of agricultural goods available for sale. Never mind the fact that millions would go hungry during the Great Depression while the federal government destroyed food and induced artificial scarcity. Because planning the entire agricultural economy is a big job, the New Dealers turned to their friends in big agribusiness for help. Specifically, under the terms of both the Agricultural Adjustment Act and the Agricultural Marketing Agreement Act, the secretary of agriculture was authorized "to enter into marketing agreements with processors, producers, associations of producers, and others engaged in the handling of any agricultural commodity or product. Farmers plant the crops. Packing companiesâ€”or "handlers"â€”buy crops from farmers and then sort them, seed them, stem them, package them, and otherwise prepare them for sale to the public. The marketing agreement is made between the government and the handlers. Together they decide how much the farmers are permitted to grow, how much the farmers will be paid for what they grow, and how much the handlers get to charge consumers for the final product. This arrangement carries the force of law. The packing companies, Tugwell explained, "would accept the responsibility for paying farmers higher prices. But this would not be bad; they would pass on the increases to consumers. In return, they asked only one favor: In the words of the Agricultural Marketing Agreement Act, "the making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States. Those surrendered raisins would be known as the "reserve" and they would become the property of the Raisin Administrative Committee, an arm of the USDA staffed by bureaucrats and handlers selected by the secretary of agriculture.

# PERMITTING PRODUCERS OF HOPS TO ENTER INTO MARKETING AGREEMENTS UNDER AGRICULTURAL ADJUSTMENT ACT. pdf

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