

# COURT VOIDS TRIPLE-A ACT IN 6-3 RULING

(Continued From Page One)

A right to change the basic law whenever they wish.

If the farm aid legislation were valid, Justice Roberts said, it would be possible for congress to regulate industry in its most meticulous forms.

The decision was 6 to 3.

Justice Stone, Brandeis and Cardozo dissented.

### Campaign Problem Arises

Speculation how the presidential campaign would be affected stirred instantly when the news reached the capitol. Legislators turned in private from the business of the moment examination of the 1936-37 new deal budget to mull over the possibilities.

Republican determination on farm plank alternatives long had been awaiting the supreme court attitude.

What the new deal would do was awaited eagerly.

Secretary Wallace reserved comment.

It was indicated there would not be any immediately from the administration. Councils of war were called.

President Roosevelt learned of the turn but also had nothing to say.

### Compulsory Clauses Found

Roberts said the farm plan was "not in essence voluntary."

"It had a compulsory purpose," he declared.

"If the act called only for a voluntary plan it would be no better."

"Presumably, the government will seek to find a way to pay approximately \$300,000,000 due on contracts still unpaid.

Federal lawyers have indicated belief these can be considered binding governmental obligations. It remains to be worked out, however.

Watched through a partially open door, Secretary Wallace did not change his expression as he glanced at the faithful message, laid it aside and continued his discussion with a visitor.

Roberts said the AAA amendments enacted last August made no difference as congress could not ratify something it did not have the power to do originally.

### Threat to Local Government

"Congress might redistribute

the entire industrial population if this act were upheld," he said seriously.

"The United States government could destroy local self government."

As soon as he finished Justice Stone read the dissenting opinion.

"The present stress of widely held and strongly expressed difference of opinion of the wisdom of the agricultural adjustment act makes it important, in the interest of clear thinking and sound result," he said, "to emphasize at the outset certain propositions which should have controlling influence in determining the validity of the act."

### Court's Position Outlined

"They are:

"1. The power of courts to declare a statute unconstitutional is subject to two guiding principles of decision which ought never to be absent from judicial consciousness.

"One is that courts are concerned only with the power to enact statutes not with their wisdom.

"The other is that while unconstitutional exercise of power by the executive and legislative branches of the government is subject to judicial restraint, the only check upon our own exercise of power is our own sense of self-restraint.

"For the removal of unwise laws from the statute books appeal lies not to the courts but to the ballot and to the processes of democratic government.

"2. The constitutional power of congress to levy an excise tax upon the processing of agricultural products is not questioned.

"The announced goal of the AAA had been to give farmers 'parity' prices for their products.

### Added to Farm Value

Parity prices were considered those which would enable the farmers to buy now the amount of manufactured goods they could have bought with the cash their crops brought in on the average between 1909 and 1914.

Parity prices also were described as the "fair exchange value."

A recent AAA compilation showed prices received by farmers for their products was averaging 86 per cent of parity. This was a gain of eight per cent over the same date in 1934.

The AAA attempted, it was said, to make benefit payments which, added to the farm values for crops, would give the farmers a parity price income for their labor.

Recently, only two types of tobacco and milk retailed directly by farmers were above parity. Milk was rated at 114 per cent of parity; flue cured to-

bacco, 114 per cent, and fire-cured tobacco, 117 per cent.

Hogs, rated at 105 per cent in October, were 94 per cent; cotton, 74 per cent; wheat, 89 per cent; corn, 70 per cent and rice, 45 per cent.

Only today President Roosevelt informed congress he was removing AAA from "emergency" status to that of a regular government activity. In his budget, he asked appropriation of \$499,000,000 to carry it through the fiscal year beginning July 1.

### Over Billion Paid

Since May 1933, over \$1,127,000,000 has been paid farmers for crop adjustments. The corn-hog program was most expensive, amounting to \$378,000,000.

Meat packers, wheat millers and cotton spinners paid in about two-thirds of the processing taxes. The last figures showed hog levies collected were \$267,216,396; cotton, \$243,139,394; and wheat, \$247,228,745.

Sugar taxes were \$38,203,525; tobacco, \$59,329,032; lute and paper, \$12,735,692; corn, \$11,866,473; peanuts, \$3,687,859; rice, \$153,975; rye, \$1,266, and unclassified, \$171,852.

Cotton ginning taxes collected under the Bankhead act were \$1,158,651, and tobacco sales taxes, collected under the Kerr-Smith act, \$3,516,991.

Officials estimated that over \$150,000,000 in processing taxes now were impounded in the courts under injunctions granted since last spring. These funds now evidently will be returned to those who sued.

### President's Act Scored

The momentous decision altered the record of the new deal before the highest tribunal.

NRA lost out in the spring unanimously, the oil control section of the recovery act was invalidated eight to one, the rail pension plan failed by five to four; and the invalidation of the gold payment in private contracts won only by the margin of one.

In addition, the Frazier-Lemke farm mortgage moratorium which the president signed although he had not proposed it—was ruled against unanimously. All nine justices held Mr. Roosevelt went beyond the law in summarily dismissing the late William Humphrey from the trade commission.

The news spread quickly about the senate chamber, coming during the reading of the president's budget message.

Wide grins appeared on the faces of several republican senators and general conversation became so widespread on both sides that the vice-president rapped for order.

Senator McNary, the republican leader, planned soon to introduce a farm plan providing

three optional methods designed to make the tariff effective for farmers and raise the farmers' world price for surplus crops.

They are the old export de-benture plan, the equalization fee vetoed twice by President Coolidge and the democratic allotment plan.

"None of these require processing taxes, acreage control or benefit payments and all are constitutional," he said.

The court majority flatly rejected the government's position that the AAA should, in effect, be considered two statutes, one levying a tax and the other appropriating public money.

"Passing the novel suggestion that the two statutes enacted as parts of a single scheme should be tested as if they were distinct and unrelated," the opinion said, "we think the legislation now before us is not susceptible of such separation and treatment."

### Purpose of Act Ignored

"The tax can only be sustained by ignoring the avowed purpose and operation of the act and holding it a measure merely levying an excise on processors to raise revenue for the support of the government."

"The tax plays an indispensable part in the plan of regulation.

"The whole revenue from the levy is appropriated in aid of crop control; none of it is made available for general governmental use."

"The statute not only avows an aim foreign to the procurement of revenue for the support of government, but by its operation shows the taxation made upon processors to be the necessary means for the intended control of agricultural production."

Concluding this discussion, the majority held that "the act is one regulating agricultural production; that the tax is a mere incident of such regulation, and that the respondents have standing to challenge the legality of the taxation.

Turning to whether the law was proper under the general welfare clause, the court held

that the United States was a government of delegated powers.

"The same proposition, otherwise stated, is that powers not granted are prohibited," it said.

End Not Legitimate

"None to regulate agricultural production is given, and therefore legislation by congress for that purpose is forbidden.

"It is an established principle that the attainment of a prohibited end may not be accomplished under the pretext of the exertion of powers which are granted."

"The power of taxation, which is expressly granted, may, of course, be adopted as a means to carry into operation another power also expressly granted.

"But resort to the taxing power to effectuate an end which is not legitimate, not within the scope of the constitution, is obviously inadmissible."

The court then raised the question whether if taxing power could not be used to enforce a regulation of matters of state concern, could it be used to raise money to "purchase a compliance which the contractor is powerless to command."

"The regulation is not in fact voluntary.

"The farmer, of course, may refuse to comply, but the price of such refusal is the loss of benefits.

"The amount offered is intended to be sufficient to exert pressure on him to agree to the proposed regulations.

Too Much Power

"The power to confer or withhold unlimited benefits is the power to coerce or destroy."

"But if the plan were one for purely voluntary cooperation it would stand no better so far as federal power is concerned.

"At best it is a scheme for purchasing with federal funds submission to federal regulation of a subject reserved to the states."

"The congress can not invade state jurisdiction to compel individual action; no more can it purchase such action."

"The United States can make the contract only if the federal

power to tax and to appropriate reaches the subject matter of the contract."

"Congress has no power to enforce its commands on the farmer to the ends sought by the agricultural adjustment act.

"It must follow that it may not indirectly accomplish these ends by taxing and spending the purchase compliance.

"The constitution and the entire plan of our government negatives any such use of the power to tax and to spend as the act undertakes to authorize.

"It does not help to declare that local conditions throughout the nation have created a situation of national concern."

### Funerals

#### JOSE BALL HART

Jose Ball Hart, for years a resident of Klamath Agency, passed away at the Agency hospital Sunday, January 5, at 3:09 a. m. following an illness of three months. He was a native of Warm Springs, Oregon, and at the time of her death was aged 84 years. Surviving are her husband, Daniel Hart of Klamath Agency; two daughters, Elsie Williams and Josie Holmes, and one son, Mose Hart, all of Chiliquia. Funeral services will be held in the Williamson River church, Tuesday, January 7, at 2:00 p. m. with the Rev. B. V. Bradshaw officiating, to which friends are invited. Commitment services and interment Wilson cemetery. Arrangements are under the direction of the Earl Whitlock Funeral Home of this city.

### Judge Richmond Lists City Fines

Fines and bail forfeitures collected during the month of December by Police Judge Richmond totaled \$513.75, according to the month-end report.

Arrest made by city police department during the month numbered 153, and other investigations and activities of the department totaled 196.

## HOUSING MEETING SET FOR TONIGHT

Officials of the Federal Housing Administration came into Klamath Falls Monday for a campaign that opens with a meeting tonight of dealers interested in the housing act.

This session is called for 7:30 p. m. at the chamber of commerce. A large attendance of dealers was urged.

Officials here include Leslie Peyton, financial relations manager for the state program; J. H. Hodges, field representative; Stewart Jamison, field representative, and John R. Towles, regional representative from San Francisco.

Peyton is a former Klamath Falls real estate man.

### Weather

The Cyclo-Stormograph at Underwood's pharmacy still registers a rather low barometric pressure and unsettled conditions, with flurries of snow, are probable in the near period. Temperatures will remain about the same.

The Tycos recording thermom-

eter registered maximum and minimum temperatures Monday as follows:

High ..... 40

Low ..... 27

Forecast for next 24 hours: Unsettled, cool.

### Obituary

#### LEONARD LYONS

Leonard Lyons, for several years a resident of this city passed away Sunday, January 5, at 9:45 a. m. following an illness of 10 days. He was a native of Vermillion, Illinois, and at the time of his death was aged 53 years, 10 months and 17 days. He is survived by several brothers and sisters in the east. The remains rest at the Earl Whitlock Funeral Home, Pine street at Sixth, awaiting word from the relatives. Notice of funeral to be announced later.

### What Price Disaster?

No amount of money can compensate for human suffering. But the knowledge that you own a Pacific Mutual 5-Way Policy and are protected financially against sickness, accident, loss of limbs or sight, old age and death taken the worry out of disabilities.

R. D. ("Hod") Eller  
Harry Molefere  
Underwood Building

# NOW..ON SALE!

## NATION-WIDE

# Double-Mellow Old Golds



Since October 6, 1935  
Old Gold's Double-Money-Back Offer has  
been presented to smokers in many cities.  
... Now open to Klamath Falls smokers.

# DOUBLE YOUR MONEY BACK

...if it isn't the finest cigarette you ever smoked

TODAY, throughout Klamath Falls cigarette counters offer you a new cigarette delight. Double-Mellow Old Golds, made of the finest tobacco ever put in a cigarette.

But we are getting ahead of our story. Lorillard set out to create a new standard of quality in popular priced cigarettes. "Never mind the cost!" Lorillard's leaf men were told. "Go out and buy up the pick of the world's prize tobacco crops.

"Scour the American and Turkish markets. Get the luxury types of tobacco; those customarily used in the most expensive cigarettes."

Lorillard had to wait two long years before this tobacco could be passed along to you. Now, double-aged and mellowed... it is ready for you in Double-Mellow Old Golds.

### Prize Crop Quality

at no extra cost!

- Add up all the claims you have ever read or heard about cigarettes.
1. They're milder.
  2. They taste better.
  3. They give you a pick-me-up.
  4. They're easy on the throat.

The sum total is the thrill you get in Double-Mellow Old Golds.

Claims are easy to make... but you can't smoke claims. An Old Gold in your lips is better than all the adjectives in the dictionary.

So we invite you to try Double-Mellow Old Golds on this "double-your-money-back" guarantee.

READ THE OFFER!

### If you don't get a thrill, we'll pay the bill (and DOUBLE)

TAKE a sporting chance on a pack of Double-Mellow Old Golds. Smoke ten of the cigarettes. If you don't say they're the finest you ever tasted, mail the package wrapper with the ten remaining cigarettes to us, at any time before May 1st, 1936, and we'll send you double the price you paid for the full package, plus postage.

Lorillard Company  
Established 1760  
119 West 40th Street, New York City



PRIZE CROP TOBACCO

# No change in the package, BUT, BOY... wait 'til you taste these DOUBLE-MELLOW cigarettes!

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A wonderful New Way to buy materials--- A fine assortment of both plain and printed---All brand new---At a fraction of their real value!



NO MEASURING NO CUTTING NO SAMPLES NO WAITING

**White Seal**  
3 to 5 yard Lengths  
If bought by the yard would be \$3.00 to \$3.50 the length.

**\$1.98** the length

**Blue Seal**  
3 1/2 to 5 1/2 yard Lengths  
If bought by the yard would be \$4.00 to \$5.00 the length.

**\$2.98** the length

THE MATERIALS Silks and Acetates Pure Dye and Weighted Plain and Printed Sport Weaves - Rough Weaves Canton Crepes - Nubby Weaves Cereal Crepes - Satins Hundreds of the season's popular novelties, plain and printed

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