THE

STATUTES AT LARGE

OF THE

UNITED STATES OF AMERICA

FROM

JANUARY 1935 TO JUNE 1936

CONCURRENT RESOLUTIONS
RECENT TREATIES AND CONVENTIONS, EXECUTIVE
PROCLAMATIONS AND AGREEMENTS

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PART 1—Public Acts and Resolutions.

PART 2—Private Acts and Resolutions, Concurrent Resolutions, Treaties and Conventions, Executive Proclamations and Agreements.

PART 1

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such property, or a proper part thereof, upon the first grant of such assistance, or at any time thereafter that it deems advisable for the purpose of safeguarding the interest of an applicant or for the protection of the funds of the District of Columbia. Such agency shall establish such rules and regulations regarding the care, management, transfer, and sale of such property as it deems advisable and shall provided [1] for the return of the balance of the claimant's property into his hands whenever the assistance is withdrawn or the claimant ceases to request it. If the District of Columbia collects from the estate of any recipient of old-age assistance any amount with respect to old-age assistance furnished him under this Act, one half of the net amount so collected shall be paid to the United States in accordance with the provisions of Title I of the Social Security Act.

Rules.

Division of refunds.

Ante, p. 620.

Annual appropriations authorized.
Post, pp. 1115, 1881.

SEC. 13. Congress shall appropriate annually and make available to the order of the Board of Commissioners of the District of Columbia such sums as may be needed to pay the share of the District of Columbia for old-age assistance, provided under this Act together with a sufficient sum to defray its share [1] administrative expenses to be incurred in connection therewith, and include such sums in the annual District of Columbia appropriation Act. Should the sums so appropriated, however, be expended or exhausted during the year for the purposes for which it was appropriated, additional sums shall be appropriated by Congress as occasion demands to carry out the provisions of this Act.

Administrative expenses.

SEC. 14. All necessary expenses incurred by the District of Columbia in carrying out the provision [1] of this Act shall be paid in the same manner as other expenses of the District of Columbia are paid.

Federal Social Security Board.
Local cooperation with, directed.

SEC. 15. The Board of Commissioners or its designated agency is hereby authorized and directed to cooperate in all necessary respects with the Social Security Board of the United States Government in the administration of this Act, and to accept any sums allotted or apportioned by such Board as are available under the provisions of the Social Security Act.

Effective date.

SEC. 16. This Act shall take effect ninety days after its passage.

Approved, August 24, 1935.

[CHAPTER 641.]

AN ACT

August 24, 1935.
[H. R. 8492.]
[Public, No. 320.]

To amend the Agricultural Adjustment Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first sentence of subsection (1) of section 2 of the Agricultural Adjustment Act, as amended, is amended by striking out the first word and inserting in lieu thereof the following: "Through the exercise of the powers conferred upon the Secretary of Agriculture under this title, to", and by inserting before the period at the end thereof a semicolon and the following: "and, in the case of all commodities for which the base period is the pre-war period, August 1909 to July 1914, will also reflect current interest payments per acre on farm indebtedness secured by real estate and tax payments per acre on farm real estate, as contrasted with such interest payments and tax payments during the base period".

Agricultural Adjustment Act, amendments.
Vol. 48, p. 32; U. S. C., p. 155.

Declaration of policy; base periods for commodity prices.

Vol. 48, p. 32; U. S. C., p. 156.

(b) Section 2 of the Agricultural Adjustment Act, as amended, is amended by striking out subsections (2) and (3) and inserting in lieu thereof the following:

[1] So in original.

"(2) To protect the interest of the consumer by (a) approaching the level of prices which it is declared to be the policy of Congress to establish in subsection (1) of this section by gradual correction of the current level at as rapid a rate as the Secretary of Agriculture deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and (b) authorizing no action under this title which has for its purpose the maintenance of prices to farmers above the level which it is declared to be the policy of Congress to establish in subsection (1) of this section." Protection of consumer interest.

SEC. 2. Section 8 of the Agricultural Adjustment Act, as amended, is amended by striking out everything preceding subsection (2) and inserting in lieu thereof the following: Vol. 48, p. 34; U. S. C., p. 157. Commodity benefits.

"(1) Whenever the Secretary of Agriculture has reason to believe that: Investigations by Secretary of Agriculture.

"(a) The current average farm price for any basic agricultural commodity is less than the fair exchange value thereof, or the average farm price of such commodity is likely to be less than the fair exchange value thereof for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, and

"(b) The conditions of and factors relating to the production, marketing, and consumption of such commodity are such that the exercise of any one or more of the powers conferred upon the Secretary under subsections (2) and (3) of this section would tend to effectuate the declared policy of this title,

he shall cause an immediate investigation to be made to determine such facts. If, upon the basis of such investigation, the Secretary finds the existence of such facts, he shall proclaim such determination and shall exercise such one or more of the powers conferred upon him under subsections (2) and (3) of this section as he finds, upon the basis of an investigation, administratively practicable and best calculated to effectuate the declared policy of this title. Proclamation of findings. Exercise of conferred powers.

"(2) Subject to the provisions of subsection (1) of this section, the Secretary of Agriculture shall provide, through agreements with producers or by other voluntary methods, Agreements with producers.

"(a) For such adjustment in the acreage or in the production for market, or both, of any basic agricultural commodity, as he finds, upon the basis of the investigation made pursuant to subsection (1) of this section, will tend to effectuate the declared policy of this title, and to make such adjustment program practicable to operate and administer, and Adjustments in acreage or production.

"(b) For rental or benefit payments in connection with such agreements or methods in such amounts as he finds, upon the basis of such investigation, to be fair and reasonable and best calculated to effectuate the declared policy of this title and to make such program practicable to operate and administer, to be paid out of any moneys available for such payments or, subject to the consent of the producer, to be made in quantities of one or more basic agricultural commodities acquired by the Secretary pursuant to this title. Rental or benefit payments; amounts.

"(3) Subject to the provisions of subsection (1) of this section, the Secretary of Agriculture shall make payments, out of any moneys available for such payments, in such amounts as he finds, upon the basis of the investigation made pursuant to subsection (1) of this section, to be fair and reasonable and best calculated to effectuate the declared policy of this title: Additional payments.

"(a) To remove from the normal channels of trade and commerce quantities of any basic agricultural commodity or product thereof;

"(b) To expand domestic or foreign markets for any basic agricultural commodity or product thereof;

"(c) In connection with the production of that part of any basic agricultural commodity which is required for domestic consumption.

Investigations.

"(4) Whenever, during a period during which any of the powers conferred in subsection (2) or (3) is being exercised, the Secretary of Agriculture has reason to believe that, with respect to any basic agricultural commodity:

When it appears that current average farm price not less than fair exchange value.

"(a) The current average farm price for such commodity is not less than the fair exchange value thereof, and the average farm price for such commodity is not likely to be less than the fair exchange value thereof for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, or

When exercise of powers would not effectuate policy.

"(b) The conditions of and factors relating to the production, marketing, and consumption of such commodity are such that none of the powers conferred in subsections (2) and (3), and no combination of such powers, would, if exercised, tend to effectuate the declared policy of this title,

he shall cause an immediate investigation to be made to determine such facts. If, upon the basis of such investigation, the Secretary finds the existence of such facts, he shall proclaim such determination, and shall not exercise any of such powers with respect to such commodity after the end of the marketing year current at the time when such proclamation is made and prior to a new proclamation under subsection (1) of this section, except insofar as the exercise of such power is necessary to carry out obligations of the Secretary assumed, prior to the date of such proclamation made pursuant to this subsection, in connection with the exercise of any of the powers conferred upon him under subsections (2) or (3) of this section.

Proclamation of findings.

Exercise of powers thereafter.

Hearings; notice.

"(5) In the course of any investigation required to be made under subsection (1) or subsection (4) of this section, the Secretary of Agriculture shall hold one or more hearings, and give due notice and opportunity for interested parties to be heard.

Restriction on payments.

"(6) No payment under this title made in an agricultural commodity acquired by the Secretary in pursuance of this title shall be made in a commodity other than that in respect of which the payment is being made. For the purposes of this subsection, hogs and field corn may be considered as one commodity.

Hogs and field corn.

Sugar beets or sugarcane.

Payments when returns to producers reduced by payment of processing tax or floor stocks tax.

Vol. 48, p. 676.

"(7) In the case of sugar beets or sugarcane, in the event that it shall be established to the satisfaction of the Secretary of Agriculture that returns to growers or producers, under the contracts for the 1933–1934 crop of sugar beets or sugarcane, entered into by and between the processors and producers and/or growers thereof, were reduced by reason of the payment of the processing tax, and/or the corresponding floor stocks tax, on sugar beets or sugarcane, in addition to the foregoing rental or benefit payments, the Secretary of Agriculture shall make such payments, representing in whole or in part such tax, as the Secretary deems fair and reasonable, to producers who agree, or have agreed, to participate in the program for reduction in the acreage or reduction in the production for market, or both, of sugar beets or sugarcane.

Agreement to curtail production required.

Rice.

Agreements with producers to pledge right to rental or benefit payments.

Ante, p. 46.

"(8) In the case of rice, the Secretary of Agriculture, in exercising the power conferred upon him by subsection (2) of this section to provide for rental or benefit payments, is directed to provide in any agreement entered into by him with any rice producer pursuant to such subsection, upon such terms and conditions as the Secretary

determines will best effectuate the declared policy of this title, that the producer may pledge for production credit in whole or in part his right to any rental or benefit payments under the terms of such agreement and that such producer may designate therein a payee to receive such rental or benefit payments.

Benefit payment on stored nonperishable commodity.

"(9) Under regulations of the Secretary of Agriculture requiring adequate facilities for the storage of any nonperishable agricultural commodity on the farm, inspection and measurement of any such commodity so stored, and the locking and sealing thereof, and such other regulations as may be prescribed by the Secretary of Agriculture for the protection of such commodity and for the marketing thereof, a reasonable percentage of any benefit payment may be advanced on any such commodity so stored. In any such case, such deduction may be made from the amount of the benefit payment as the Secretary of Agriculture determines will reasonably compensate for the cost of inspection and sealing but no deduction may be made for interest."

Deduction of inspection and sealing costs.

Vol. 48, p. 38; U. S. C., p. 162.

SEC. 3. The first sentence of subsection (b) of section 12 of the Agricultural Adjustment Act, as amended, is amended to read as follows: "In addition to the foregoing, for the purpose of effectuating the declared policy of this title, a sum equal to the proceeds derived from all taxes imposed under this title is hereby appropriated to be available to the Secretary of Agriculture for (1) the acquisition of any agricultural commodity pledged as security for any loan made by any Federal agency, which loan was conditioned upon the borrower agreeing or having agreed to cooperate with a program of production adjustment or marketing adjustment adopted under the authority of this title, and (2) the following purposes under part 2 of this title: Administrative expenses, payments authorized to be made under section 8, and refunds on taxes."

Appropriation. Sum available.

Purposes.

Vol. 48, pp. 34, 528, 672; U. S. C., p. 158.

SEC. 4. Subsection (2) of section 8 of the Agricultural Adjustment Act, as amended, is amended by designating said subsection as section 8b, by inserting said section at the end of section 8a, and by amending the first sentence thereof to read as follows: "In order to effectuate the declared policy of this title, the Secretary of Agriculture shall have the power, after due notice and opportunity for hearing, to 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 or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof."

Marketing agreements; authority to enter.

Vol. 48, p. 35.

SEC. 5. The Agricultural Adjustment Act, as amended, is amended by striking out section 8 (3) thereof and by adding after section 8b, the following new section:

Orders.

"ORDERS

Authority to issue.

"SEC. 8c. (1) The Secretary of Agriculture shall, subject to the provisions of this section, issue, and from time to time amend, orders applicable to processors, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of this section. Such persons are referred to in this title as 'handlers'. Such orders shall regulate, in the manner hereinafter in this section provided, only such handling of such agricultural commodity, or product thereof, as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof.

"Handlers" construed.

Commodities to which orders applicable.

"COMMODITIES TO WHICH APPLICABLE

"(2) Orders issued pursuant to this section shall be applicable only to the following agricultural commodities and the products thereof (except products of naval stores), or to any regional, or market classification of any such commodity or product: Milk, fruits (including pecans and walnuts but not including apples and not including fruits, other than olives, for canning), tobacco, vegetables (not including vegetables, other than asparagus, for canning), soybeans and naval stores as included in the Naval Stores Act and standards established thereunder (including refined or partially refined oleoresin).

Enumeration.

Notice and hearing.

"NOTICE AND HEARING

"(3) Whenever the Secretary of Agriculture has reason to believe that the issuance of an order will tend to effectuate the declared policy of this title with respect to any commodity or product thereof specified in subsection (2) of this section, he shall give due notice of and an opportunity for a hearing upon a proposed order.

Finding and issue of order.

"FINDING AND ISSUANCE OF ORDER

"(4) After such notice and opportunity for hearing, the Secretary of Agriculture shall issue an order if he finds, and sets forth in such order, upon the evidence introduced at such hearing (in addition to such other findings as may be specifically required by this section) that the issuance of such order and all of the terms and conditions thereof will tend to effectuate the declared policy of this title with respect to such commodity.

Terms of orders.

"TERMS—MILK AND ITS PRODUCTS

Milk and its products.
Post, p. 756.

"(5) In the case of milk and its products, orders issued pursuant to this section shall contain one or more of the following terms and conditions, and (except as provided in subsection (7)) no others:

Classification according to use; minimum price.

"(A) Classifying milk in accordance with the form in which or the purpose for which it is used, and fixing, or providing a method for fixing, minimum prices for each such use classification which all handlers shall pay, and the time when payments shall be made, for milk purchased from producers or associations of producers. Such prices shall be uniform as to all handlers, subject only to adjustments for (1) volume, market, and production differentials customarily applied by the handlers subject to such order, (2) the grade or quality of the milk purchased, and (3) the locations at which delivery of such milk, or any use classification thereof, is made to such handlers.

Price as to handlers; adjustments.

"(B) Providing:

Payment of uniform prices to producers.

"(i) for the payment to all producers and associations of producers delivering milk to the same handler of uniform prices for all milk delivered by them: *Provided*, That, except in the case of orders covering milk products only, such provision is approved or favored by at least three-fourths of the producers who, during a representative period determined by the Secretary of Agriculture, have been engaged in the production for market of milk covered in such order or by producers who, during such representative period, have produced at least three-fourths of the volume of such milk produced for market during such period; the approval required hereunder shall be separate and apart from any other approval or disapproval provided for by this section; or

Proviso.
Approval of producers.

"(ii) for the payment to all producers and associations of producers delivering milk to all handlers of uniform prices for all milk so delivered, irrespective of the uses made of such milk by the individual handler to whom it is delivered; Uniform prices irrespective of use.

subject, in either case, only to adjustments for (a) volume, market, and production differentials customarily applied by the handlers subject to such order, (b) the grade or quality of the milk delivered, (c) the locations at which delivery of such milk is made, and (d) a further adjustment, equitably to apportion the total value of the milk purchased by any handler, or by all handlers, among producers and associations of producers, on the basis of their production of milk during a representative period of time. Adjustments.

"(C) In order to accomplish the purposes set forth in paragraphs (A) and (B) of this subsection (5), 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) hereof. Total sums paid to equal value of delivered milk.

"(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 (5). Payments to new producer during first three months of delivery.

"(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 (5), 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. Marketing information to producers; verification of weights.

"(F) Nothing contained in this subsection (5) is intended or shall be construed to prevent a cooperative marketing association qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the 'Capper-Volstead Act', 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 (5) for such milk. Cooperative marketing associations; contracts with producers; rights continued. Vol. 42, p. 388; U. S. C., p. 134. *Proviso.* Minimum sale price.

"(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. Limitation on sales area.

"TERMS—OTHER COMMODITIES Terms of orders.

"(6) In the case of fruits (including pecans and walnuts but not including apples and not including fruits, other than olives, for canning) and their products, tobacco and its products, vegetables (not including vegetables, other than asparagus, for canning) and their Commodities generally. Terms and conditions.

Vol. 42, p. 1435; U. S. C., p. 115.

products, soybeans and their products, and naval stores as included in the Naval Stores Act and standards established thereunder (including refined or partially refined oleoresin), orders issued pursuant to this section shall contain one or more of the following terms and conditions, and (except as provided in subsection (7)) no others:

Limitation on total quantity marketed.

"(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.

Allotment of amount handler may purchase.

"(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 produced or sold by such producers in such prior period as the Secretary determines to be representative, or upon the current production or sales of 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.

Uniform rule required.

Allotment of amount handler may market.

"(C) Allotting, or providing methods for allotting, the amount of any such commodity or product, or any grade, size, or quality thereof, which each handler may market in or transport 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, under a uniform rule based upon the amounts which each such handler has available for current shipment, or upon the amounts shipped by each such handler in such prior period as the Secretary determines to be representative, or both, to the end that the total quantity of such commodity or product, or any grade, size, or quality thereof, to 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 shall be equitably apportioned among all of the handlers thereof.

Uniform rule required.

Surpluses; determination of extent.

"(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.

Control and disposition.

Reserve pools; establishment.

"(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.

Distribution of net return from.

Terms common to all orders.

"TERMS COMMON TO ALL ORDERS

"(7) In the case of the agricultural commodities and the products thereof specified in subsection (2) orders shall contain one or more of the following terms and conditions:

Unfair methods of competition.

"(A) Prohibiting unfair methods of competition and unfair trade practices in the handling thereof.

Handlers' sale price.

"(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: Administrative agencies; selection; powers and duties.

"(i) To administer such order in accordance with its terms and provisions;

"(ii) To make rules and regulations to effectuate the terms and provisions of such order;

"(iii) To receive, investigate, and report to the Secretary of Agriculture complaints of violations of such order; and

"(iv) To recommend to the Secretary of Agriculture amendments to such order.

No person acting as a member of an agency established pursuant to this paragraph (C) shall be deemed to be acting in an official capacity, within the meaning of section 10 (g) of this title, unless such person receives compensation for his personal services from funds of the United States.

"(D) Incidental to, and not inconsistent with, the terms and conditions specified in subsections (5), (6), and (7) and necessary to effectuate the other provisions of such order. Specified terms and conditions. *Ante*, p. 754.

"ORDERS WITH MARKETING AGREEMENT

Orders with marketing agreement.

"(8) Except as provided in subsection (9) of this section, no order issued pursuant to this section shall become effective until 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 not less than 50 per centum of the volume of the commodity or product thereof covered by such order which is produced or marketed within the production or marketing area defined in such order have signed a marketing agreement, entered into pursuant to section 8b of this title, which regulates the handling of such commodity or product in the same manner as such order, except that as to citrus fruits produced in any area producing what is known as California citrus fruits no order issued pursuant to this subsection (8) shall become effective until the handlers of not less than 80 per centum of the volume of such commodity or product thereof covered by such order have signed such a marketing agreement: *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: When orders to be effective. Requirement of marketing agreement. Citrus fruits. *Proviso.* Requirement of approval by producers.

"(A) By at least two-thirds of the producers who (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said order must be approved or favored by three-fourths of the producers), during a representative period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein, or who, during such representative period, have been engaged in the production of such commodity for sale in the marketing area specified in such marketing agreement, or order, or

"(B) By producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or who, during such representative period, have produced at least two-thirds of the volume of such commodity sold within the marketing area specified in such marketing agreement or order.

Orders with or without marketing agreement.

" ORDERS WITH OR WITHOUT MARKETING AGREEMENT

Effectiveness of order on refusal of majority of handlers to sign agreement.

"(9) Any order issued pursuant to this section shall become effective in the event that, notwithstanding the refusal or failure of 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) covered by such order which is produced or marketed within the production or marketing area defined in such order to sign a marketing agreement relating to such commodity or product thereof, on which a hearing has been held, the Secretary of Agriculture, with the approval of the President, determines:

If refusal tends to prevent effectuation of declared policy.

"(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 title with respect to such commodity or product, and

If issuance advances producers' interests.

"(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:

Approval of producers required.

"(i) By at least two-thirds of the producers (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said order must be approved or favored by three-fourths of the producers) who, during a representative period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein, or who, during such representative period, have been engaged in the production of such commodity for sale in the marketing area specified in such marketing agreement, or order, or

" (ii) By producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or who, during such representative period, have produced at least two-thirds of the volume of such commodity sold within the marketing area specified in such marketing agreement or order.

Manner of regulation and applicability.

" MANNER OF REGULATION AND APPLICABILITY

"(10) No order shall be issued under this section unless it regulates the handling of the commodity or product covered thereby in the same manner as, and is made applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held. No order shall be issued under this title 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.

Advertising of commodities.

" REGIONAL APPLICATION

Regional application.

"(11) (A) No order shall be issued under this section which is applicable to all production areas or marketing areas, or both, of any commodity or product thereof unless the Secretary finds that the issuance of several orders applicable to the respective regional production areas or regional marketing areas, or both, as the case may be, of the commodity or product would not effectively carry out the declared policy of this title.

Issue of general order when several orders inadequate.

"(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.

Application of orders to regional production areas.

"(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.

Terms applicable to different areas.

" COOPERATIVE ASSOCIATION REPRESENTATION

Cooperative association representation.

"(12) Whenever, pursuant to the provisions of this section, the Secretary is required to determine the approval or disapproval of producers with respect to the issuance of any order, or any term or condition thereof, or the termination thereof, the Secretary shall consider the approval or disapproval by any cooperative association of producers, bona fide engaged in marketing the commodity or product thereof covered by such order, or in rendering services for or advancing the interests of the producers of such commodity, as the approval or disapproval of the producers who are members of, stockholders in, or under contract with, such cooperative association of producers.

Action of association considered that of producers.

" RETAILER AND PRODUCER EXEMPTION

Retailer and producer exemption.

"(13) (A) No order issued under subsection (9) of this section shall be applicable to any person who sells agricultural commodities or products thereof at retail in his capacity as such retailer, except to a retailer in his capacity as a retailer of milk and its products.

Inapplicability of orders.

"(B) No order issued under this title shall be applicable to any producer in his capacity as a producer.

" VIOLATION OF ORDER

Violation of order.

Penalty provision.

"(14) Any handler subject to an order issued under this section, or any officer, director, agent, or employee of such handler, who violates any provision of such order (other than a provision calling for payment of a pro rata share of expenses) shall, on conviction, be fined not less than $50 or more than $500 for each such violation, and each day during which such violation continues shall be deemed a separate violation: *Provided*, That if the court finds that a petition pursuant to subsection (15) of this section was filed and prosecuted by the defendant in good faith and not for delay, no penalty shall be imposed under this subsection for such violations as occurred between the date upon which the defendant's petition was filed with the Secretary, and the date upon which notice of the Secretary's ruling thereon was given to the defendant in accordance with regulations prescribed pursuant to subsection (15).

Proviso. Postponement of penalty.

Petition by handler and review.

"PETITION BY HANDLER AND REVIEW

Filing.

"(15) (A) Any handler subject to an order may file a written petition with the Secretary of Agriculture, stating that any such order or any provision of any such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. 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.

Hearing.

Ruling.

Jurisdiction of courts to review.

"(B) The District Courts of the United States (including the Supreme Court of the District of Columbia) in any district in which such handler is an inhabitant, or has his principal place of business, are hereby 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 8a (6) of this title. Any proceedings brought pursuant to section 8a (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 (15).

Time for filing petition.

Service of process.

Remand of proceedings if ruling unlawful.

Proceedings and relief under section 8 (a).

Vol. 48, pp. 34, 675.

Post, p. 762.

Termination of orders and marketing agreements.

Orders.

"TERMINATION OF ORDERS AND MARKETING AGREEMENTS

"(16) (A) The Secretary of Agriculture shall, whenever he finds that any order issued under this section, or any provision thereof, obstructs or does not tend to effectuate the declared policy of this title, terminate or suspend the operation of such order or such provision thereof.

Marketing agreements.

"(B) The Secretary shall terminate any marketing agreement entered into under section 8b, 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

When termination favored by majority producers.

Proviso.

Requirement that majority producers have produced more than 50 per centum of volume of commodity.

such date (prior to the end of the then current marketing period) as may be specified in such marketing agreement or order.

"(C) 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. Termination not considered an order.

"PROVISIONS APPLICABLE TO AMENDMENTS Provisions applicable to amendments.

"(17) The provisions of this section, section 8d, and section 8e applicable to orders shall be applicable to amendments to orders: *Provided*, That notice of a hearing upon a proposed amendment to any order issued pursuant to section 8c, given not less than three days prior to the date fixed for such hearing, shall be deemed due notice thereof." *Post*, p. 762. *Proviso.* Notice of hearing.

SEC. 6. The Agricultural Adjustment Act, as amended, is further amended by striking out subsection (4) of section 8 thereof and adding after section 8c thereof the following new sections: Vol. 48, p. 35; U. S. C., p. 158.

"BOOKS AND RECORDS Books and records.

"SEC. 8d. (1) All parties to any marketing agreement, and all handlers subject to an order, shall severally, from time to time, upon the request of the Secretary, furnish him with such information as he finds to be necessary to enable him to ascertain and determine the extent to which such agreement or order has been carried out or has effectuated the declared policy of this title, and with such information as he finds to be necessary to determine whether or not there has been any abuse of the privilege of exemptions from the antitrust laws. Such information shall be furnished in accordance with forms of reports to be prescribed by the Secretary. For the purpose of ascertaining the correctness of any report made to the Secretary pursuant to this subsection, or for the purpose of obtaining the information required in any such report, where it has been requested and has not been furnished, the Secretary is hereby authorized to examine such books, papers, records, copies of income-tax reports, accounts, correspondence, contracts, documents, or memoranda, as he deems relevant and which are within the control (1) of any such party to such marketing agreement, or any such handler, from whom such report was requested or (2) of any person having, either directly or indirectly, actual or legal control of or over such party or such handler or (3) of any subsidiary of any such party, handler, or person. Information from parties to marketing agreement. Form of reports. Access to books, etc.

"(2) Notwithstanding the provisions of section 7, all information furnished to or acquired by the Secretary of Agriculture pursuant to this section shall be kept confidential by all officers and employees of the Department of Agriculture and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary of Agriculture, or to which he or any officer of the United States is a party, and involving the marketing agreement or order with reference to which the information so to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit (A) the issuance of general statements based upon the reports of a number of parties to a marketing agreement or of handlers subject to an order, which statements do not identify the information furnished by any person, or (B) the publication by direction of the Secretary, of the name of any person violating any marketing agreement or any order, together with a statement of the particular provisions Confidential nature of information. Issuance of general statements. Publication of violations of marketing agreements.

Penalty for divulging information.

of the marketing agreement or order violated by such person. Any such officer or employee violating the provisions of this section shall upon conviction be subject to a fine of not more than $1,000 or to imprisonment for not more than one year, or to both, and shall be removed from office.

Determination of base period.

"DETERMINATION OF BASE PERIOD

When post-war period to be used as base period.

"SEC. 8e. In connection with the making of any marketing agreement or the issuance of any order, if the Secretary finds and proclaims that, as to any commodity specified in such marketing agreement or order, the purchasing power during the base period specified for such commodity in section 2 of this title cannot be satisfactorily determined from available statistics of the Department of Agriculture, the base period, for the purposes of such marketing agreement or order, shall be the post-war period, August 1919–July 1929, or all that portion thereof for which the Secretary finds and proclaims that the purchasing power of such commodity can be satisfactorily determined from available statistics of the Department of Agriculture."

Vol. 48, p. 35; U. S. C., p. 158.
Removal of commodity from warehouse without cancelation of receipt.

SEC. 7. Subsection (5) of section 8 of the Agricultural Adjustment Act, as amended, is further amended by designating said subsection as section 8f, by inserting said section at the end of section 8e, and by striking out the last sentence thereof.

Vol. 48, p. 672.
Sugar beets and sugarcane as basic agricultural commodity.

SEC. 8. Subsection (1) of section 8a of the Agricultural Adjustment Act, as amended, is amended as follows:

(a) by striking out the word "handlers" wherever it appears and by inserting in lieu thereof the words "persons engaged in the handling";

(b) by striking out the phrase "or in competition with" and the comma following such phrase in paragraph (B);

(c) by inserting the word "directly" before the words "to burden" in paragraph (B);

(d) by striking out the words "in any way" in paragraph (B).

Vol. 48, p. 675.
Jurisdiction vested in district court.
Ante, p. 760.

SEC. 9. Subsection (6) of section 8a of the Agricultural Adjustment Act, as amended, is amended by inserting the word "or" after the comma following the word "regulation," and by striking out the words "or license".

Vol. 48, p. 675.
Enforcement proceedings.
Investigation of violation of provisions of order.

SEC. 10. Subsection (7) of section 8a of the Agricultural Adjustment Act, as amended, is amended by inserting at the end thereof the following new sentence: "Whenever the Secretary, or such officer or employee of the Department of Agriculture as he may designate for the purpose, has reason to believe that any handler has violated, or is violating, the provisions of any order or amendment thereto issued pursuant to this title, the Secretary shall have power to institute an investigation and, after due notice to such handler, to conduct a hearing in order to determine the facts for the purpose of referring the matter to the Attorney General for appropriate action."

Hearing.

Vol. 48, pp. 35, 676; U. S. C., p. 160.
Processing tax.

SEC. 11. (a) Subsection (a) of section 9 of the Agricultural Adjustment Act, as amended, is amended by striking out all of the second sentence preceding the semicolon and inserting in lieu thereof the following: "When the Secretary of Agriculture determines that any one or more payments authorized to be made under section 8 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".

(b) The eighth sentence of such subsection (a) is amended by striking out "rental or benefit payments" and inserting in lieu thereof: "all payments authorized under section 8 which are in effect". Termination of.

SEC. 12. Subsection (b) of section 9 of the Agricultural Adjustment Act, as amended, is amended to read as follows: Vol. 48, p. 36; U. S. C., p. 160. *Ante*, p. 46.

"TAX RATE GENERALLY Tax rate generally.

"(b) (1) The processing tax shall be at such rate as equals the difference between the current average farm price for the commodity and the fair exchange value of the commodity, plus such percentage of such difference, not to exceed 20 per centum, as the Secretary of Agriculture may determine will result in the collection, in any marketing year with respect to which such rate of tax may be in effect pursuant to the provisions of this title, of an amount of tax equal to (A) the amount of credits or refunds which he estimates will be allowed or made during such period pursuant to section 15 (c) with respect to the commodity and (B) the amount of tax which he estimates would have been collected during such period upon all processings of such commodity which are exempt from tax by reason of the fact that such processings are done by or for a State, or a political subdivision or an institution thereof, had such processings been subject to tax. If, prior to the time the tax takes effect, or at any time thereafter, the Secretary has reason to believe that the tax at such rate, or at the then existing rate, on the processing of the commodity generally or for any designated use or uses, or on the processing of the commodity in the production of any designated product or products thereof for any designated use or uses, will cause or is causing such reduction in the quantity of the commodity or products thereof domestically consumed as to result in the accumulation of surplus stocks of the commodity or products thereof or in the depression of the farm price of the commodity, then the Secretary shall cause an appropriate investigation to be made, and afford due notice and opportunity for hearing to interested parties. If thereupon the Secretary determines and proclaims that any such result will occur or is occuring, then the processing tax on the processing of the commodity generally or for any designated use or uses, or on the processing of the commodity in the production of any designated product or products thereof for any designated use or uses, shall be at such lower rate or rates as he determines and proclaims will prevent such accumulation of surplus stocks and depression of the farm price of the commodity, and the tax shall remain during its effective period at such lower rate until the Secretary, after due notice and opportunity for hearing to interested parties, determines and proclaims that an increase in the rate of such tax will not cause such accumulation of surplus stocks or depression of the farm price of the commodity. Thereafter the processing tax shall be at the highest rate which the Secretary determines will not cause such accumulation of surplus stocks or depression of the farm price of the commodity, but it shall not be higher than the rate provided in the first sentence of this paragraph. Computation. When tax rate results in surplus stocks. In depression of farm prices. Investigation to be made. Changing tax rate.

"SPECIFIC TAX RATES Specific tax rates.

"(2) In the case of wheat, cotton, field corn, hogs, peanuts, tobacco, paper, and jute, and (except as provided in paragraph (8) of this subsection) in the case of sugarcane and sugar beets, the tax on the first domestic processing of the commodity generally or for any particular use, or in the production of any designated product for any designated use, shall be levied, assessed, collected, and Commodities designated.

paid at the rate prescribed by the regulations of the Secretary of Agriculture in effect on the date of the adoption of this amendment, during the period from such date to December 31, 1937, both dates inclusive.

Rate on rice.

" SPECIFIC TAX RATE—RICE

" (3) For the period from April 1, 1935, to July 31, 1936, both inclusive, the processing tax with respect to rice shall be levied, assessed, collected, and paid at the rate of 1 cent per pound of rough rice.

On rye.

" SPECIFIC TAX RATE—MARKETING YEAR—FLOOR STOCKS—RYE

"(4) For the period from September 1, 1935, to December 31, 1937, both inclusive, the processing tax with respect to rye shall be levied, assessed, collected, and paid at the rate of 30 cents per bushel of fifty-six pounds. In the case of rye, the first marketing year shall be considered to be the period commencing September 1, 1935, and ending June 30, 1936. Subsequent marketing years shall commence on July 1 and end on June 30 of the succeeding year. The provisions of section 16 of this title shall not apply in the case of rye.

Marketing year.

Vol. 48, pp. 40, 678, 1241; *Ante*, p. 48; *Post*, pp. 768-769.

Rate on barley.

" SPECIFIC TAX RATE—FLOOR STOCKS—BARLEY

"(5) If at any time prior to December 31, 1937, a tax with respect to barley becomes effective pursuant to proclamation as provided in subsection (a) of this section, such tax shall be levied, assessed, collected, and paid during the period from the date upon which such tax becomes effective to December 31, 1937, both inclusive, at the rate of 25 cents per bushel of forty-eight pounds. The provisions of section 16 of this title shall not apply in the case of barley.

Adjustment of rate.

" ADJUSTMENT OF RATE

Decrease in rate to prevent accumulation of surplus.

"(6) (A) Any rate of tax which is prescribed in paragraph (2), (3), (4), or (5) of this subsection or which is established pursuant to this paragraph (6) on the processing of any commodity generally or for any designated use or uses, or on the processing of the commodity in the production of any designated product or products thereof for any designated use or uses, shall be decreased (including a decrease to zero) in accordance with the formulae, standards, and requirements of paragraph (1) of this subsection, in order to prevent such reduction in the quantity of such commodity or the products thereof domestically consumed as will result in the accumulation of surplus stocks of such commodity or the products thereof or in the depression of the farm price of the commodity, and shall thereafter be increased in accordance with the provisions of paragraph (1) of this subsection but subject to the provisions of subdivision (B) of this paragraph (6).

When increased rate authorized.

"(B) If the average farm price of any commodity, the rate of tax on the processing of which is prescribed in paragraph (2), (3), (4), or (5) of this subsection or is established pursuant to this paragraph (6), during any period of twelve successive months ending after July 1, 1935, consisting of the first ten months of any marketing year and the last two months of the preceding marketing year—

"(i) is equal to, or exceeds by 10 per centum or less, the fair exchange value thereof, or, in the case of tobacco, is less than the fair exchange value by not more than 10 per centum, the rate of such tax shall (subject to the provisions of subdivision (A) of this paragraph (6)) be adjusted, at the beginning of the next succeeding marketing year, to such rate as equals 20 per centum of the fair exchange value thereof.

"(ii) exceeds by more than 10 per centum, but not more than 20 per centum, the fair exchange value thereof, the rate of such tax shall (subject to the provisions of subdivision (A) of this paragraph (6)) be adjusted, at the beginning of the next succeeding marketing year, to such rate as equals 15 per centum of the fair exchange value thereof.

"(iii) exceeds by more than 20 per centum the fair exchange value thereof, the rate of such tax shall (subject to the provisions of subdivision (A) of this paragraph (6)) be adjusted, at the beginning of the next succeeding marketing year, to such rate as equals 10 per centum of the fair exchange value thereof.

Permanency of adjusted rate. In case of rice.

"(C) Any rate of tax which has been adjusted pursuant to this paragraph (6) shall remain at such adjusted rate unless further adjusted or terminated pursuant to this paragraph (6), until December 31, 1937, or until July 31, 1936, in the case of rice.

Increase of rates according to formulae, etc.

"(D) In accordance with the formulae, standards, and requirements prescribed in this title, any rate of tax prescribed in paragraph (2), (3), (4), or (5) of this subsection or which is established pursuant to this paragraph (6) shall be increased.

Termination of tax. *Ante*, p. 763.

"(E) Any tax, the rate of which is prescribed in paragraph (2), (3), (4), or (5) of this subsection or which is established pursuant to this paragraph (6), shall terminate pursuant to proclamation as provided in section 9 (a) of this title or pursuant to section 13 of this title. Any such tax with respect to any basic commodity which terminates pursuant to proclamation as provided in section 9 (a) of this title shall again become effective at the rate prescribed in paragraph (2), (3), (4), or (5) of this subsection, subject however to the provisions of subdivisions (A) and (B) of this paragraph (6), from the beginning of the marketing year for such commodity next following the date of a new proclamation by the Secretary as provided in section 9 (a) of this title, if such marketing year begins prior to December 31, 1937, or prior to July 31, 1936, in the case of rice, and shall remain at such rate until altered or terminated pursuant to the provisions of section 9 or terminated pursuant to section 13 of this title.

Reestablishment of rates.

Determination of rates after December 31, 1937.

"(F) After December 31, 1937 (in the case of the commodities specified in paragraphs (2), (4), and (5) of this subsection), and after July 31, 1936 (in the case of rice), rates of tax shall be determined by the Secretary of Agriculture in accordance with the formulae, standards, and requirements prescribed in this title but not in this paragraph (6), and shall, subject to such formulae, standards, and requirements, thereafter be effective.

Tax rates if fixed rates held invalid.

"(G) If the applicability to any person or circumstances of any tax, the rate of which is fixed in pursuance of this paragraph (6), is finally held invalid by reason of any provision of the Constitution, or is finally held invalid by reason of the Secretary of Agriculture's exercise or failure to exercise any power conferred on him under this title, there shall be levied, assessed, collected, and paid (in lieu of all rates of tax fixed in pursuance of this paragraph (6) with respect to all tax liabilities incurred under this title on or after the effective date of each of the rates of tax fixed in pursuance of this paragraph (6)), rates of tax fixed under paragraph (2), (3), (4), or (5), and such rates shall be in effect (unless the particular tax is terminated pursuant to proclamation, as provided in section 9 (a) or pursuant to section 13) until altered by Act of Congress; except that, for any period prior to the effective date of such holding of invalidity, the amount of tax which represents the difference between the tax at the rate fixed in pursuance of this paragraph (6) and the tax at the rate fixed under paragraphs (2), (3), (4), and (5) shall not be levied, assessed, collected, or paid.

Effectiveness of rates.

Rice—special rule.

" RICE—SPECIAL RULE

Weight to which tax rate to be applied.

"(7) In the case of rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to a processor, except that, where the producer processes his own rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to the place of processing.

Sugar—special rule.

" SUGAR—SPECIAL RULE

Tax rate applied to direct-consumption sugar.
Vol. 48, p. 671.

"(8) In the case of sugar beets or sugarcane the rate of tax shall be applied to the direct-consumption sugar, resulting from the first domestic processing, translated into terms of pounds of raw value according to regulations to be issued by the Secretary of Agriculture, and in the event that the Secretary increases or decreases the rate of tax fixed by paragraph (2) of this subsection, pursuant to the provisions of paragraph (6) of this subsection, then the rate of tax to be so applied shall be the higher of the two following quotients: The difference between the current average farm price and the fair exchange value (A) of a ton of sugar beets and (B) of a ton of sugarcane, divided in the case of each commodity by the average extraction therefrom of sugar in terms of pounds of raw value (which average extraction shall be determined from available statistics of the Department of Agriculture); the rate of tax fixed by paragraph (2) of this subsection or adjusted pursuant to the provisions of paragraph (6) of this subsection shall in no event exceed the amount of the reduction by the President on a pound of sugar raw value of the rate of duty in effect on January 1, 1934, under paragraph 501 of the Tariff Act of 1930, as adjusted to the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902, and/or the provisions of the Act of December 17, 1903, chapter 1.

Higher rates.

Wheat premiums.

" WHEAT PREMIUMS

Computation of current average farm price.

"(9) In computing the current average farm price in the case of wheat, premiums paid producers for protein content shall not be taken into account."

Vol. 48, p. 36; U. S. C., p. 160.

SEC. 13. Subsection (c) of section 9 of the Agricultural Adjustment Act, as amended, is amended to read as follows:

"Fair exchange value" construed.

"(c) For the purposes of part 2 of this title, the fair exchange value of a commodity shall be the price therefor that will give the commodity the same purchasing power, with respect to articles farmers buy, as such commodity had during the base period specified in section 2; and, in the case of all commodities where the base period is the pre-war period, August 1909 to July 1914, will also reflect interest payments per acre on farm indebtedness secured by real estate and tax payments per acre on farm real estate, as contrasted with such interest payments and tax payments during said base period; and the current average farm price and the fair exchange value shall be ascertained by the Secretary of Agriculture from available statistics of the Department of Agriculture. The rate of tax upon the processing of any commodity, in effect on the date on which this amendment is adopted, shall not be affected by the adoption of this amendment and shall not be required to be adjusted or altered, unless the Secretary of Agriculture finds that it is necessary to adjust or alter any such rate pursuant to section 9 (a) of this title."

Ascertainment of current average farm price and fair exchange value.

Current processing tax not affected hereby.

Vol. 48, p. 36; U. S. C., p. 160.

SEC. 14. (a) Paragraph (1) of subsection (d) of section 9 of the Agricultural Adjustment Act, as amended, is amended by inserting following the word " wheat " in the two instances in which it occurs, a comma, and the following: " rye, barley,"

"Processing" construed as to rye and barley.

(b) Paragraph (5) of subsection (d) of section 9 of the Agricultural Adjustment Act, as amended, is hereby repealed. Vol. 48, p. 36; U. S. C., p. 160.

SEC. 15. Section 9 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new subsection: Vol. 48, p. 37.

"(g) Nothing contained in this title shall be construed to authorize any tax upon the processing of any commodity which processing results in the production of newsprint." Processing tax on newsprint commodities.

SEC. 16. Subsection (b) of section 10 of the Agricultural Adjustment Act, as amended, is amended to read as follows: Vol. 48, p. 37; U. S. C., p. 161.

"(b) (1) The Secretary of Agriculture is authorized to establish, for the more effective administration of the functions vested in him by this title, State and local committees, or associations of producers, and to permit cooperative associations of producers, when in his judgment they are qualified to do so, to act as agents of their members and patrons in connection with the distribution of payments authorized to be made under section 8. The Secretary, in the administration of this title, shall accord such recognition and encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in existing Acts of Congress, and as will tend to promote efficient methods of marketing and distribution. Administrative agencies; establishment. Producers' cooperative associations as agents of members.

"(2) Each order issued by the Secretary under this title shall provide that each handler subject thereto shall pay to any authority or agency established under such order such handler's pro rata share (as approved by the Secretary) of such expenses as the Secretary may find will necessarily be incurred by such authority or agency, during any period specified by him, for the maintenance and functioning of such authority or agency, other than expenses incurred in receiving, handling, holding, or disposing of any quantity of a commodity received, handled, held, or disposed of by such authority or agency for the benefit or account of persons other than handlers subject to such order. The pro rata share of the expenses payable by a cooperative association of producers shall be computed on the basis of the quantity of the agricultural commodity or product thereof covered by such order which is distributed, processed, or shipped by such cooperative association of producers. Any such authority or agency may maintain in its own name, or in the names of its members, a suit against any handler subject to an order for the collection of such handler's pro rata share of expenses. The several District Courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy." Agency expenses; payments by handlers. Computation of share of producers' cooperative associations. Collection of pro rata shares. Jurisdiction of courts.

SEC. 17. Subsection (e) of section 10 of the Agricultural Adjustment Act, as amended, is amended by striking out "rental or benefit payment" and inserting in lieu thereof "payment authorized to be made under section 8". Vol. 48, p. 37; U. S. C., p. 161. Review of determination of amount of payments.

SEC. 18. Section 10 of the Agricultural Adjustment Act, as amended, is amended by inserting at the end thereof the following new subsection: Vol. 48, p. 38.

"(i) The Secretary of Agriculture upon the request of the duly constituted authorities of any State is directed, in order to effectuate the declared policy of this title and in order to obtain uniformity in the formulation, administration, and enforcement of Federal and State programs relating to the regulation of the handling of agricultural commodities or products thereof, to confer with and hold joint hearings with the duly constituted authorities of any State, and is authorized to cooperate with such authorities; to accept and utilize, with the consent of the State, such State and local officers and employees as may be necessary; to avail himself of the records and Cooperation with States. Joint hearings.

facilities of such authorities; to issue orders (subject to the provisions of section 8c) complementary to orders or other regulations issued by such authorities; and to make available to such State authorities the records and facilities of the Department of Agriculture: *Provided*, That information furnished to the Secretary of Agriculture pursuant to section 8d (1) hereof shall be made available only to the extent that such information is relevant to transactions within the regulatory jurisdiction of such authorities, and then only upon a written agreement by such authorities that the information so furnished shall be kept confidential by them in a manner similar to that required of Federal officers and employees under the provisions of section 8d (2) hereof."

Proviso.
Confidential nature of information furnished.
Ante, p. 761.

Vol. 48, p. 38; U. S. C., p. 162.
Appropriation available for making payments.

SEC. 19. The first sentence of subsection (a) of section 12 of the Agricultural Adjustment Act, as amended, is amended by striking out "rental and benefit payments made with respect to reduction in acreage or reduction in production for market under part 2 of this title" and inserting in lieu thereof "payments authorized to be made under section 8".

Vol. 48, pp. 39, 677; U. S. C., p. 162.
Termination of powers.

SEC. 20. (a) The second sentence of section 13 of the Agricultural Adjustment Act, as amended, is amended by striking out "at the end of three years after the adoption of this amendment" and inserting in lieu thereof "on December 31, 1937".

Vol. 48, p. 678.

(b) Subsection (c) of section 16 of the Agricultural Adjustment Act, as amended, is amended by striking out the last sentence thereof.

Vol. 48, pp. 39, 1241; U. S. C., p. 162.
Exemptions and compensating taxes.

SEC. 21. Subsection (a) of section 15 of the Agricultural Adjustment Act, as amended, is amended by striking out the period at the end of the subsection and inserting in lieu thereof a comma and the following: "or shall credit against any tax due and payable under this title the amount of tax which would be refundable. During the period in which any certificate under this section is effective, the provisions of subsection (e) of this section shall be suspended with respect to all imported articles of the kind described in such certificate; and notwithstanding the provisions of section 21, any compensating taxes, which have heretofore, during the period in which any certificate under this section has been effective, become due and payable upon imported articles of the kind described in such certificate, shall be refunded by the Secretary of the Treasury if the same have been paid, or, if the same have not been paid the amount thereof shall be abated. Notwithstanding the provisions of section 21, the Secretary of the Treasury shall refund or credit any processing tax paid on or before June 12, 1934, with respect to such amount of cotton as was used in the manufacture of large cotton bags (as defined in the Certificate of the Secretary of Agriculture, dated June 12, 1934) between June 13 and July 7, 1934, both inclusive.".

Vol. 48, p. 973.
Post, p. 1753.

SEC. 22. Subsection (c) of section 15 of the Agricultural Adjustment Act, as amended, is amended by striking out the next to the last sentence, which reads as follows: "No refund shall be allowed under this section unless claim therefor is filed within six months after delivery of the products to the organization for charitable distribution, or use.".

Refund of tax on products for charitable distribution.

Taxes causing disadvantages in competition.
Vol. 48, p. 39; U. S. C., p. 162.
Equalizing tax imposed on imports.
Vol. 48, pp. 40, 676; U. S. C., p. 162.
Ante, p. 48.

SEC. 23. The first sentence of subsection (d) of section 15 of the Agricultural Adjustment Act, as amended, is amended by adding after the word "processors" the words "or producers".

SEC. 24. Subsection (e) of section 15 of the Agricultural Adjustment Act, as amended, is amended by inserting after the words "with respect to domestic processing of such commodity" the following: "into such an article".

Vol. 48, pp. 40, 676; U. S. C., p. 163.
Floor stocks.

SEC. 25. Subsection (a) of section 16 of the Agricultural Adjustment Act, as amended, is amended by striking out subdivision (2) thereof and inserting in lieu thereof the following:

"(2) Whenever the processing tax is wholly terminated, (A) there shall be refunded or credited in the case of a person holding such stocks with respect to which a tax under this title has been paid, or (B) there shall be credited or abated in the case of a person holding such stocks with respect to which a tax under this title is payable, where such person is the processor liable for the payment of such tax, or (C) there shall be refunded or credited (but not before the tax has been paid) in the case of a person holding such stocks with respect to which a tax under this title is payable, where such person is not the processor liable for the payment of such tax, a sum in an amount equivalent to the processing tax which would have been payable with respect to the commodity from which processed if the processing had occurred on such date: *Provided*, That in the case of any commodity with respect to which there was any increase, effective prior to June 1, 1934, in the rate of the processing tax, no such refund, credit, or abatement, shall be in an amount which exceeds the equivalent of the initial rate of the processing tax in effect with respect to such commodity."

Stocks on hand when processing tax terminates.

Sum to be refunded.

Proviso. Amount.

SEC. 26. The second sentence of subsection (b) of section 16 of the Agricultural Adjustment Act, as amended, is amended to read as follows: "Except as to flour and prepared flour, and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1, and as to any article processed wholly or in chief value from cotton, the tax refund, credit, or abatement provided in subsection (a) of this section shall not apply to the retail stocks of persons engaged in retail trade, nor to any article (except sugar) processed wholly or in chief value from sugar beets, sugarcane, or any product thereof, nor to any article (except flour, prepared flour and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1) processed wholly or in chief value from wheat, held on the date the processing tax is wholly terminated."

Tax adjustments on retail stocks of persons engaged in retail trade. Vol. 48, p. 40.

SEC. 27. (a) Paragraph (1) of subsection (e) of section 16 of the Agricultural Adjustment Act, as amended, is amended by inserting after the first word in the first sentence a comma and the following: "subsequent to June 26, 1934," by inserting in the proviso after the word "made", the following: "in the case of hogs"; and by inserting at the end of such paragraph the following: "In the case of wheat the provisions of this paragraph and of paragraph (2) of this subsection shall apply to flour, prepared flour and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1 only; in the case of sugarcane and sugar beets the provisions of this paragraph and of paragraph (2) of this subsection shall apply to sugar only.

Vol. 48, p. 1241; *Ante*, p. 48. Processing tax; adjustment of rates. *Post*, pp. 1464, 1740, 1753.

In case of hogs.

Of wheat.

Of sugar beets and sugarcane.

(b) Section 16 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new subsection:

Vol. 48, p. 40. Floor stocks.

"(g) No refund, credit, or abatement of any amount of any tax shall be made or allowed under this section, unless, within one hundred and twenty days after the right to such refund, credit, or abatement accrued, or within one hundred and twenty days after the date of the adoption of this amendment, whichever is the later, a claim for such refund, credit, or abatement (conforming to such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe) is filed by the person entitled to such refund, credit, or abatement, and no such claim shall be allowed for an amount less than $10."

Time for filing claims for refunds. *Post*, p. 1740.

Vol. 48, p. 676.
Exportations.
Refunds on goods exported.

SEC. 28. Subsection (a) of section 17 of the Agricultural Adjustment Act, as amended, is amended by striking out the first two sentences thereof and inserting in lieu thereof the following: "Upon the exportation to any foreign country (and/or to the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and the island of Guam) of any product processed wholly or partly from a commodity with respect to which product or commodity a tax has been paid or is payable under this title, the tax due and payable or due and paid shall be credited or refunded. Under regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, the credit or refund shall be allowed to the consignor named in the bill of lading under which the product is exported or to the shipper or to the person liable for the tax provided the consignor waives any claim thereto in favor of such shipper or person liable for the tax."

Payments.

Vol. 48, pp. 41, 1242; U. S. C., p. 164.
Collection of taxes.

SEC. 29. (a) Subsection (b) of section 19 of the Agricultural Adjustment Act, as amended, is amended by inserting in the proviso, after the words "of the payment of" the following: "not exceeding three-fourths of the amount of the", and by adding at the end of the proviso the following: "but postponement of all taxes covered by returns under this title for a period not exceeding one hundred and eighty days may be permitted in cases in which the Secretary of the Treasury authorizes such taxes to be paid each month on the amount of the commodity marketed during the next preceding month".

Postponements.

Vol. 48, p. 41.
Returns; filing.

(b) Section 19 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new subsection:

"(d) Under regulations made by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, any person required pursuant to the provisions of this title to file a return may be required to file such return and pay the tax shown to be due thereon to the collector of internal revenue for the district in which the processing was done or the liability was incurred. Whenever the Commissioner of Internal Revenue deems it necessary, he may require any person or class of persons handling or dealing in any commodity or product thereof, with respect to which a tax is imposed under the provisions of this title, to make a return, render under oath such statements, or to keep such records, as the Commissioner deems sufficient to show whether or not such person, or any other person, is liable for the tax."

Vol. 48, pp. 41, 677.

SEC. 30. The Agricultural Adjustment Act, as amended, is amended by adding after section 20 the following new section:

Prohibitions.
Suits for recovery of taxes paid prior hereto; jurisdiction of courts.

"SEC. 21. (a) No suit, action, or proceeding (including probate, administration, receivership, and bankruptcy proceedings) shall be brought or maintained in any court if such suit, action, or proceeding is for the purpose or has the effect (1) of preventing or restraining the assessment or collection of any tax imposed or the amount of any penalty or interest accrued under this title on or after the date of the adoption of this amendment, or (2) of obtaining a declaratory judgment under the Federal Declaratory Judgments Act in connection with any such tax or such amount of any such interest or penalty. In probate, administration, receivership, bankruptcy, or other similar proceedings, the claim of the United States for any such tax or such amount of any such interest or penalty, in the amount assessed by the Commissioner of Internal Revenue, shall be allowed and ordered to be paid, but the right to claim the refund or credit thereof and to maintain such claim pursuant to the applicable provisions of law, including subsection (d) of this section, may be reserved in the court's order.

Claims of United States in bankruptcy, etc., proceedings.

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

Taxes; imposition and collection.
Legalization and ratification.

Collection of unpaid taxes.

Acts done prior hereto.

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

Rental and benefit payments; validation of.

Agreements with producers.

"(d) (1) No recovery, recoupment, set-off, refund, or credit shall be made or allowed of, nor shall any counter claim be allowed for, any amount of any tax, penalty, or interest which accrued before, on, or after the date of the adoption of this amendment under this title (including any overpayment of such tax), unless, after a claim has been duly filed, it shall be established, in addition to all other facts required to be established, to the satisfaction of the Commissioner of Internal Revenue, and the Commissioner shall find and declare of record, after due notice by the Commissioner to such claimant and opportunity for hearing, that neither the claimant nor any person directly or indirectly under his control or having control over him, has, directly or indirectly, included such amount in the price of the article with respect to which it was imposed or of any article processed from the commodity with respect to which it was imposed, or passed on any part of such amount to the vendee or to any other person in any manner, or included any part of such amount in the charge or fee for processing, and that the price paid by the claimant or such person was not reduced by any part of such amount. In any judicial proceeding relating to such claim, a transcript of the hearing before the Commissioner shall be duly certified and filed as the record in the case and shall be so considered by the court. The provisions of this subsection shall not apply to any refund or credit authorized by subsection (a) or (c) of section 15, section 16, or section 17 of this title, or to any refund or credit

Prohibition on making refunds of taxes accruing subsequent hereto.
Post, p. 1747.

Consideration of claims.

Vol. 48, pp. 39, 676, 1241; *Ante*, pp. 48, 768.

Vol. 46, p. 696; U. S. C. p. 1107.

to the processor of any tax paid by him with respect to the provisions of section 317 of the Tariff Act of 1930.

Refunds if imposition of tax held invalid.

"(2) In the event that any tax imposed by this title is finally held invalid by reason of any provision of the Constitution, or is finally held invalid by reason of the Secretary of Agriculture's exercise or failure to exercise any power conferred on him under this title, there shall be refunded or credited to any person (not a processor or other person who paid the tax) who would have been entitled to a refund or credit pursuant to the provisions of subsections (a) and (b) of section 16, had the tax terminated by proclamation pursuant to the provisions of section 13, and in lieu thereof, a sum in an amount equivalent to the amount to which such person would have been entitled had the Act been valid and had the tax with respect to the particular commodity terminated immediately prior to the effective date of such holding of invalidity, subject, however, to the following condition: Such claimant shall establish to the satisfaction of the Commissioner, and the Commissioner shall find and declare of record, after due notice by the Commissioner to the claimant and opportunity for hearing, that the amount of the tax paid upon the processing of the commodity used in the floor stocks with respect to which the claim is made was included by the processor or other person who paid the tax in the price of such stocks (or of the material from which such stocks were made). In any judicial proceeding relating to such claim, a transcript of the hearing before the Commissioner shall be duly certified and filed as the record in the case and shall be so considered by the court. Notwithstanding any other provision of law: (1) no suit or proceeding for the recovery, recoupment, set-off, refund or credit of any tax imposed by this title, or of any penalty or interest, which is based upon the invalidity of such tax by reason of any provision of the Constitution or by reason of the Secretary of Agriculture's exercise or failure to exercise any power conferred on him under this title, shall be maintained in any court, unless prior to the expiration of six months after the date on which such tax imposed by this title has been finally held invalid a claim therefor (conforming to such regulations as the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, may prescribe) is filed by the person entitled thereto; (2) no such suit or proceeding shall be begun before the expiration of one year from the date of filing such claim unless the Commissioner renders a decision thereon within that time, nor after the expiration of five years from the date of the payment of such tax, penalty, or sum, unless suit or proceeding is begun within two years after the disallowance of the part of such claim to which such suit or proceeding relates. The Commissioner shall within 90 days after such disallowance notify the taxpayer thereof by mail.

Ante, p. 768.

Amount.

Conditions.

Claims; consideration of.

Time for filing.

Notification of disallowance.

Jurisdiction of courts.

"(3) The District Courts of the United States shall have jurisdiction of cases to which this subsection applies, regardless of the amount in controversy, if such courts would have had jurisdiction of such cases but for limitations under the Judicial Code, as amended, on jurisdiction of such courts based upon the amount in controversy.

Access to books, records, etc.

Post, p. 1747.

"(e) In connection with the establishment, by any claimant, of the facts required to be established in subsection (d) of this section, the Commissioner of Internal Revenue is hereby authorized, by any officer or employee of the Bureau of Internal Revenue, including the field service, designated by him for that purpose, to examine any books, papers, records, or memoranda, relative to any matter affecting the findings to be made by the Commissioner pursuant to subsec-

tion (d) of this section, to require the attendance of the claimant or of any officer or employee of the claimant, or the attendance of any other person having knowledge in the premises, and to take, or cause to be taken, his testimony with reference to any such matter, with power to administer oaths to such person or persons. It shall be lawful for the Commissioner, or any collector designated by him, to summon witnesses on behalf of the United States or of any claimant to appear before the Commissioner, or before any person designated by him, at a time and place named in the summons, and to produce such books, papers, correspondence, memoranda, or other records as the Commissioner may deem relevant or material, and to give testimony or answer interrogatories, under oath, relating to any matter affecting the findings to be made by the Commissioner pursuant to subsection (d) of this section. The provisions of Revised Statutes 3174 and of Revised Statutes 3175 shall be applicable with respect to any summons issued pursuant to the provisions of this subsection. Any witness summoned under this subsection shall be paid, by the party on whose behalf such witness was summoned, the same fees and mileage as are paid witnesses in the courts of the United States. All information obtained by the Commissioner pursuant to this subsection shall be available to the Secretary of Agriculture upon written request therefor. Such information shall be kept confidential by all officers and employees of the Department of Agriculture, and any such officer or employee who violates this requirement shall, upon conviction, be subject to a fine of not more than $1,000 or to imprisonment for not more than one year, or both, and shall be removed from office.

Attendance of claimant.

Witnesses.

R. S., sec. 3174, p. 609; U. S. C., p. 1191.

Witness fees and mileage.

Availability of information.

Confidential nature.

"(f) No refund, credit, or abatement shall be made or allowed of the amount of any tax, under section 15, or section 17, unless, within one year after the right to such refund, credit, or abatement has accrued, a claim for such refund, credit, or abatement (conforming to such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe) is filed by the person entitled to such refund, credit, or abatement, except that if the right to any such refund, credit, or abatement accrued prior to the date of the adoption of this amendment, then such one year period shall be computed from the date of this amendment. No interest shall be allowed or paid, or included in any judgment, with respect to any such claim for refund or credit.

Time for filing claim for refund.
Ante, p. 771.
Post, p. 1740.

Interest payments.

"(g) The provisions of section 3226, Revised Statutes, as amended, are hereby extended to apply to any suit for the recovery of any amount of any tax, penalty, or interest, which accrued, before, on, or after the date of the adoption of this amendment under this title (whether an overpayment or otherwise), and to any suit for the recovery of any amount of tax which results from an error in the computation of the tax or from duplicate payments of any tax, or any refund or credit authorized by subsection (a) or (c) of section 15, section 16, or section 17 of this title or any refund or credit to the processor of any tax paid by him with respect to articles exported pursuant to the provisions of section 317 of the Tariff Act of 1930."

R. S., sec. 3226, p. 619; U. S. C., p. 1202.
Recovery of taxes erroneously collected.
Post, p. 1747.

SEC. 31. The Agricultural Adjustment Act, as amended, is amended by inserting after section 21 the following:

"IMPORTS

Imports.

"SEC. 22. (a) Whenever the President has reason to believe that any one or more articles are being imported into the United States under such conditions and in sufficient quantities as to render or tend to render ineffective or materially interfere with any program or

Investigations by Tariff Commission; authority of President to cause; when.
Post, p. 1152.

operation undertaken, or to reduce substantially the amount of any product processed in the United States from any commodity subject to and with respect to which an adjustment program is in operation, under this title, he shall cause an immediate investigation to be made by the United States Tariff Commission, which shall give precedence to investigations under this section to determine such facts. Such investigation shall be made after due notice and opportunity for hearing to interested parties and shall be conducted subject to such regulations as the President shall specify.

Notice required.

Proclamation imposing import restrictions.

" (b) If, on the basis of such investigation and report to him of findings and recommendations made in connection therewith, the President finds the existence of such facts, he shall by proclamation impose such limitations on the total quantities of any article or articles which may be imported as he finds and declares shown by such investigation to be necessary to prescribe in order that the entry of such article or articles will not render or tend to render ineffective or materially interfere with any program or operation undertaken, or will not reduce substantially the amount of any product processed in the United States from any commodity subject to and with respect to which an adjustment program is in operation, under this title: *Provided*, That no limitation shall be imposed on the total quantity of any article which may be imported from any country which reduces such permissible total quantity to less than 50 per centum of the average annual quantity of such article which was imported from such country during the period from July 1, 1928, to June 30, 1933, both dates inclusive.

Proviso. Total quantity of imports.

Effective date of import restriction.

" (c) No import restriction proclaimed by the President under this section nor any revocation, suspension, or modification thereof shall become effective until fifteen days after the date of such proclamation, revocation, suspension, or modification.

Finality of President's decision.

" (d) Any decision of the President as to facts under this section shall be final.

Suspension or modification of proclamation.

" (e) After investigation, report, finding, and declaration in the manner provided in the case of a proclamation issued pursuant to subsection (b) of this section, any proclamation or provision of such proclamation may be suspended by the President whenever he finds that the circumstances requiring the proclamation or provision thereof no longer exist, or may be modified by the President whenever he finds that changed circumstances require such modification to carry out the purposes of this section."

Annual appropriation.

Amount.

Post, pp. 1151, 1755.

SEC. 32. There is hereby appropriated for each fiscal year beginning with the fiscal year ending June 30, 1936 an amount equal to 30 per centum of the gross receipts from duties collected under the customs laws during the period January 1 to December 31, both inclusive, preceding the beginning of each such fiscal year. Such sums shall be maintained in a separate fund and shall be used by the Secretary of Agriculture only to (1) encourage the exportation of agricultural commodities and products thereof by the payment of benefits in connection with the exportation thereof or of indemnities for losses incurred in connection with such exportation or by payments to producers in connection with the production of that part of any agricultural commodity required for domestic consumption; (2) encourage the domestic consumption of such commodities or products by diverting them, by the payment of benefits or indemnities or by other means, from the normal channels of trade and commerce; and (3) finance adjustments in the quantity planted or produced for market of agricultural commodities. The amounts appropriated under this section shall be expended for such of the above-specified purposes, and at such times, in such manner, and in such amounts as the Secretary of Agriculture finds will tend to increase the exportation of agricultural

Separate fund to be maintained; uses.

Expenditure.

commodities and products thereof, and increase the domestic consumption of agricultural commodities and products thereof: *Provided*, That no part of the funds appropriated by this section shall be expended pursuant to clause (3) hereof unless the Secretary of Agriculture determines that the expenditure of such part pursuant to clauses (1) and (2) is not necessary to effectuate the purposes of this section: *Provided further*, That no part of the funds appropriated by this section shall be used for the payment of benefits in connection with the exportation of unmanufactured cotton.

Provisos. Restrictions.

SEC. 33. Section 7 of Title 1 of the Agricultural Adjustment Act, as amended by section 221 of the National Industrial Recovery Act (48 Stat. 210, 15 U. S. C., art. 607), is amended by striking it out and inserting in lieu thereof the following:

Vol. 48, p. 210; U. S. C., p. 157. Cotton option contracts.

"SEC. 7. The Secretary shall sell cotton held or acquired by him pursuant to authority of this Act at his discretion subject only to the conditions and limitations of Title 1 of this Act: *Provided*, That the Secretary shall have authority to enter into option contracts with producers of cotton to sell to or for the producers such cotton held and/or acquired by him in such amounts and at such prices and upon such terms and conditions as he, the Secretary, may deem advisable, and such option contracts may be transferred or assigned in such manner as the Secretary of Agriculture may prescribe.

Sale of cotton held by Secretary of Agriculture.

Proviso. Authority to make cotton option contracts.

"Notwithstanding any provisions contained in option contracts heretofore issued and/or any provision of law, assignments made prior to January 11, 1934, of option contracts exercised prior to January 18, 1934, shall be deemed valid upon determination by the Secretary that such assignment was an assignment in good faith of the full interest in such contract and for full value and is free from evidence of fraud or speculation by the assignee.

Validity of contracts assigned prior to January 11, 1934.

"Notwithstanding any provision of existing law, the Secretary of Agriculture may, in the administration of the Agricultural Adjustment Act, make public such information as he deems necessary in order to effectuate the purposes of such Act."

Publication of information.

SEC. 34. Section 6 of the Agricultural Adjustment Act, is hereby repealed.

Vol. 48, p. 33; U. S. C., p. 157.

SEC. 35. Section 4 (b) of Title 1 of the Agricultural Adjustment Act, as amended by the Emergency Appropriation Act, fiscal year 1935, is amended by striking out the words "to be available until March 1, 1936" and inserting at the end of said section a new sentence to read as follows: "This sum shall be available until the cotton acquired by the Secretary of Agriculture under authority of Title 1 of this Act, including cotton futures, shall have been finally marketed by any agency which may have been or may be established by the Secretary of Agriculture for the handling, carrying, insuring, or marketing of any cotton acquired by the Secretary of Agriculture."

Vol. 48, p. 1058; *Ante*, p. 115.

Availability of appropriations.

SEC. 36. Section 4 (f) of Title 1 of the Agricultural Adjustment Act, as amended by the Emergency Appropriation Act, fiscal year 1935, is amended by adding at the end thereof a new paragraph to read as follows:

Vol. 48, p. 1059; *Ante*, p. 115.

"The word 'obligation' when used in this section shall include (without being limited to) administrative expenses, warehouse charges, insurance, salaries, interest, costs, commissions, and other expenses incident to handling, carrying, insuring, and marketing of said cotton."

"Obligation" construed.

SEC. 37. There is hereby authorized to be appropriated the sum of $40,000,000, of which sum $10,000,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to enable the Secretary of Agriculture, under rules and regulations to be promulgated by him and upon such terms as he may prescribe, to eliminate diseased dairy and beef cattle, including cattle suffer-

Diseased dairy and beef cattle.

Appropriation authorized for removal; sum available.

Rules and regulations.

Post, pp. 1152, 1456.

Experimentation; sums available.

ing from tuberculosis or Bang's disease, and to make payments to owners with respect thereto. The Secretary of Agriculture is authorized to use for scientific experimentation and efforts to eradicate disease in cattle, as much as he finds advisable of the funds appropriated by or in pursuance of the authorization contained in this section and the funds appropriated by the second paragraph of Public Resolution Numbered 27, Seventy-third Congress, approved May 25, 1934, to carry out section 6 of the Act entitled "An Act to amend the Agricultural Adjustment Act so as to include cattle and other products as basic agricultural commodities, and for other purposes", approved April 7, 1934. The sums appropriated or reappropriated by this section shall remain available until June 30, 1936, and such sums and the sums appropriated in pursuance of the authorization contained in this section shall be available to carry out the purposes of both this section and such section 6, and may be used for all necessary expenses in connection therewith, including the employment of persons and means in the District of Columbia and elsewhere. The unexpended balance of the funds appropriated by the second paragraph of such Public Resolution Numbered 27 to carry out the purposes of section 2 of such Act of April 7, 1934, shall remain available for the purposes of such section 2 until June 30, 1936.

Vol. 48, pp. 528, 805.

Sums to remain available until June 30, 1936.
Administrative expenses.

Vol. 48, pp. 528, 805.

Agreements and remedies not invalidated hereby.

SEC. 38. Nothing contained in this Act shall (a), invalidate any marketing agreement or license in existence on the date of the enactment hereof, or any provision thereof, or any act done pursuant thereto, either before or after the enactment of this Act, or (b) impair any remedy provided for on the date of the enactment thereof for the enforcement of any such marketing agreement or license, or (c) invalidate any agreement entered into pursuant to section 8 (1) of the Agricultural Adjustment Act prior to the enactment of this Act, or subsequent to the enactment of this Act in connection with a program the initiation of which has been formally approved by the Secretary of Agriculture under such section 8 (1) prior to the enactment of this Act, or any act done or agreed to be done or any payment made or agreed to be made in pursuance of any such agreement, either before or after the enactment of this Act, or any change in the terms and conditions of any such agreement, or any voluntary arrangements or further agreements which the Secretary finds necessary or desirable in order to complete or terminate such program pursuant to the declared policy of the Agricultural Adjustment Act: *Provided*, That the Secretary shall not prescribe, pursuant to any such agreement or voluntary arrangement, any adjustment in the acreage or in the production for market of any basic agricultural commodity to be made after July 1, 1937 except pursuant to the provisions of section 8 of the Agricultural Adjustment Act as amended by this Act.

Vol. 48, p. 34; *Ante*, p. 46.

Proviso.
Adjustments in acreage or production.

Bankhead Cotton Act (Cotton Control Act), amendments.
Vol. 48, p. 599.
Post, p. 1106.
Period of applicability of Act; cotton ginning tax.

AMENDMENTS TO BANKHEAD COTTON ACT

SEC. 39. (a) Section 2 and the first sentence of section 3 (a) of the Act entitled "An Act to place the cotton industry on a sound commercial basis, to prevent unfair competition and practices in putting cotton into the channels of interstate and foreign commerce, to provide funds for paying additional benefits under the Agricultural Adjustment Act, and for other purposes", approved April 21, 1934, as amended, are amended by inserting after the phrase "the crop year 1935–1936", wherever such phrase appears, the phrase "or the crop year 1936–1937 or the crop year 1937–1938".

(b) Section 3 (a) of such Act, as amended, is amended by adding at the end thereof the following new sentence: "In ascertaining the sentiment of the producers with respect to the crop year 1936–1937 or the crop year 1937–1938, the vote in favor of the compulsory tax features of this Act, by two-thirds of the producers voting, shall be deemed sufficient for the purposes of this subsection."

Ascertainment of sentiment of producers.
Vol. 48, p. 599.

(c) Section 5 (a) of an Act entitled "An Act to place the cotton industry on a sound commercial basis, to prevent unfair competition and practices in putting cotton into the channels of interstate and foreign commerce, to provide funds for paying additional benefits under the Agricultural Adjustment Act, and for other purposes," approved April 21, 1934, as amended, is amended by inserting after the sentence "that no State shall receive an allotment of less than 200,000 bales of cotton if in any one year of five years prior to this date the production of the State equaled 250,000 bales" the following: "And be it further provided that after the year 1935 no State shall receive an allotment of less than 80,000 bales of cotton if in any one year of five years prior to the date of the passage of said Act the production of the State equaled 100,000 bales."

Vol. 48, p. 600.

Ante, p. 570.

Minimum allotment.

(d) The action of the Secretary of Agriculture in ascertaining and proclaiming, pursuant to section 3 (a) and (b) of such Act, as amended, 10,500,000 bales as the maximum amount of cotton of the crop harvested in the crop year 1935–1936 that may be marketed exempt from payment of the tax levied by such Act, as amended, is hereby legalized and ratified, and all apportionments and other action taken pursuant to such ascertainment and proclamation are legalized and ratified and confirmed as fully to all intents and purposes as if such amount had been fixed and such apportionments and action had been authorized and made effective specifically by Act of Congress.

Validation of act establishing maximum number of tax exempt bales in 1935–1936 crop year.
Vol. 48, p. 599.

(e) Section 7 of such Act, as amended, is amended by adding at the end thereof the following new subsection:

Vol. 48, p. 601.

"(d) For each crop year subsequent to the crop year 1934–1935 in which this Act is in effect the Secretary of Agriculture shall make (1) to each farm with an established average production for the applicable base period of 956 pounds or less of lint cotton an allotment equal to the full amount of such production and (2) to each farm with an established average production for such base period of more than 956 pounds of lint cotton an allotment of not less than 956 pounds. For each crop year subsequent to the crop year 1935–1936, the amount of each such allotment (and for the crop year 1935–1936 and subsequent crop years, the additional amount required for apportionment under the provisions of the Public Resolution entitled "Public Resolution To provide for certain State allotments under the Cotton Control Act") which is in excess of the allotment which, without regard to this subsection or such Public Resolution, would have been made to any farm, shall be in addition to the national allotment and the allotments to the State and county in which such farm is situated. The first sentence of this subsection shall not be held to increase any allotment to any farm for the crop year 1935–1936 which allotment was made under regulations of the Secretary of Agriculture prior to the date of the adoption of this amendment, or to require any reallotment."

Allotments to individual farms.
Crop year subsequent to 1934–1935.

1935–1936.

Ante, p. 570.

SEC. 40. Section 17 of such Act of April 21, 1934, as amended, is amended by inserting "(a)" before the first sentence thereof and by inserting at the end thereof the following new subsection:

Vol. 48, p. 605.
Officers and employees.

"(b) Appropriations for administrative expenses under this Act are authorized to be made available to enable the Secretary of Agriculture to pay any person, who, in connection with the operation of

Appropriations for administrative expenses.

any cotton gin, incurred additional expenses in connection with the administration of this Act with respect to cotton ginned during the crop year 1935–1936 or any subsequent crop year in which this Act is in effect, and who applies to the Secretary therefor, compensation in the amount of such additional expenses, but not in excess of the rate of 25 cents per bale of such cotton ginned by such person, provided proof satisfactory to the Secretary of Agriculture is furnished that the additional expenses for which such person makes application have not been passed on in any manner whatsoever."

Vol. 48, p. 603. Exemption certificates; assignment.

SEC. 41. Section 9 (d) of such Act of April 21, 1934, as amended (relating to transfer of exemption certificates), is amended by inserting after the first sentence thereof the following new sentence. "No rule or regulation of the Secretary of Agriculture shall prohibit the transfer or assignment by a cotton producer of certificates issued or reissued to him if such transfer or assignment is to another cotton producer who is a resident of the same State."

Vol. 48, p. 599. Tax and exemptions.

SEC. 42. Section 4 of such Act of April 21, 1934, as amended, is amended by inserting at the end thereof the following new subsection:

Cotton retained for household use.

"(h) The Secretary of Agriculture is directed to exempt by regulation from the payment of the tax on the ginning of cotton as levied under authority of this Act, an amount of lint cotton not in excess of one hundred and ten pounds, produced by or for any producer and retained for domestic use in his household."

Kerr Tobacco Act (Tobacco Control Act), amendments. Vol. 48, p. 1275. *Post*, p. 1106.

AMENDMENTS TO KERR TOBACCO ACT

SEC. 43. The title of the Act entitled "An Act to place the tobacco-growing industry on a sound financial and economic basis, to prevent unfair competition and practices in the production and marketing of tobacco entering into the channels of interstate and foreign commerce, and for other purposes", approved June 28, 1934, is amended to read as follows:

Title.

"An Act to place the tobacco-growing industry on a sound financial and economic basis, to prevent unfair competition and practices in the production and marketing of tobacco entering into the channels of interstate and foreign commerce, to raise revenue, and for other purposes."

Definitions.

SEC. 44. Section 1 of said Act is amended by adding at the end thereof the following new subsections:

"Puerto Rican tobacco."

"(l) The term 'Puerto Rican tobacco' means all leaf tobacco classified as type 46 in the United States Department of Agriculture, Bureau of Agricultural Economics, Service and Regulatory Announcements Numbered 118."

"Cigar-wrapper tobacco."

"(m) The term 'cigar-wrapper tobacco' means all leaf tobacco classified in class 6 in the United States Department of Agriculture, Bureau of Agricultural Economics, Service and Regulatory Announcements Numbered 118."

Vol. 48, p. 1276. Declared policy.

SEC. 45. Section 2 of said Act is amended by inserting after the words "consumption of tobacco" a comma and the words "to raise revenue,".

Vol. 48, p. 1276. Imposition of tax; exemption.

SEC. 46. Subsection (b) of section 3 of said Act is amended by striking out the period and the remainder of the subsection following the first sentence and inserting in lieu thereof the following: "and to all tobacco harvested in the crop year 1935–1936, except Maryland tobacco, Puerto Rican tobacco, and cigar wrapper tobacco. Thereafter whenever the Secretary of Agriculture determines (1) that the imposition of the tax upon any particular type of tobacco is necessary for the orderly marketing of such tobacco in interstate and foreign

Authority to impose tax after 1935–1936 crop harvested.

commerce and to effectuate the declared policy of this Act, and (2) that two-thirds of the land engaged in the production of such type of tobacco during the crop year in which such determination is made is voted in favor of the levy of the tax upon the sale of such type of tobacco, he shall proclaim such determination at least sixty days prior to the next succeeding crop year, and the tax shall thereafter apply to the sale of tobacco of such type harvested during the crop year next following the date of such proclamation. All persons who have the right, during the crop year in which such determination is made, to sell or to receive a share of the proceeds derived from the sale of tobacco of any type produced by them, or produced on land owned or leased by them, shall be entitled to vote, and the proportion of all the votes cast in each county which are cast in favor of levying the tax upon the sale of such type of tobacco shall determine the proportion of the total amount of tobacco land in such county which shall be deemed to have been voted in favor of levying such tax. The tax provided for by subsection (a) of this section shall not apply to any tobacco harvested after April 30, 1939."

Producers' right to vote.

Duration of taxing provision.

SEC. 47. Subsection (a) of section 5 of said Act is amended by inserting after the designation "(a)" at the beginning thereof the following: "(1)"; and by inserting at the end of said subsection the following paragraph:

Vol. 48, p. 1277.

"(2) The Secretary of Agriculture shall issue to any person, who, because of religious or moral scruples, is unwilling or unable to become a contracting producer, similar tax-payment warrants covering the quantity of tobacco produced by such person: *Provided*, That the Secretary determines that such person has not planted a greater acreage of tobacco nor sold a greater quantity of tobacco than he could have planted or sold as a contracting producer."

Tax payment warrants; issue.

Proviso. Restriction.

SEC. 48. Subsection (b) of section 5 of said Act is amended by striking out the first sentence of said subsection and inserting in lieu thereof the following:

Vol. 48, p. 1277.

"There shall be available for issuance by the Secretary of Agriculture further warrants, covering an amount of tobacco of any type equal to 3 per centum of the amount of tobacco of such type covered by the warrants issuable or issued to all contracting producers under the provisions of subsection (a) of this section, to persons engaged in the production of tobacco of such type who do not enter into such contracts and as to whom the Secretary determines that no equitable allotment of tobacco acreage or production is possible under such tobacco contracts. Such warrants shall be issued, upon application therefor, upon such basis or classification as the Secretary deems will effectuate the declared policy of this Act and will be fair and just, and as will apply to all persons eligible to receive warrants under this subsection uniformly on the basis or classification adopted: *Provided*, That warrants covering two-thirds of the amount of any type of tobacco to cover which warrants are available under this subsection shall be issued, upon application therefor, only to persons who receive warrants covering one thousand five hundred pounds or less of any type of tobacco."

Warrants to persons not contracting producers. Limit on number.

Application for.

Proviso. Persons to whom may be issued.

SEC. 49. Subsection (d) of section 5 of said Act is amended to read as follows:

Vol. 48, p. 1277.

"If any tax-payment warrant is erroneously issued to any person, or if the Secretary of Agriculture determines pursuant to this subsection that any person to whom any tax-payment warrant is issued has failed to comply in any crop year with any provision of any agreement entered into by such person pursuant to the Agricultural Adjustment Act or has failed to comply with any rule or regulation issued by the Secretary of Agriculture pursuant to this Act or

Tax payment warrants; voiding and return.

the Agricultural Adjustment Act, any warrant issued during such crop year to such person shall be void upon demand in writing for the return of such warrant made by the Secretary of Agriculture to the person to whom such warrant was issued. If any tax-payment warrant which has been accepted in payment of the tax imposed by this Act upon the sale of tobacco becomes void pursuant to this subsection either before or after such acceptance, the person to whom such warrant was issued shall, notwithstanding such acceptance of such warrant, be liable for the full amount of the tax upon such sale."

When accepted in payment of tax; liability of person to whom issued.

Vol. 48, p. 1278.

SEC. 50. Section 8 of said Act is amended by striking out subsection (b) of that section and inserting in lieu thereof two new subsections as follows:

Returns respecting tobacco produced or sold; requirement.

"(b) All persons, in whatever capacity acting, including producers, warehousemen, processors of tobacco, and common carriers, having information with respect to tobacco produced or sold, may be required to make a return in regard thereto, setting forth the amount of tobacco produced, sold, or delivered, the name and address of the person who produced, sold, or delivered said tobacco, or to whom said tobacco was sold or delivered, the price paid on such sale, and any other and further information which the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury and the Secretary of Agriculture, shall by regulations prescribe as necessary for the proper administration and collection of the tax. Any person required to make any such return shall render a true and accurate return to the Commissioner of Internal Revenue.

Penalty on refusal to file.

"(c) Any person willfully failing or refusing to file any return required to be filed under this section, or filing willfully any false return, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than $1,000."

Vol. 48, p. 1278.

SEC. 51. Section 9 of said act is amended by adding at the end thereof the following new subsection:

Administrative agencies; powers.

"(c) Any person who is authorized in writing by the Secretary of Agriculture to act as his agent in the administration of this Act shall, while he is acting as such agent, have the power to administer oaths in connection with the execution of forms required by regulations issued pursuant to sections 7 and 8 of this Act, but no fee or compensation shall be charged or received by any such agent for administering such an oath."

Vol. 48, p. 1279.
Appropriation available for rental and benefit payments.

SEC. 52. The first sentence of subsection (a) of section 10 of said Act is amended to read as follows: "The proceeds heretofore and hereafter derived from the tax are hereby appropriated to be available to the Secretary of Agriculture for rental and benefit payments under the Agricultural Adjustment Act to contracting producers, for administrative expenses, refunds of taxes, redemption of tax-payment warrants heretofore or hereafter received by contracting producers subsequent to the sale of the tobacco covered by said warrants and subsequent to payment of the tax imposed upon such sale by section 3 of this Act, and other payments under this Act."

Administrative expenses, etc.

Vol. 48, p. 1279.
Refunds; presenting claims for.

SEC. 53. Subsection (a) of section 11 of said Act is amended effective as of the date of the enactment of the said Act by striking out the words "six months" and by inserting in lieu thereof the words "one year".

Vol. 48, p. 1280.

SEC. 54. Section 14 of said Act is amended to read as follows:

Offer to become contracting producer.

"The Secretary of Agriculture is directed not to refuse on the ground of lateness any offer by a tobacco producer to become a contracting producer, if such offer is filed with the Secretary of Agriculture within thirty days after the date of the proclamation by the Secretary of Agriculture, pursuant to subsection (b) of section 3 of this Act."

Appropriations available.
Ante, p. 115.

SEC. 55. There is hereby made available, out of any money appropriated by the Emergency Relief Appropriation Act of 1935, such amount as the President may allot for the development of a national program of land conservation and land utilization. The sums so allotted may be used, in the discretion and under the direction of the President, for the acquisition of submarginal lands and their use for such public purposes as the President shall prescribe.

Acquisition of submarginal lands.

Powers of President.

In carrying out the provisions of this section, the President is authorized:

(a) To make contracts and grants; and

(b) To acquire, by purchase, any real property or any interest therein (with or without reservations) in accordance with the policy herein set forth.

ANTI-HOG-CHOLERA SERUM AND HOG-CHOLERA VIRUS

Anti-hog-cholera serum and hog-cholera virus.

Declaration of policy.
Post, p. 1617.

SEC. 56. It is hereby declared to be the policy of Congress to insure the maintenance of an adequate supply of anti-hog-cholera serum and hog-cholera virus by regulating the marketing of such serum and virus in interstate and foreign commerce, and to prevent undue and excessive fluctuations and unfair methods of competition and unfair trade practices in such marketing.

Marketing agreements with manufacturers.

SEC. 57. In order to effectuate the policy declared in section 56 of this Act the Secretary of Agriculture shall have the power, after due notice and opportunity for hearing, to enter into marketing agreements with manufacturers and others engaged in the handling of anti hog-cholera serum and hog-cholera virus only with respect to such handling as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects interstate or foreign commerce in such serum and virus. Such persons are hereafter in this Act referred to as "handlers." 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.

"Handlers" construed.

Application of antitrust laws.

Terms and conditions in agreements.

SEC. 58. Marketing agreements entered into pursuant to section 57 of this Act shall contain such one or more of the following terms and conditions and no others as the Secretary finds, upon the basis of the hearing provided for in section 57, will tend to effectuate the policy declared in section 56 of this Act:

(a) One or more of the terms and conditions specified in subsection (7) of section 8c of the Agricultural Adjustment Act, as amended.

(b) Terms and conditions requiring each manufacturer to have available on May 1 of each year a supply of completed serum equivalent to not less than 40 per centum of his previous year's sales.

Orders; issuance of; when.

SEC. 59. Whenever all the handlers of not less than 75 per centum of the volume of anti-hog-cholera serum and hog-cholera virus which is handled in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce, have signed a marketing agreement entered into with the Secretary of Agriculture pursuant to section 57 of this Act, the Secretary of Agriculture shall issue an order which shall regulate only such handling in the same manner as, and contain only such terms and conditions as are contained in such marketing agreement, and shall from time to time amend such order in conformance with amendments to such marketing agreement. Such order shall terminate upon termination of such marketing agreement as provided in such marketing agreement.

Termination of.

Provisions made applicable to.
Vol. 48, p. 675; *Ante*, pp. 753, 781.

SEC. 60. Subject to the policy declared in section 56 of this act, the provisions of subsections (6), (7), (8), and (9) of section 8a and of subsections (14) and (15) of section 8c of the Agricultural Adjustment Act, as amended, are hereby made applicable in connection with orders issued pursuant to section 59 of this Act, and the provisions of section 8d of the Agricultural Adjustment Act, as amended, are hereby made applicable in connection with marketing agreements entered into pursuant to section 57 and orders issued pursuant to section 59 of this Act. The provisions of subsections (a), (b) (2), (c), (f), (h), and (i) of section 10 of the Agricultural Adjustment Act, as amended, are hereby made applicable in connection with the administration of sections 56 to 60, inclusive, of this Act.

Ante, p. 767.

Potato Control Act of 1935.

POTATO CONTROL

Potatoes as basic agricultural commodity.
Vol. 48, p. 38.

SEC. 61. Section 11 of the Agricultural Adjustment Act, as amended, is amended by adding after the word "rice" a comma and the word "potatoes" and by adding at the end of said section 11 a new sentence as follows: "As used in this title, the term 'potatoes' means all varieties of potatoes included in the species Solanum tuberosum."

"Potatoes" construed.

Base period.
Vol. 48, p. 32.

SEC. 62. Subsection 1 of section 2 of the Agricultural Adjustment Act, as amended, is amended by adding after the word "tobacco", in both the second and third sentences of said subsection, the words "and potatoes".

Title II.

TITLE II

Definitions.

DEFINITIONS

Post, pp. 1106, 1163.

SEC. 201. When used in this title, unless the context otherwise requires—

"Person."

(a) The term "person" includes an individual, a corporation, a partnership, a business trust, a joint-stock company, an association, a syndicate, group, pool, joint venture, or any other unincorporated organization or group.

"Commissioner."

(b) The term "Commissioner" means the Commissioner of Internal Revenue.

"Collector."

(c) The term "collector" means a collector of internal revenue.

"Sale."

(d) The term "sale" includes any agreement or delivery whereby the seller transfers the property in, or right to consume, potatoes to another for a consideration, and any sum of money, services, property, or anything of value whatsoever, may constitute consideration for such transfer, but does not include the transfer of the right to consume potatoes to a member of the household of a producer of such potatoes or a transfer for consumption by the household of a person employed in the farming operations of the producer of such potatoes.

"Allotment year."

(e) The term "allotment year" means the period commencing December 1 and ending November 30: *Provided*, That the first allotment year shall commence December 1, 1935, and shall end November 30, 1936.

"Change in the form of potatoes."

(f) The term "change in the form of potatoes" means an intentionally effected change in the form of potatoes in preparation for the sale of such potatoes, or any product thereof, as such change is defined by rules and regulations prescribed by the Commissioner, with the approval of the Secretary of the Treasury.

"Tax stamp."

(g) The term "tax stamp" means an appropriate stamp or other means of identifying potatoes with respect to which a tax levied by this title has been paid.

(h) The term "tax-exemption stamp" means an appropriate stamp or other means of identifying potatoes with respect to which an exemption from a tax levied by this title has been established. "Tax-exemption stamp."

(i) The term "potatoes" means all varieties of potatoes included in the species Solanum tuberosum. "Potatoes."

(j) The term "producer" means a person who has the right to sell, or to receive a share of the proceeds derived from the sale of, potatoes cultivated by him, or on land owned or leased by him. "Producer."

(k) The term "continental United States" means the several States of the United States and the District of Columbia and does not include any Territory or possession of the United States. "Continental United States."

(l) The term "operator" means any person operating his own farm, any tenant operating a farm rented for cash or for a fixed-commodity payment, any crop-share tenant, and any crop-share landlord. "Operator."

(m) The term "farm" means all the land operated by the producer as a single operating unit with work stock, farm machinery, and labor substantially separate from that of any other tract of land. "Farm."

IMPOSITION OF THE TAX

Imposition of tax.

SEC. 202. (a) There is hereby levied and assessed upon each first sale of potatoes harvested on or after December 1, 1935, in the continental United States a tax, to be paid by the seller, at the rate of three-fourths of 1 cent per pound: *Provided*, That when there is a change in the form of potatoes harvested on or after December 1, 1935, in the continental United States prior to the first sale thereof, a tax at the rate of three-fourths of 1 cent per pound, to be paid by the owner at the time such change is effected, is hereby levied and assessed upon the effecting of such change, and no tax shall be levied upon the first sale of such potatoes or any product or products thereof. Assessment; amount. *Proviso.* When change in form prior to first sale. Payment.

(b) If the Secretary of Agriculture finds at any time that the total apportionments to producers in any potato-producing region or regions (as established and defined pursuant to subsection (c) of section 209 of this title) are in excess of the probable supply of potatoes in the continental United States during the marketing periods for such region or regions, he shall proclaim such determination, and the provisions of this title shall not be operative during such marketing periods. When apportionment exceeds supply in producing region.

(c) At least thirty days prior to the beginning of each allotment year after the first allotment year, the Secretary of Agriculture shall conduct a referendum which will afford to producers of potatoes a reasonable opportunity to vote in favor of or in opposition to continuing in effect with respect to potatoes produced during the succeeding allotment year the taxes levied by subsection (a) of this section. Each producer who is entitled to an allotment for the last allotment year for which such apportionments were made shall be entitled to one vote; and such taxes shall not be in effect and the provisions of this title shall not be operative with respect to potatoes produced in such succeeding year unless the majority of the votes cast in such referendum are cast in favor of continuing such taxes in effect. Referendum at beginning of each allotment year. Entitlement to vote.

(d) If the Secretary of Agriculture determines and proclaims that the taxes levied by subsection (a) of this section will at the rate therein specified for such taxes, (1) tend to adversely affect the orderly marketing of potatoes, or (2) tend to depress the farm price Adjustment of tax rate.

of potatoes, or (3) tend to cause to producers of potatoes disadvantages in competition by reason of an excessive shift in consumption from potatoes to some other commodity or commodities, then the rate of such taxes shall for such period as the Secretary of Agriculture designates, be at the highest rate which is lower than three-fourths of 1 cent (not less than one-half of 1 cent per pound) as he finds and proclaims will not adversely affect such orderly marketing, or cause such depression of the farm price, or cause such disadvantages in competition.

Tax stamps; deposit of proceeds.

(e) The taxes levied by subsection (a) of this section shall be represented by tax stamps, and the proceeds of taxes levied under this title shall be paid into the Treasury of the United States as internal revenue collections.

Preparation.

(f) The Commissioner shall cause to be prepared, for the payment of such taxes, tax stamps of suitable denominations and shall furnish

Distribution and sale.

same to the collectors of internal revenue. The Commissioner shall also furnish to the Postmaster General without prepayment a suitable quantity of such stamps to be distributed to, and kept on sale

Bond.

by, the various postmasters in the United States. The Postmaster General may require each such postmaster to give additional or increased bond as postmaster for the value of the stamps so furnished,

Accounting.

and each such postmaster shall deposit the receipts from the sale of such stamps to the credit of, and render accounts to, the Postmaster General at such times and in such form as he may by regulations

Transfer of collections.

prescribe. The Postmaster General shall at least once monthly transfer all collections from this source to the Treasury as internal revenue collections.

Allotments.

ALLOTMENTS

Proclamation of production quantity for allotment year.

SEC. 203. The Secretary of Agriculture shall investigate probable production and market conditions for each allotment year and shall determine from available statistics of the Department of Agriculture and proclaim, at least thirty days prior to the beginning of each allotment year, the quantity of potatoes which, if produced during such year and sold during or after such year, will, in his opinion, tend to establish and maintain such balance between the production, sale, and consumption of potatoes and the marketing conditions therefor as will, in his opinion, tend to establish prices to potato producers at a level that would give potatoes a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of potatoes in the period August 1919–July 1929 without reducing the total net income of potato producers from potatoes below the largest probable income of potato producers from potatoes produced during such allotment year, and without tending to cause to producers of potatoes disadvantages in competition by reason of an excessive shift in consumption from potatoes to some

Apportionment of quantity.

other commodity or commodities; and the quantity so proclaimed shall, for each allotment year, be apportioned by the Secretary of Agriculture as hereinafter provided.

Determination of apportionment to each State.

SEC. 204. When a quantity is determined in accordance with section 203 of this title, the Secretary of Agriculture shall apportion such quantity among the several States. The apportionment to each State

Formula.

shall be determined on the basis of the ratio that the annual average acreage of the four years in which the highest potato acreage was harvested in such State in the years 1927–1934, inclusive, multiplied by the average yield per acre for the four years that the yield of potatoes per acre for such State was highest in the years 1927–1934, inclusive, multiplied by the average annual percentage of the crop

produced in such State during the years 1929–1934, inclusive, which was sold, bears to the sum of the products of such average acreages, such average yields, and such percentages of sales for all States: *Provided*, That if the Secretary of Agriculture finds that the application of the foregoing formula alone would, because of differences in production practices and marketing practices among the several States, result in an inequitable and unfair apportionment to any State or States, not in excess of 2 per centum of the quantity of potatoes determined in accordance with section 203 of this title may be deducted from such quantity and may be used by the Secretary of Agriculture to adjust on the basis of equity and fairness the apportionments made or to be made to any State or States.

Proviso. When apportionment found unfair to any State.

SEC. 204a. The quantity determined and proclaimed by the Secretary of Agriculture pursuant to Section 203, and the quantity apportioned to each State pursuant to Section 204, may at such intervals as the Secretary of Agriculture finds necessary to effectuate the declared policy and purposes of this Act be adjusted by him: *Provided*, That the quantity so determined and proclaimed shall not be increased or decreased by more than 5 per cent.

Adjustments authorized.

Proviso. Restriction.

SEC. 205. Ninety-five per centum of the quantity of potatoes apportioned to any State pursuant to section 204 of this title shall be apportioned by the Secretary of Agriculture to farms on which potatoes have been grown within such State during any one or more years within the period 1932–1934, inclusive. Such apportionment to any farm shall be made upon application therefor and may, in order to secure equitable apportionments to producers, be made by the Secretary based upon either—

Apportionment to farms.

Application therefor.

(1) A percentage of the average sales of potatoes produced on such farm for a representative base period, prescribed by the Secretary, of any two or more years during the years 1932–1934, inclusive, providing the operators of such farm for the allotment year for which the apportionment is made produced potatoes on such farm during at least one of the base-period years. The representative base period prescribed by the Secretary and the percentage applied to the average sales of potatoes produced during such period in establishing apportionments for each farm under this paragraph shall, so far as practicable, be uniform for farms similarly situated upon the basis or classification prescribed by the Secretary of Agriculture, but in the case of any farm for which such average sales are 300 pounds or less, such average sales shall be exempt from any percentage reduction thereof and such farm shall receive an apportionment equal to such average sales; or

Methods of making apportionment.

(2) Such basis as the Secretary of Agriculture deems fair and just and will apply to all farms to which an apportionment is made under this paragraph 2 uniformly on the basis or classification adopted. In making an apportionment to a farm under this paragraph, due consideration shall be given to the quantity of potatoes produced and sold in the past by the operators who will operate such farm for the allotment year for which the apportionment is made, the quantity of potatoes produced on such farm and sold in the past, and the acreage of the farm available for the production of potatoes and which the operators are currently equipped to devote to the production of potatoes.

SEC. 206. Not in excess of 5 per centum of the quantity of potatoes apportioned to any State pursuant to section 204 of this title shall, upon application therefor, be available for apportionment by the Secretary of Agriculture to farms operated by persons engaged or evidencing a desire to engage in the production and sale of potatoes

Percentage of quantity available for apportionment to farms otherwise ineligible.

in such State and which farms are ineligible to receive an apportionment under section 205 or in respect to which the Secretary of Agriculture determines that the apportionments made pursuant to section 205 are inequitable: *Provided*, That apportionments under this section shall be made upon such basis as the Secretary of Agriculture deems fair and just and which will, so far as practicable, apply to all such farms uniformly upon the basis or classification prescribed by the Secretary. Any quantity not apportioned under this section shall be available for apportionment under section 205 of this title.

Proviso. Basis of apportionments.

Continuation of apportionments.

SEC. 207. If an apportionment is made to a farm under section 206 of this title for any allotment year, for each succeeding allotment year that the operation of such farm is continued by the operators who operated it during the allotment year for which such apportionment was made, the apportionment to such farm shall be made upon the basis provided in section 206 of this title but shall be made from the quantity available for apportionment under section 205 of this title.

Apportionment of District of Columbia.

SEC. 208. For the purposes of the apportionments to be made pursuant to sections 204, 205, 206, and 207 of this title, the District of Columbia shall be considered as a part of the State of Maryland.

Tax-exemption stamps; issue.

SEC. 209. (a) The Secretary of Agriculture, or any agent or agency designated for such purpose by the Secretary of Agriculture, shall, upon application therefor, issue for each farm tax-exemption stamps for an amount of potatoes equal to the apportionment made to such farm pursuant to sections 205, 206, and 207 of this title: *Provided*, That under such regulations as the Secretary of Agriculture shall prescribe he shall refuse to issue such tax-exemption stamps to any applicant in any allotment year in which such applicant is not a bona fide producer of potatoes. Each such tax-exemption stamp, during the period of its validity as determined pursuant to subsection (c) of this section, shall establish an exemption from the taxes imposed by subsection (a) of section 202 of this title for the amount of potatoes stated on the face of each such stamp.

Proviso. Refusal to issue.

Tax-exemption stamps; right to.

Forms of.

(b) The right to tax-exemption stamps shall be evidenced in such manner as the Secretary of Agriculture may by regulations prescribe, and such tax-exemption stamps shall be issued in such form or forms, and under such terms and conditions as may be prescribed jointly by the Secretary of Agriculture and the Secretary of the Treasury.

Potato-producing regions; establishment.

(c) The Secretary of Agriculture shall establish and define potato-producing regions for the continental United States upon the basis of the marketing periods for potatoes produced in such regions during an allotment year, and shall from time to time by regulation and upon the basis of such marketing periods for each such region, determine and fix the period during which tax-exemption stamps issued, or pursuant to subsection (g) of this section transferred, to producers in such regions for any allotment year shall be valid, provided that all tax-exemption stamps shall be valid for a period of at least the allotment year for which they are issued.

Period of validity of tax-exemption stamps.

Return of stamps erroneously issued.

(d) If any tax-exemption stamp is erroneously issued, the person to whom such stamp is so issued shall, upon demand by the Secretary of Agriculture in writing and mailed to the last-known address of such person, be obligated to return such stamp or pay to the Secretary a sum equal to the amount of the taxes imposed by subsection (a) of section 202 of this title upon the amount of potatoes covered by such stamp, at the rate in effect at the time such stamp was issued.

Assignment, etc., of stamps not actually delivered.

(e) Any sale, assignment, pledge, or transfer, and any agreement or power of attorney to sell, assign, apply, pledge, or transfer made or entered into by any person of his right to or claim for tax-

exemption stamps or any part thereof not accompanied by actual delivery of such stamps shall, for all purposes, be null and void; except agreements between landlords and share-tenants or share-croppers which, in accordance with such regulations as the Secretary of Agriculture shall prescribe, provide for a division of the tax-exemption stamps received or to be received by any such landlord, any such share-tenant or any such share-cropper, or any or all of them, in accordance with their respective shares in the potatoes or the proceeds thereof to be produced by them.

Landlord and tenant agreements.

(f) Where a farm is operated by share-tenants, or with the aid of share-croppers, tax-exemption stamps issued for an apportionment made to such farm shall be used by the landlord, the share-tenants, and/or the share-croppers in accordance with their respective shares in the potatoes produced on such farm, during the allotment year for which such apportionment is made, or the proceeds of such potatoes, and the Secretary of Agriculture shall issue regulations protecting the interests of share-croppers and tenants in the issuance and use of such tax-exemption stamps.

Farms operated by share-tenants or share-croppers.

Regulations.

(g) If accompanied by delivery thereof, tax-exemption stamps may be transferred or assigned in such manner and upon such terms and conditions, including conditions governing the consideration which must be given therefor, as the Secretary of Agriculture may determine are reasonably necessary to prevent (1) transfers and assignments which would tend to depress the market price for potatoes produced in any potato-producing area, (2) speculation in tax-exemption stamps, or (3) fraud or coercion in the transfer of such stamps, or which the Secretary of Agriculture finds to be necessary or desirable to facilitate the identification of tax-paid or tax-exempt potatoes or which the Secretary of Agriculture finds to be necessary or desirable to protect the interests of tenants and share-croppers in the issuance and use of tax-exemption stamps.

Tax-exemption stamps; assignment. Regulations.

SEC. 210. Tax-exemption stamps issued to a person, and a person's right to and claim for, tax-exemption stamps shall be exempt from the claims of the creditors of such person and from any and all process for the enforcement of such claims. The Secretary of Agriculture shall by regulation provide for the issuance to, and/or use by, the person who by devise, bequest, or descent becomes the owner of potatoes planted by a person dying during an allotment year, of the tax-exemption stamps which have been, or would have been, issued to such deceased person for such allotment year.

Exemption from claims of creditors.

PACKAGING

Packaging.

SEC. 211. (a) To facilitate the collection of the tax upon the first sale of potatoes imposed by subsection (a) of section 202 of this title, all potatoes harvested on and after December 1, 1935, and sold in the continental United States, during any period such tax is in effect, shall, in accordance with such rules and regulations as the Commissioner with the approval of the Secretary of the Treasury shall prescribe, be packed in closed and marked containers to which shall be attached or affixed tax stamps or tax-exemption stamps equal in face value to the amount of tax per pound in effect on the potatoes contained therein: *Provided*, That, subject to such regulations as the Commissioner with the approval of the Secretary of the Treasury may prescribe, packaging may be postponed beyond the time of the first sale of potatoes which are to be stored in bulk, or which are to be graded, at such places as may be designated by regulations prescribed by the Commissioner with the approval of the Secretary of

Requirement.

Affixing stamps.

Proviso. Postponement.

Time and method of packaging, affixing stamps, and breaking packages.

the Treasury. The time and method of such packaging and the time and method of attaching or affixing such stamps and the time and circumstances under which packages may be broken shall be established in accordance with such regulations as the Commissioner, with the approval of the Secretary of the Treasury, may prescribe as desirable or necessary to facilitate the collection of the taxes levied by this title. In prescribing and approving rules and regulations for the packaging of potatoes and the attaching or affixing of stamps, the Commissioner and the Secretary of the Treasury shall give due weight to the customs of the industry.

Customs of the industry.

Identification of potatoes.

(b) To facilitate the collection of the tax upon a change in the form of potatoes imposed by subsection (a) of section 202 of this title, the Commissioner, with the approval of the Secretary of the Treasury, is authorized by regulation to prescribe appropriate means of identifying potatoes, the change of form of which is subject to such tax, and for the identification of the products of such potatoes.

Rules and regulations.

RULES AND REGULATIONS

Prescribing and publishing.

SEC. 212. The Commissioner, with the approval of the Secretary of the Treasury, shall prescribe and publish such rules and regulations as he may deem needful in administering provisions of this title relating to the revenue including rules and regulations for the issue, sale, custody, production, cancelation, destruction, and disposition of tax stamps and the cancelation and destruction of tax-exemption stamps, and the substitution or replacement of tax stamps in cases of loss, destruction, or defacement thereof.

Authority of Secretary of Agriculture.

SEC. 213. The Secretary of Agriculture is authorized to make such rules and regulations as may be necessary to carry out the powers vested in him by the provisions of this title.

Returns; requirement of; filing.

SEC. 214. (a) All producers, warehousemen, processors, carriers, retailers, factors, handlers, and any other person who the Commissioner has reason to believe to have information with respect to potatoes produced, or sold, or subject to a tax on a change in the form of potatoes, may be required, under regulations prescribed jointly by the Secretary of the Treasury and the Secretary of Agriculture, to make such returns, render such statements, give such information, and keep such records as they may deem necessary for the proper administration of this title.

Refusal to file; penalty.

(b) Any person willfully failing or refusing to file such a return, render such statement, give such information, or keep such records, or filing a willfully false return, or rendering or giving willfully false statements or information or willfully keeping false records, shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than $1,000 or by imprisonment not exceeding one year, or both.

Refunds.

REFUNDS

Claims for; time for filing.

SEC. 215. (a) No refund of any tax, penalty, interest, or sum of money paid shall be allowed under this title unless claim therefor is presented within one year after the date of payment of such tax, penalty, interest, or sum.

Recovery of tax erroneously collected; jurisdiction of courts.

(b) No suit or proceeding shall be maintained in any court for the recovery of any tax under this title alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner illegally or wrongfully collected until a claim for refund or credit has been duly filed with the Commissioner according to the provisions of law in that regard and the regulations of the Secretary of the Treasury established in pur-

suance thereof. No suit or proceeding shall be begun before the expiration of six months from the date of filing such claim unless the Commissioner renders a decision thereon within that time, nor after the expiration of two years from the date of payment of such tax, penalty, or sum, unless such suit or proceeding is begun within two years after the disallowance of the part of such claim to which such suit or proceeding relates. The Commissioner shall, within ninety days after such disallowance, notify the taxpayer thereof by registered mail.

Limitations.

Notification of disallowance.

(c) The amount of the taxes imposed by subsection (a) of section 202, paid by a person, which taxes would not have been paid had the tax-exemption stamps to which such person was entitled been delivered to such person prior to the payment of such taxes, shall be refunded to such person.

Refunds allowed.

APPROPRIATION

Appropriation.

SEC. 216. (a) The proceeds derived from the taxes imposed by this title are hereby authorized to be appropriated to be available to the Secretary of Agriculture for administrative expenses, for all purposes of the Agricultural Adjustment Act, as amended, for refunds of taxes and for other payments under this title. The Secretary of Agriculture and the Secretary of the Treasury shall estimate from time to time the amount of taxes which will be collected under this title during a period following any such estimate not in excess of four months, and the Secretary of the Treasury shall, out of any money in the Treasury not otherwise appropriated, advance to the Secretary of Agriculture the amounts so estimated. The amount of any such advance shall be deducted from such tax proceeds as shall subsequently become available under this subsection: *Provided*, That all taxes imposed by section 230 of this title, collected upon potatoes coming from the possessions or territories of the United States, shall not be covered into the general fund of the Treasury of the United States but shall be held as a separate fund and paid into the treasuries of the said possessions and territories, respectively, to be used and expended by the governments thereof for the benefit of agriculture.

Sum authorized for administrative expenses, refunds, etc.

Advance of estimated amount of taxes to be collected.

Deduction of advance.

Proviso.
Taxes from possessions and territories; separate fund.

Expenditure.

(b) The administrative expenses provided for under this section shall include, among others, expenditures for personal services and rent in the District of Columbia and elsewhere, for law books, periodicals, newspapers, and books of references, for contract stenographic reporting services, for the purchase or hire of vehicles, including motor vehicles, and for printing and paper in addition to allotments under the existing law.

Administrative expenses.

(c) The Secretary of Agriculture may advance or transfer to the Treasury Department, to the Post Office Department, and to any other department or agency, out of funds available for administrative expenses under this title, such sums as are required to pay administrative expenses of, and refunds made by, such departments or agencies in the administration of this title.

Transfer of funds.

(d) There is hereby authorized to be appropriated to be available to the Secretary of Agriculture such sums as may be necessary for administrative expenses, for refunds of taxes, and for other advances or payments under this title.

Appropriations authorized.

GENERAL AND PENAL PROVISIONS

General and penal provisions.

SEC. 217. If at any time the Secretary of Agriculture finds that any product or products manufactured from potatoes is of such low value, considering the quantity of potatoes used for its manufacture, that the imposition of the taxes imposed by subsection (a) of section 202

Potatoes or products of low value.

of this title would prevent wholly or in large part the use of potatoes in the manufacture of such product or products or that potatoes used for the feeding of livestock are of such low value that the imposition of such taxes would prevent wholly or in large part the sale of potatoes for any such use, the Secretary of Agriculture shall proclaim such finding and thereafter in accordance with regulations prescribed jointly by the Secretary of Agriculture and the Secretary of the Treasury, the sale, or change in form, of potatoes for such use or uses by the purchaser thereof shall be exempt from the provisions of subsection (a) of section 211, and from the taxes imposed by subsection (a) of section 202 of this title until such time as the Secretary of Agriculture, after further investigation and due notice and opportunity for hearing to the interested parties, revokes such proclamation: *Provided*, That the right to any such exemption shall be evidenced in such manner as joint regulations of the Secretary of Agriculture and the Secretary of the Treasury shall prescribe. If such purchaser uses any potatoes sold to him free of tax under this section or uses any product of such potatoes, for other than an exempt use as above specified, then he shall be liable for a tax in the same manner as if such potatoes were sold by him at a first sale.

Exemptions. *Ante*, pp. 783, 787.

Proviso. Right to exemptions.

Tax-exempt potatoes otherwise used.

Administration. Appointment of officers, etc.

SEC. 218. The Secretary of Agriculture is authorized, in order to carry out the provisions of this title, to appoint, without regard to the provisions of the civil-service law, such officers, agents, and employees and to utilize such Federal officers and employees and, with the consent of the State, such State and local officers and employees, as he may find necessary, to prescribe their authorities, duties, responsibilities, and tenure, and, without regard to the Classification Act of 1923, as amended, to fix the compensation of any officers, agents, and employees so appointed.

Cooperation of State officers.

Compensation.

Cooperative production associations; assistance of. Vol. 48, p. 37; U. S. C., p. 161.

Producers' associations; establishment.

SEC. 219. (a) For the more effective administration of the functions vested in him by this title, the Secretary of Agriculture is authorized to utilize committees and associations heretofore or hereafter established pursuant to subsection (b) of section 10 of the Agricultural Adjustment Act, as amended, and to establish regional, State, and local committees and associations of producers of potatoes.

Advances for administrative expenses.

(b) The Secretary of Agriculture, out of any funds appropriated for administrative expenses under this title, is authorized to advance funds to the proper fiscal officer of associations established or utilized pursuant to subsection (a) of section 219 of this title, for expenses incurred or to be incurred in the administration of this title, with the approval of the Secretary of Agriculture by such associations. Payment of such expenses of such associations shall be made upon such evidence and in such manner and at such time or times as the Secretary of Agriculture may direct, and the accounting therefor by the associations shall be solely administrative and to the Secretary of Agriculture only.

Payments.

Unlawful transactions; penalty.

SEC. 220. Any person who knowingly sells, or offers for sale, or knowingly offers to buy, or buys, potatoes not packaged as required by this title, or any person who knowingly sells, or offers for sale, or who knowingly offers to buy, or buys, potatoes to the packages of which are not affixed or attached tax-exemption stamps or tax stamps as required by this title shall, upon conviction thereof, be fined not more than $1,000. Any person convicted of a second offense under the provisions of this title may, in addition to such fine, be imprisoned for not more than one year.

Conviction of second offense.

Speculation in tax-exemption stamps; penalty.

SEC. 221. Any person who, in violation of the regulations made by the Secretary of Agriculture, speculates in tax-exemption stamps, and any person securing tax-exemption stamps from another person by fraud or coercion, shall, upon conviction thereof, be fined not

more than $1,000 or sentenced to not more than one year's imprisonment, or both.

Destruction of stamps.

SEC. 222. Whenever any potato container, to which are affixed tax stamps or tax-exemption stamps, is emptied, it shall be the duty of the person in whose hands the same is to destroy utterly the stamps affixed thereto. Any revenue officer may destroy the tax stamps or tax-exemption stamps affixed to any emptied potato package.

Unlawful acts.
Default in tax payment.
Counterfeiting.

SEC. 223. Any person who willfully violates any provision of this title, or who willfully fails to pay, when due, any tax imposed under this title, or who, with intent to defraud, falsely makes, forges, orders,[1] or counterfeits any tax stamps or tax-exemption stamps made or used under this title or who uses, sells, or has in his possession any such forged, ordered,[1] or counterfeited tax stamps or tax-exemption stamps or any plate or die used, or which may be used in the manufacture thereof, or has in his possession any tax stamp or tax-exemption stamp which should have been destroyed as required by this title, or who makes, uses, sells, or has in his possession, any paper in imitation of the paper or other substance used in the manufacture of any such tax stamp or tax-exemption stamp, or who reuses any tax stamp or tax-exemption stamp required to be destroyed by this title, or who places any potatoes in any package which has been theretofore filled or stamped or otherwise identified under this title without destroying the tax stamps and tax-exemption stamps previously affixed to such package, or who gives away or accepts from another or who sells or buys any emptied package which had been previously filled and stamped or otherwise identified under this title without destroying the tax stamps and tax-exemption stamps previously affixed or attached to such package, or who makes any false statement in any application for tax-exemption stamps under this title, or who has in his possession any tax-exemption stamps or tax stamps, obtained by him otherwise than as provided in this title, shall, upon conviction, be punished by a fine not exceeding $1,000 or by imprisonment for not exceeding six months, or both.

Possession of stamps which should have been destroyed.

Reuse of stamp.

Refilling stamped container.

Sale of stamped container.

False statements.

Penalty provision.

Regulations; violation of; penalty provision.

SEC. 224. Any person who willfully violates any regulation issued or approved pursuant to this title, for the violation of which a special penalty is not provided by law, shall, upon conviction thereof, be punished by a fine not exceeding $200.

Provisions of laws made applicable.
Vol. 44, pp. 93, 99, 121; U. S. C., pp. 1107, 1110, 1133, 1134.
Vol. 47, p. 264; U. S. C., p. 1186.

SEC. 225. All provisions of law, including penalties, applicable with respect to the taxes imposed by sections 600 and 800 of the Revenue Act of 1926, except section 1121 of the Revenue Act of 1926, and except section 614 of the Revenue Act of 1932, shall, insofar as applicable and not inconsistent with the provisions of this title, be applicable with respect to all taxes imposed by this title.

Producer's books and records; requirement.

SEC. 226. In order to facilitate the making of apportionments and the collection of the taxes imposed by this title, every producer who sells potatoes during any allotment year, or who affects a change in the form of potatoes, shall keep such books and records as the Commissioner, with the joint approval of the Secretary of the Treasury and the Secretary of Agriculture, shall by regulations require and such books and records shall be open to inspection by any authorized agent of the Secretary of Agriculture or the Commissioner.

Inspection of.

Assessment of unpaid taxes.

SEC. 227. Whenever any potatoes, upon the sale of which a tax is required to be paid, are sold, without the use of the proper stamps, or whenever a change in the form of potatoes upon which a tax is required to be paid occurs, without the payment of such tax, it shall be the duty of the Commissioner, within a period of not more than two years after such sale or change in the form, upon satisfactory

[1] So in original.

proof, to estimate the amount of the tax which has been omitted to be paid, and to make the assessment therefor, and certify the same to a collector. The tax so assessed shall be in addition to the penalties imposed by law.

Assessment additional to penalties.

Exports.

EXPORTS

Imposition of taxes waived when sold for export.

SEC. 228. Under such rules and regulations as the Commissioner, with the approval of the Secretary of the Treasury, may prescribe, the taxes imposed under subsection (a) of section 202 of this title shall not apply in respect to potatoes sold for export to any foreign country or for shipment to a possession or Territory of the United States, and in due course so exported or shipped. Under such rules and regulations the amount of any such tax erroneously or illegally collected in respect to such potatoes so exported or shipped may be refunded to the exporter or shipper of the potatoes instead of the taxpayer if the taxpayer waives any claim for the amount so to be refunded.

Refund of taxes erroneously collected.

Imports.

IMPORTS

Authority of Secretary of Agriculture.

SEC. 229. In order to secure equality between domestic and foreign producers of potatoes and in order to prevent the taxes imposed by subsection (a) of section 202 from resulting in disadvantages to producers of potatoes in the continental United States, the Secretary of Agriculture is hereby authorized and directed to, from time to time by orders and regulations—

Quotas; establishment.

(a) For each allotment year or any part thereof that the taxes imposed by subsection (a) of section 202 of this title are in effect, establish quotas for the entry or the importation into the continental United States of potatoes produced in any Territory or possession of the United States, or any foreign country. Such quotas shall be based upon that percentage of the annual average quantity of such potatoes brought or imported into the continental United States during the years 1929–1934, inclusive, which is equal to the percentage that the quantity proclaimed by the Secretary of Agriculture under section 203 of this title is of the annual average of the quantities of potatoes sold in the continental United States during the years 1929–1934, inclusive; and

Tax on imports in excess of quotas.

SEC. 230. After such quotas have been established, potatoes imported or brought into the continental United States in excess of any such quotas shall, in addition to any import duties, be subject to an internal-revenue tax equal to the amount of the tax then in effect on the first sale of potatoes produced and sold in the continental United States. The tax levied by this section shall be represented by tax stamps and shall be paid by the owner or importer prior to release from customs custody and control, or entry into the continental United States.

Packaging of imports from possessions and territories.

SEC. 231. During any period the tax imposed by subsection (a) of section 202 is in effect all potatoes imported or brought into the continental United States from any possession or Territory of the United States or from any foreign country shall, prior to release from customs custody and control, in accordance with such rules and regulations as the Commissioner, with the approval of the Secretary of the Treasury, shall prescribe as necessary or desirable to facilitate the collection of the taxes levied by this title, be packed in closed and

Time and method.

marked containers. The time and method of such packaging and the time and method of attaching or affixing the stamps required by the preceding section shall be established in accordance with such regulations as the Commissioner shall prescribe. All sales of such potatoes, after release thereof from customs custody and control or entry in the continental United States, shall be in packages in the

same manner and under the same terms and conditions as required for the sales of potatoes harvested and sold in the continental United States.

Imports from Cuba.

SEC. 232. The provisions of sections 229 and 230 shall not be applicable to potatoes produced in the Republic of Cuba and imported and entered for consumption into the continental United States during the period from December 1 to the last day of the following February, inclusive, in any years: *Provided*, That if the Secretary of Agriculture at any time finds that the importation of potatoes from the Republic of Cuba during such period is, or threatens to result in, unduly depressing the potato market in or for any potato-producing area of the continental United States, he shall proclaim such findings and the provisions of sections 229 and 230 shall be applicable to all potatoes thereafter imported into the continental United States from the Republic of Cuba.

Proviso. Application of provisions to.

Short title.

SEC. 233. This title may be cited as the "Potato Act of 1935."

Approved, August 24, 1935.

[CHAPTER 642.]

AN ACT

August 24, 1935. [H. R. 8519.] [Public, No. 321.]

Requiring contracts for the construction, alteration, and repair of any public building or public work of the United States to be accompanied by a performance bond protecting the United States and by an additional bond for the protection of persons furnishing material and labor for the construction, alteration, or repair of said public buildings or public work.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) before any contract, exceeding $2,000 in amount, for the construction, alteration, or repair of any public building or public work of the United States is awarded to any person, such person shall furnish to the United States the following bonds, which shall become binding upon the award of the contract to such person, who is hereinafter designated as "contractor":

Bonds of contractors for public buildings. Requirement, where contract exceeds $2,000.

(1) A performance bond with a surety or sureties satisfactory to the officer awarding such contract, and in such amount as he shall deem adequate, for the protection of the United States.

Performance bond.

(2) A payment bond with a surety or sureties satisfactory to such officer for the protection of all persons supplying labor and material in the prosecution of the work provided for in said contract for the use of each such person. Whenever the total amount payable by the terms of the contract shall be not more than $1,000,000 the said payment bond shall be in a sum of one-half the total amount payable by the terms of the contract. Whenever the total amount payable by the terms of the contract shall be more than $1,000,000 and not more than $5,000,000, the said payment bond shall be in a sum of 40 per centum of the total amount payable by the terms of the contract. Whenever the total amount payable by the terms of the contract shall be more than $5,000,000 the said payment bond shall be in the sum of $2,500,000.

Payment bond.

Purposes, amount, etc.

(b) The contracting officer in respect of any contract is authorized to waive the requirement of a performance bond and payment bond for so much of the work under such contract as is to be performed in a foreign country if he finds that it is impracticable for the contractor to furnish such bonds.

Contract work in a foreign country.

(c) Nothing in this section shall be construed to limit the authority of any contracting officer to require a performance bond or other security in addition to those, or in cases other than the cases specified in subsection (a) of this section.

Security for projects not herein designated.