

THE BANKHEAD EXPERIMENT*

PAUL J. KERN**

I

The war of the New Deal against economic disintegration has been characterized by one consistent agricultural premise. That premise consists in an unwavering trust that the root of all evil is the surplus—the solution, the elimination of surplus. Scarcely had the Tugwellians come to power in the Spring of 1933 when the Agricultural Adjustment Administration (AAA) launched its massive experiment in destruction.¹ In its cotton aspect, its plow-under campaign is supposed to have eliminated four and a half million bales on about 11,000,000 acres. But the weather, unaffected by the AAA, proved exceptionally propitious for cotton. Chisellers crept in, and the cotton crop, finally more than 13,000,000 bales, was more than normal. The carry-over of 11,500,000 bales from the year previous—object of the mass attack—was cut down only slightly.

Obviously the outlook for cotton was relatively unpleasant as the second session of the 73rd Congress convened in January last. No great good fortune such as catastrophic flood or drought could be foreseen. An increase in the price of cotton, impelled by devaluation of the dollar in foreign markets, did nothing to solve the surplus. On these facts was superimposed the grim realization that the "voluntary" plow-under plan had failed to accomplish substantial reductions in produce the first

* The so-called Bankhead Cotton Control Act (Act of April 21, 1934, Public, No. 169, 73rd Cong. 2nd Sess.) constitutes an effort to limit by compulsion the size of the cotton crop, in an effort to raise the price of cotton to the producer. By its terms 10,000,000 bales of cotton are to be produced without restraint, each farmer to be apportioned a fraction which will correspond roughly to his proportion of the national production during a normal period. The allotments are made first on a state, then on a county basis, on a scale determined by state production during a period of five years preceding the passage of the Act. If the farmer raises more than his allotment, all the excess is taxed, by the terms of the Act (§4), at "50 per centum of the average central market price per pound of lint cotton, but in no event less than 5 cents per pound." The purpose of this tax is to prevent excess cotton from reaching the markets. The tax is levied at the ginning. An elaborate system of bale tagging for purposes of regulation is set up by and under the terms of the Act. For a more complete description of the Act, see Cavers, *Production Control by Taxation*, *supra*, p. 349.

** A.B., University of Michigan; LL.B., 1932, Columbia. Member of New York and District of Columbia Bars. Research assistant, Congressman F. H. LaGuardia, 72nd Congress, first session. Assistant to Professor Thomas I. Parkinson, Columbia University Law School, 1932, 1933. Lecturer on Administrative Law, New Jersey Law School, 1933-34. Law Secretary (Assistant Corporation Counsel) to Hon. F. H. LaGuardia, Mayor of New York City, since January 1, 1934. Author of "Federal Farm Legislation, a Factual Appraisal" (1933) 33 *Columbia Law Review*; contributor to legal and other periodicals.

¹ Under the authority of the Agricultural Adjustment Act (Act of May 12, 1933, 48 STAT. 31, 7 U. S. C. A. (Supp.) c. 26).

year of its trial and was almost sure to fail during its second. Even the sanguine C. A. Cobb, Chief of the Cotton Section of the AAA, when asked by Congressman Hope whether "You think that the voluntary plan will not be effective?," replied, "I do not believe so; no."²

There are a number of reasons besides plain chiselling that accounted for this. Fertilizer sales had bounded up throughout the South as soon as the federal government distributed its checks from the plow-under campaign of 1933. It is possible to plant cotton in 30 inch instead of 36 inch rows. Intensive cultivation will often increase the total yield per acre to take up part of the plow-under slack. The price of mules had almost doubled³ and the sale of tractors, at least in some sections, had greatly increased⁴—evidence of intended intensity. For many years the federal government had spent millions of dollars teaching the cotton farmers of the South to raise larger crops. Now the problem was for the federal government to find a way to prevent the cotton farmer from raising the increased crops which the federal government had taught and encouraged him to produce.

There were apparently no dissenters from the faith that prosperity is produced by destruction.⁴ This being so, there was no serious opposition in Washington to the philosophy of the crop control program of the AAA. Since no retreat was possible, and the present position of that control was untenable, advance was the only recourse—advance to compulsory crop control.

The idea of compulsory cotton crop control was not novel. As early as 1931 Louisiana⁵ completely prohibited the planting of cotton in 1932, made it a crime to do so, ordered its destruction where found, and outlined the means of enforcement. South Carolina followed close on its heels with a similar statute.⁶ These acts acknowledged the ineffectuality of state control, however, with clauses providing that they should never go into effect unless states producing 75 per cent of the cotton grown in the United States adopted similar legislation.⁷ Such condition, of course, never occurred, although in the same year Mississippi⁸ and Arkansas⁹ adopted acts

² Hearings before Committee on Agriculture (House of Representatives) on H. R. 8402 (and earlier drafts) (Bankhead Cotton Control Bill) 73rd Cong., 2nd Sess., Feb. 12-17, 1934 (Ser. 1) p. 20.

³ Statement of the Hon. C. C. Adams, Comm. of Agr., Georgia, Hearings before Committee on Agriculture and Forestry (Senate) on S. 1974 (Bankhead Cotton Control Bill) 73rd Cong., 2nd Sess., Jan. 15-17, 20, 1934, p. 29.

⁴ Statement of the Hon. S. S. Fletcher, State Senator, Alabama, Hearings (Senate), *supra* note 3, p. 45.

⁴ This generalization, like many, is not strictly true. Senator Burton K. Wheeler, for instance, Democratic liberal from Montana, sarcastically lampooned the economic philosophy of the Bankhead Bill in the Senate hearings: "I have not been able to bring myself to believe," he said, "that as a long policy you could increase the wealth of this country or any other country by destroying the wealth." Hearings (Senate) *supra* note 3, p. 12.

⁵ La. Acts, 1931, Extra Sess., Act No. 1 (approved Aug. 29, 1931). This and the statutes referred to below are discussed in *Legislative Stabilization of the Cotton Industry* (1932) 80 U. OF PA. L. REV. 436.

⁶ S. C. Acts 1931, Spec. Sess., p. 1095 (approved Sept. 23, 1931).

⁷ This recognition of the impotence of the small unit of production raises properly the question as to whether the Bankhead Act can be effectual without an international sustaining agreement.

⁸ Miss. Gen. Laws 1931, Extra Sess., c. 1 (approved Oct. 13, 1931).

⁹ Ark. Acts 1931, Extra Sess., Act No. 1 (approved Oct. 14, 1931).

embodying the same principle in less drastic form.¹⁰ Texas alone went so far as to pass a production control act which was not conditioned on similar action by other states,¹¹ but this act was declared unconstitutional by an appellate court there.¹² Tennessee¹³ and Oklahoma¹⁴ also indicated some sympathy with the general idea of compulsory control, but statutes were never enacted there. As a federal measure, however, the whole project was merely a remote idea until Senator John H. Bankhead, of Jasper, Alabama, brought it to eminence and passage during the present session of Congress.

II

Senator Bankhead brought his bill to hearing before the Senate Committee on Agriculture on January 15, 1933. The embryo Bankhead bill was spread on record, and the Senator held forth on its merits. Came also a parade of state commissioners of agriculture,¹⁵ and a farmer or two. On January 20, the Secretary of Agriculture, Henry A. Wallace, appeared, hedged his attitude carefully, refused to make a committing statement. The hearing was not what could be called a gala event for the Bankhead bill adherents.

Unperturbed, Senator Bankhead pressed the hearing to a conclusion. But there, temporarily, he was halted, for the bill was a revenue bill, and under the Constitution all such bills must originate in the House. Fortunately for the Senator, this problem was not as grave as it might have been for any of his colleagues, for in the House there also sits a Bankhead, younger brother of the Senator, William B. Bankhead. A veteran of nine terms in that body, the younger Bankhead is also one of its most powerful members. Though not a member of the House Committee on Agriculture, he is the guiding spirit of the mighty Rules Committee.

But the Senator fortified himself further before essaying the House. About the first of February he and Bankhead the younger called on the President. Wholly successful was the issue. The President favored the "underlying principle" of the bill.¹⁶

So on February 12, the House Committee on Agriculture came together to lend its blessing to the scheme. After a brief introductory statement by Senator Bank-

¹⁰ These acts as well as the Texas statute, *infra* note 11, limit production to 30 per cent of the land previously planted to seed cotton.

¹¹ Tex. Gen. and Spec. Laws 1931, 2nd Called Sess. c. 2 (approved Sept. 22, 1931).

¹² *State v. Smith*, 47 S. W. 2d 642 (Tex. Civ. App. 1932). Although the statute asserted its purpose to be the prevention of soil deterioration and the spread of cotton diseases and infestation, the court found the facts of cotton cultivation not to sustain the legislative declaration and held the statute unconstitutional as an unreasonable regulation taking property without due process of law. The case was not appealed to the Texas Supreme Court.

¹³ The Tennessee legislature voted to send a delegation of 12 commissioners to the cotton conference at Jackson, Miss. Tenn. Acts 1931, Res. No. 13.

¹⁴ An initiative petition (State Question 170, Initiative Petition 115) proposed the adoption of legislation similar to that adopted in Mississippi. It was unsuccessful.

¹⁵ Commissioners of Agriculture came from Alabama, Georgia, Mississippi, North Carolina, and Louisiana.

¹⁶ "I might tell you that he was in favor of . . . the underlying principle of the bill of limiting the number of bales produced." Statement of Senator Bankhead, Hearings (House) *supra* note 2, p. 87.

head, C. A. Cobb took the stand as witness number one.¹⁷ He was more sanguine about the probable success of the Bankhead plan than he had been three weeks previous, before the Senate Committee. In January he presented a list of five disadvantages of the Bankhead plan, some of them rather serious.¹⁸ He was by no means unqualified in its endorsement. But in February he had become convinced that there was an overwhelming popular demand for the legislation and that it was a proper panacea for the evils besetting cotton. The five disadvantages were not put into the record.

The Secretary of Agriculture was more consistent. He was still lukewarm.¹⁹ When asked categorically whether he favored the idea of compulsory production control, he stated:

I would not care to answer that categorically. But, except for the fact that it is likely to cost quite a bit of money, as long as the South is willing to offer itself as an experimental economic laboratory, it would be very interesting to see the varied human reactions that would come out of trying such a program. I have told the southern people at various times, that if they were willing to offer themselves for this experiment it was awfully nice of them to do so; that coming from the North, I thought it was very nice for them to do so.²⁰

The Secretary also offered numerous suggested amendments. He entered a caveat on the problem of landlord-tenant relationships. He discussed the question of whether the base period for allotment should be five or ten years. He commented upon the possibility that the rate of tax over allotment (75 per cent) might be too high. He pointed out that funds for administration had not been provided. He criticised the foreign embargo. He urged serious consideration of the possibility that majority acceptance might be too small a proportion of farmers to give the plan stability.²¹

But on the last day of the hearing the die was cast. The Chairman (Representative Jones) dryly announced: "Also I have a communication from the White House in reference to the pending bill. . . ." The President stated his position unequivocally. "My study of the various methods suggested leads me to believe that the Bankhead bills in principle best cover the situation. I hope that in the continuing emergency your Committee can take action."²²

Not until March 10 was the bill called up on the floor of the House. The opposition at once assumed the self-righteous championship of American ideals and institu-

¹⁷ Mr. Cobb had been managing editor of *The Progressive Farmer* before joining the AAA as Chief of the Cotton Section and had previously been editor-in-chief of *The Southern Ruralist*, published in Atlanta.

¹⁸ Mr. Cobb suggested the disadvantages, among others, of "arbitrary action," lack of storage facilities, straining of landlord-tenant relationships, and bootlegging. Hearings (Senate), *supra* note 3, p. 103.

¹⁹ See Statement of Secretary of Agriculture, Hearings (House), *supra* note 2, pp. 36, 42.

²⁰ *Ibid.*, p. 45.

²¹ *Ibid.*, pp. 32-35.

²² Letter of February 16, 1934, from the President, placed in the record of the House hearings. *Ibid.*, p. 139.

tions against communistic innovations.²³ Witch-sniffing conservatives found it relatively simple to find the hand of Trotzky in the Bankhead bill.²⁴ Even the heaviest Republican artillery was unlimbered against the bill. Representative James Wadsworth, Republican, New York, (former U. S. Senator from New York) viewed the legislation glumly as follows:

My attempt upon this occasion is to portray to you, if I can, the significance and the philosophy of this whole movement. It seeks the abandonment of the American conception of liberty under a Constitution. It challenges the Tenth Amendment by putting the Federal government in the possession of complete authority over those matters which that amendment reserves to the states and the people. It spells the end of the federal union of states. It sets up a government imperial in character, ruled by a huge bureaucracy. Our children will exist as subjects in a land where their forefathers lived as masters. Yes; pass this bill, drive in nail after nail, clamp the lid down permanently, my friends, but do not shut your eyes to the consequences.²⁵

On the side of the proponents the bill was handled with expedition and skill. Armed with an overpowering majority, a letter from the President, and other perquisites of security, the proponents had little to fear. Several amendments, dealing with technical, rather than philosophical, changes were passed. Representative Marvin Jones of Texas, chairman of the House Committee on Agriculture, summarized the purposes of the bill when he stated:

At the beginning of last season we had the largest carry-over of American cotton in America that this country had ever known. . . . No one sponsoring this bill is trying to adjust cotton to the American market. We are simply trying to adjust to the world market; and if we once clean the slate on the carry-over, that has been wrecking the South since the war, if we can clear the decks one time, I believe the situation will largely handle itself.²⁶

²³ Representative McGugin, Republican, of Coffeyville, Kansas, greeted the measure with a long letter read into the Record from one Mrs. Nannie Stallings, resident of LaGrange, N. C. This he followed with: "There is a lady, the wife of a small farmer in North Carolina; but, none the less, from the language of her letter, one knows she is an educated woman; one knows she still loves and reveres the America of yesterday. She prefers the America of yesterday to an America built on the Tugwellian theory. What is more, she is yet a Democrat of the Jeffersonian school, and her thoughts are not controlled by any future elections; she is not reflection conscious. She still stands in defense of America, in defense of her home, and in defense of the Southland, if you please. I thank you." 78 CONG. REC. 4294 (1934).

²⁴ Said Hamilton Fish (Republican, N. Y.): "I do not want to say that this bill amounts to socialism or communism but it is a step in that direction. It is well to remember what happened over in Soviet Russia in 1917. . . ." *Ibid.*, 4841.

²⁵ *Ibid.*, 4301. It is by no means fair to castigate the Bankhead proponents as radicals. The Senator himself was engaged in the practice of law "representing corporations and large interests" before he came to the Senate. Hearings (House) *supra* note 2, p. 98. He would "like to see tractor farming eliminated." *Ibid.*, p. 89. The *Wall Street Journal* (Jan. 5, 1934) supported the Bankhead Act. In the House hearings, the Hon. J. D. Holton, Commissioner of Agriculture of Mississippi, said: "Mr. Kennington is possibly the wealthiest man in our state, the biggest business man . . . he came to me, and caught hold of my hand and congratulated me on the stand that I have taken [on this bill] . . . he said to me . . . 'This is the only plan' . . . etc." Hearings (Senate) *supra* note 3, p. 37. The proponents of the Act certainly did not picture themselves as friends of Lenin.

²⁶ *Ibid.*, 4833.

Representative John A. Martin of Colorado was more blunt. Said he:

Agriculture is the last frontier of individualism in the sense of every fellow for himself, the devil take the hindmost. Industry and labor have fairly well learned the lesson and the need of organization. . . . He [the farmer] will either take hold of his problems and work them out under this guidance or be reduced to a permanent state of tenantry and penury.²⁷

The issue was foreordained. On March 19, when the vote was taken, the powerful Democratic steamroller did up its critics handily. By 251 to 115 votes the bill was passed, and went to the Senate.²⁸

Only three days were permitted to pass before the bill was brought to the floor of the Senate. On March 22, Senate Bill 1974, Senatorial counterpart of the House bill, was ushered in by Senator Bankhead on a wave of statistics, editorials from the *New York Herald Tribune* and the *Wall Street Journal*, and a trifle of oratory. The Senate debate did not reproduce the sentiments of the House. There was less of reversion to standards of "liberty" and individual freedom and much more constitutional debate. Senator Borah joined the constitutional debate with relish.²⁹ Even after the passage of the bill, Senator Stephens of Mississippi expressed some personal doubts about its constitutionality.³⁰ The issue was closer, too, in the Senate than in the House, with a vote of 46 to 39.³¹

Though a number of technical committee amendments were agreed to in the Senate, there was again no substantial change in the bill on the floor. Senator Hiram Johnson secured an amendment fixing the quota of California at 200,000 bales.³² Senator Josiah Bailey of North Carolina proposed the only drastic change. His proposal to permit the ginning of 8 bales of cotton from any single producer free of tax was defeated.³³

In its final form the Act³⁴ differed only in technicality and not in philosophy from the original bill.³⁵ Most of the amendments were made in the House Committee on Agriculture, where the bill was rewritten, and some few were added without opposition on the floor. The chief amendments were those altering the method of exercising control from a licensing to a taxing system and limiting the Act's duration to two years, thereby placing it in the category of temporary emergency measures. On the whole, however, the original plan survived with remarkable vitality. Legislative exigencies involved no important compromise in principle.

But Section 13 of the original bill, authorizing the President to make agreements with foreign nations limiting exports, was eliminated. The hope of international

²⁷ *Id.*

²⁸ *Ibid.*, 4897.

²⁹ *Ibid.*, 5533.

³⁰ *Ibid.*, 5825.

³¹ The date of passage was March 29, 1934. *Id.*

³² An additional amendment was later passed to clarify this amendment. See 78 CONG. REC. 11804 (1934).

³³ *Ibid.*, 5614.

³⁴ Act of April 21, 1934, Public, No. 169, 73rd Cong., 2nd Sess.

³⁵ For original bill, see Hearings (Senate) *supra* note 3, p. 1.

coöperation was abandoned, just as the hope of interstate coöperation had been abandoned under the abortive state acts of three years ago.

III

With only one or two exceptions, the opposition to the Bankhead bill avoided the economic issues, reverting to the ancient bromides. It is idle to argue the economic cause of the conservatives. Suffice it to say that whatever they have to offer has been thoroughly tried, under most favorable auspices, and has dismally failed. Economic criticism of the Bankhead Act must therefore revolve in a different orbit. That orbit brings us to a consideration of the wisdom of the Bankhead plan as against other plans; the wisdom of the technique, admitting the principle of planning to be sound.

There are two bases upon which planning can be conducted. There can be a plan designed to produce only so much as people can buy, or a plan designed to produce so much as people can use. Between these two, principles of humanity would dictate that we adopt the second, in a country flourishing with an abundance of fruits and goods. This the Bankhead Act fails to do. The sponsors of the Bankhead Act based their program upon the profit system premise that supply must be reduced to purchase, rather than consumption, demand, in order to insure a profit to the producer. This premise assumes that money profit, rather than distribution for use, is the ultimate goal of the economic and social system.³⁶

Figures placed in the record apparently sustain the claim that the farm income for cotton is highest in the years when the production is least.³⁷ At least it appears that in 1926, when the crop reached 17,977,000 bales, the total income to the cotton farmers was \$982,736,000, while in 1923, when the crop was only 10,140,000 bales, the total income to the cotton farmers was \$1,571,829,000. These figures are subject to some criticism,³⁸ but such criticism is non-essential for the thesis under discussion. Such total return can be admitted to be as stated, without detracting from the proposition that supply and demand in the commercial sense may bear no relation to social supply and demand. An economic argument soundly built in the light of an Adam Smith philosophy is not sufficient to justify mass destitution.

Unfortunately it is impossible to compute, even with approximate accuracy, the amount of cotton needed to satisfy human wants in a social sense, on the basis of available figures. It requires no logic to demonstrate, however, that even in a "normal" year such as 1926-27, 1928-29, there are millions of persons throughout the United States and elsewhere inadequately clothed. In both of the years mentioned the domestic consumption of the United States was in excess of 7,000,000 bales.³⁹

³⁶ Senator Bankhead stated: "I would rather increase the wealth of a particular commodity than figure on the general increase in wealth of the country." Hearings (Senate) *supra* note 3, p. 12. See also Statement of C. A. Cobb, Hearings (House) *supra* note 2, pp. 1-2.

³⁷ See table introduced by Senator Bankhead in Senate hearings. Hearings (Senate) *supra* note 3, p. 9.

³⁸ For instance, the 1923 crop followed two short crops and the 1926 crop followed two large ones. It is very possible that the price fluctuates in inverse ratio to the carry-over rather than the size of the crop. See table put into the Congressional Record by Representative Jones. 78 CONG. REC. 4527 (1934).

³⁹ See YEARBOOK, DEPT. AGR. (1932) 665.

If the United States were to continue this consumption, with a 10,000,000 bale effectual limit on production, as under the Bankhead Act, there would remain an exportable surplus of only 3,000,000 bales. Since the United States normally exports 6 to 8,000,000 bales a year, and since only 10 to 12,000,000 bales are produced annually outside the United States, this curtailment could result in only one of two alternatives if adopted as a long policy. Either the world supply outside the United States would be increased to absorb the difference, leaving the world supply and the world price static, or there would be a further deprivation of necessary goods to human beings throughout the world.

One other eventuality might ensue. The internal supply of the United States might be cut down, so that our own people would pay by destitution for the theoretically increased price. A reduction to 5,000,000 bales domestic consumption a year means a reduction to the living standards of 1932-33.⁴⁰

It seems more probable that the first of the two suggested alternatives will occur and that the world production will be increased to account for the American difference and that the result of the grand experiment will be merely a loss of export markets and a loss of the vast trade balance which cotton normally builds. Brazil and the Uganda are huge potential competitors.⁴¹ In the past 25 years, foreign production has nearly doubled.⁴² Russian production has increased from practically nothing in the years immediately following the War to about 2,000,000 bales, and has attracted the apprehensive attention of the Department of Agriculture.⁴³ Unofficial reports indicate increased foreign planting on the prospect of the Bankhead plan.⁴⁴ The unhappy prospect is not brightened by recalling the efforts of Great Britain, under the Stephenson plan, to force up the world price of rubber by manipulation of a supposed monopoly.⁴⁵

It is essential to bear in mind that 55 to 60 per cent of the American crop has heretofore been exported. Loss of this export business will mean that thousands of cotton farmers will be thrown out of work in the South. The end is a ponderable one. Aside from the loss of a balance of trade, it will result in the releasing of many millions of acres of land which will either lie idle or enter into competition with the already harassed farmers of the North. That such a consequence is desirable, even from a narrow or sectional standpoint, is unthinkable. It would almost fulfill the prediction of Congressman McGugin, when he said:

This legislation . . . will bring economic destruction greater than that experienced during the reconstruction period following the Civil War . . . ; I realize it is being done in despair.⁴⁶

⁴⁰ Hearings (Senate) *supra* note 3, p. 9.

⁴¹ See 78 CONG. REC. 4552 (1934). And see note 42, *infra*.

⁴² See YEARBOOK, DEPT. AGR (1932) 661. Senator Bailey stated on information that Egypt had 12,000,000 and India 15,000,000 acres available for increasing cotton production upon the curtailment of the American supply. 78 CONG. REC. 5617 (1934).

⁴³ YEARBOOK, DEPT. AGR. (1932) 142.

⁴⁴ 78 CONG. REC. 4828, 4831 (1934).

⁴⁵ *Ibid.*, 4828.

⁴⁶ *Ibid.*, 4831.

But if we grant, for the sake of argument, that the export market will not be lost or even endangered by the curtailment of American supply, we still face a genuine problem as to whether such curtailment will affect the world price. When a nation is confronted by an exportable surplus, the price of the whole crop is determined by the price of the exportable surplus. The reduction accomplished by the Bankhead Act is about 3,000,000 bales a year. This is about 12 per cent of a normal world crop. But the effect of such reduction is minimized, if not cancelled, by the fact that the carry-over is ample to supply such world deficiency for three years or more, and the present maximum lifetime of the Bankhead Act is two years. Cotton is not perishable. The carry-over, unlike certain other crops, does not materially diminish by passage of time.

Attempts to answer this criticism by reference to the domestic price increase since the inauguration of the plow-under campaign of 1933 are unjustified. What has occurred has not been an increase in the price of cotton, but a decrease in the price of the dollar. The world price, in terms of gold, has remained almost stationary.⁴⁷ If this is the end to be achieved, however, for the purpose of scaling down the fixed indebtedness of the cotton farmer and raising his domestic purchasing power, the Bankhead Act does not do it. The Bankhead Act is not inflationary.

In the face of these facts, there was a consistent attempt while the bill was before Congress to excuse its sponsors by claiming for the measure an overwhelming popular demand.⁴⁸ Especially in the hearings before the House Committee on Agriculture were these efforts marked. A two page tabulation was spread into the record, purporting to show that 95 per cent of all farmers favored compulsory crop control, out of 22,123 canvassed.⁴⁹ On questioning it developed, however, that this mass response was largely from crop reporters, local committeemen of the AAA, and county agents, of whom the latter two classes receive money from the government for their expenses and work and might be of doubtful independence in such a poll.⁵⁰ The questionnaire was enclosed in a letter from Secretary of Agriculture Wallace which opened with the sentence:

Many cotton producers and others in the Cotton Belt have proposed that amendments to the Agricultural Adjustment Act be enacted to compel the coöperation in cotton-reduction programs of every producer who is eligible to participate. . . .⁵¹

⁴⁷ A bale of cotton is now worth about 1.75 ounces of gold. In 1926 it was worth about five ounces. See discussion by Congressman Busby. *Ibid.*, 4831.

⁴⁸ Secretary Wallace refused "to come out in behalf of legislation of this type until it was absolutely clear that there was an extraordinary sentiment for it." Hearings (Senate) *supra* note 3, p. 64. If the program fails, responsibility may be placed on the southern farmer. Congressman Jones, chairman of the House Committee on Agriculture, has already taken precautions along this line. Said he: "I do not know whether this proposition will work or not. . . . It is only a two year program. If it fails it will affect only the South *which has asked for it*. . . ." (italics mine). 78 CONG. REC. 4529 (1934).

⁴⁹ Hearings (House), *supra* note 2, pp. 6-7.

⁵⁰ The county committeemen have already profited from simulating mass response. Under Article V of the "Regulations under the Cotton Control Act of April 21, 1934," relating to the tagging of cotton harvested and ginned prior to June 1, 1934, issued by the Department of Agriculture on June 12, 1934, it is provided that they may be employed as taggers "on a reasonable basis of compensation." Their conversion to the "principle" involved has probably become permanent.

⁵¹ Hearings (House), *supra* note 2, pp. 8-9.

Two of the three questions submitted, moreover, gave the impression that the compulsory action contemplated was merely a compulsory sanction against those who failed to voluntarily sign the plow-under agreement, and this charge was openly made in debate. The criticism levelled against the whole questionnaire by Representative Chase (Republican, Minnesota) was not entirely unfair. He said:

The chairman of the committee made the statement that this question was submitted to the cotton farmers of the South and 95 per cent of them endorsed it. Manifestly the statement was a slip. It was submitted to one per cent of the cotton farmers of the South, and a little more than half of that one per cent answered, and 95 per cent of that one-half of one per cent endorsed some plan of production control, not this plan.⁵²

IV

The economic philosophy which holds it proper to procure a temporary financial betterment for one class of our citizens at the expense of the social group as a whole is of dubious wisdom. Clearly the philosophy of the Bankhead Act is such. It will improve the condition of the cotton farmers, if it does so improve conditions, not by furnishing to society more or better cotton but by depriving society of part of the cotton supply which it now has.⁵³ The basic defect is of course no fault of the framers of the Act but is due to the faulty operation of the price system of distribution. Yet the result, from a social standpoint, is certain to be unfelicitous.

If each of four snakes, placed in a circle, starts simultaneously to swallow the snake in front of him, each may prosper for a while, but shortly the position of all will become uncomfortable. So with the cotton producer. His partial swallowing of the miller, without corresponding social contribution, will lead to inevitable price increase to the consumer. This can only lead, if pursued logically, to an eventual increase in the price of things the cotton farmer buys, with nullification of intended benefits.

But even if the price difficulty is solved for the farmer by the Bankhead Act, there is no proof available, and no evidence was adduced at the extended hearings on the Bankhead bill, to show that we are faced with a social overproduction rather than a price overproduction. Hence there is no reason to believe that elimination of the price overproduction, if it takes place, is in the public interest. On the contrary there is strong reason for believing that while our defective system of distribution saddles upon us a price overproduction, we actually have a social underproduction, and that any reduction in supply will have adverse social consequences, inimical to a broader public interest. Congressman William Lemke of North Dakota, one of the ablest of the House liberals, stated the case for society in competent fashion on the floor of the House. He said:

⁵² 78 CONG. REC. 4544 (1934).

⁵³ This thesis is premised on the assumption that the Act will be well enforced, that it will achieve its purpose of preventing cotton over the allotment from reaching the market, and that the anticipated tax of 50 per cent of value will be sufficient to induce cotton farmers to cut their acreage. The accuracy of this broad assumption is somewhat unpredictable.

The trouble is not so much with an overproduction of cotton as with a maldistribution—with underconsumption. Thousands and millions of our population could use more cotton—more clothes. Millions still go to bed without mattresses, without sheets, and without proper bedding, while millions are wearing cast-off, second-hand, germ-infested, disease-laden clothes which the Boy Scouts were asked by the administration a few weeks ago to gather and distribute to the needy. Why this inconsistency? Why not, in place of those fifty, germ-infested, disease-laden, second-hand clothes, take the cotton and let some of the 12,000,000 that are still unemployed manufacture it into finished clothes for these people? Why always go back end forward?⁵⁴

Until proof is presented that there is a social, as contrasted with a price, overproduction of cotton, it is dangerous from a social standpoint to restrict production. As a matter of fact, until an exhaustive survey is made to determine the proper per capita consumption of cotton from a social standpoint, it is impossible and unfair to attempt to adopt a sound system of national production control. Such a survey should be an immediate prerequisite to further efforts at national economic planning.⁵⁵ Even the price system can be sublimated to social use, through the employment of government credit, if there is a definite and certain knowledge of the proper social demand. Until such a step is taken—the next logical step—it is impossible to be wholly enthusiastic about present unscientific measures, salutary though they may be as pioneers of a planned economy.

⁵⁴ 78 CONG. REC. 4544 (1934).

⁵⁵ Such surveys are relatively simple in connection with certain basic products. See Kern, *Federal Farm Legislation, A Factual Appraisal* (1933) 33 COL. L. REV. 984, 1008, 1009.