

# Newsweek

## Raisin a Laugh at the Supreme Court

By [Trevor Burrus](#)

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It's not a good sign when Supreme Court justices laugh at the law the government is trying to defend.

When it comes to defending the Raisin Administrative Committee, however, it's hard not to laugh.

On April 22, the Supreme Court heard a challenge to the Raisin Administrative Committee's despotic power over U.S. raisin farmers. What is the [Raisin Administrative Committee](#) (RAC)? Think of it as Raisin [OPEC](#), a cartel maintained by the Department of Agriculture that has the power to take raisins from farmers and offer nothing in return.

Like OPEC, it does this to keep the price of raisins artificially high. Unlike OPEC, however, the RAC has an enforcement division, the U.S. government, and if you cross the RAC, they can come after you in court.

That's what happened to [Marvin Horne](#), who, a little over 10 years ago, decided he'd had enough of the RAC's shenanigans and refused to turn over his crop. In response, the RAC came after him, going so far as to hire private investigators to stake out the Horne's farm.

When you cross the RAC, you better be prepared to pay the price. For Marvin Horne, the price is \$700,000—a steep fine for refusing to give the government what belongs to him.

Collusion like this usually takes place in a smoke-filled backroom, away from the prying eyes of the SEC or the Federal Trade Commission. If any other business colluded like the RAC, they would be prosecuted for blatant violations of the [Sherman Anti-Trust Act](#). Yet, on Wednesday, the government stood before the Supreme Court and defended the RAC because it works for the benefit of the farmers.

That is, of course, the point of a cartel—to benefit the colluders and hurt consumers.

Horne is arguing to the Supreme Court that, under the [Fifth Amendment's Takings Clause](#), which says private property can't be taken for public use without just compensation, the RAC

owes him something for his raisins. Judging by yesterday's argument, he will probably win his case.

In addition to asking pointed and probing questions of the unfortunate government attorney charged with defending the case, the justices couldn't resist making fun of the program entirely.

Chief Justice John Roberts joked that the government probably comes and takes the raisins "in the dark of night." Justice Antonin Scalia joked that, while maybe the government could prohibit dangerous things from entering into commerce, these would have to be some "dangerous raisins." Justice Elena Kagan simply asked, "We could think that this is a ridiculous program?" after which Justice Scalia said, "It doesn't help your case that it's ridiculous, though. You acknowledge that."

This wasn't the first time a group of Supreme Court justices laughed at silly government-created cartels. Eighty years ago, a different set of Supreme Court justices were laughing at the live poultry cartel for the city of New York. The poultry cartel was a product of the [National Industrial Recovery Act](#) (NIRA), which was the cornerstone of [President Franklin Roosevelt's New Deal](#).

Roosevelt was obsessed with cartels as the solution to the nation's economic woes. While the Court struck down the NIRA, cartelization policies continued to be enacted, especially in agriculture.

The RAC began in 1949 as an amendment to a New Deal-era law called the [Agricultural Marketing Agreement Act](#) of 1937. The New Deal was the genesis of our modern agricultural policies which, to put it mildly, are insane.

And although no reputable economist believes that U.S. agricultural policy makes any sense whatsoever, we seem to be stuck with organizations like the RAC, as well as hundreds more that few people have heard of—a testament to perseverance of government-granted privileges.

Explaining New Deal policies is a risible endeavor. Contrary to what schoolchildren learn, the New Deal didn't save the country. Instead it forced the economy into a [Keystone-Cops movie](#) of regulatory madness. The [Benny Hill theme](#) is the best soundtrack for the New Deal, not "[Brother Can You Spare a Dime?](#)"

Of course, Roosevelt's failed and laughable policies had very unfunny repercussions on the poorest Americans. They also have repercussions today, such as the Raisin Administrative Committee.

Organizations like the RAC hide behind a prolix agricultural code that, to borrow a phrase from Mark Twain, is like reading printed chloroform. But those with a stake in the game understand that the code supports them. Like bacteria that feed off of sulphur vents, it is their unique form of sustenance.

They'd prefer to keep their existence a secret, but thankfully cases like Horne's help drag them into the light.

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