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THE CONGRESSIONAL FRONT.
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16th District.

May 27th, 1935.

A red letter day in New Deal history. For that matter a red letter in American history. It marked three momentous Supreme Court decisions which will alter our industrial and economic destiny. Perhaps it is more accurate to say the destiny that was planned for this nation. Thousands of words poured forth in those decisions and yet none of them are so abstruse or so formidable but what they can be easily understood by the humblest citizen when boiled down to fundamentals. After all, only the central principle is essential to an understanding of each case.

THE CASE OF WILLIAM E. HUMPHREY.

William E. Humphrey, former Member of Congress from Washington was appointed to membership on the Federal Trade Commission by President Hoover on December 10, 1931. He was a Republican. The Commission was created on September 26, 1914 by Congress, its powers and duties defined in the act which created it, it was to be an independent agency having five members, each appointed for a term of 7 years, appointments to be made by the President with the approval of the Senate, and not more than three of its members to be of the same political party. Its general functions are to prevent unfair trade practices, to investigate and report on trade practices in every field of interstate commerce except banks and railroads, to investigate and prevent violations of anti-trust laws, etc. On October 8, 1933, Mr. Humphrey was removed by President Roosevelt who gave as his reason that, "The aims and purposes of the Administration with respect to work of the Commission can be most effectively carried out by personnel of my own selection." Before removal, the President had requested Mr. Humphrey's resignation. The latter contended that he could not be removed by the President and refused to resign. Meanwhile, Humphrey died and the executors of his estate brought suit for \$3043, contending that he could not be removed and that this amount represented the salary that was due him from date of his removal until his death. The question for the Supreme Court to determine therefore was whether the President had power to remove a member of the Federal Trade Commission. In substance, the Court held that the Federal Trade Commission was a judicial and legislative agent of Congress, that it had no relation to the President and that the Commissioners were removable under the terms of the act creating the Commission only on grounds of inefficiency, neglect of duty or malfeasance in office. It means that the President's power of removal is not without limits and that Congress can create independent agencies such as the Federal Trade Commission which are independent of Executive control and domination. The practical effect of the decision is that members of many independent commissions created by Congress who are appointed for long terms and who hold over under new administrations, may be at variance with the President on matters of policy and yet be secure against removal by the President. On 5-man commissions consisting of three Democrats and 2 Republicans, one Democrat siding with 2 Republicans could thwart the administration's will. Doubtless, a remedy will be proposed for the future.

FRAZIER-LEMKE ACT.

Senator Frazier and Congressman Lemke of North Dakota were co-authors of an Act in the 73rd Congress which bounced around until that Congress was about to adjourn and was then pushed thro without a record vote. The President waited the full ten days at his disposal before signing it but finally did affix his signature with the comment that the Act was loosely drawn and needed amendment. In substance, it provided that where a farmer could not pay his debts and could not secure a scale-down from his creditors, he could file a petition in bankruptcy and secure the benefit of a moratorium for 5 years. If the holder of the mortgage on the farm should agree, the bankrupt farmer could buy his farm back at an appraised value, the farmer to have immediate possession and title by agreeing to pay $2\frac{1}{2}\%$ within the first 2 years, $2\frac{1}{2}\%$ within 3 years, 5% within 4 years, 5% within 5 years, and the balance of the appraised amount within six years. Deferred payments were to bear interest

at the rate of 1% per year. If the holder of the mortgage refused to agree to such terms, the law then provided for a stay of proceedings against the bankrupt farmer for 5 years, during which time he might remain in possession of the farm, pay a reasonable rental therefore and at the end of that time, pay into court the amount of the appraised value of the farm and by so doing receive from the court, possession and title to his farm plus the right of applying for a discharge from bankruptcy. The act applied only to debts which existed at the time the act became effective. Down in Kentucky, a farmer named Radford owed a \$9000 mortgage on an \$18,000 farm but could not pay his debts. He fell behind in his payments on interest and principal nor did he have enough money to keep the buildings in proper repair according to the terms of the mortgage. Radford could not refinance his debts under the emergency farm act of 1933 nor could he come to an agreement with his creditors so the holder of the mortgage secured a judgment against Radford in the state courts of Kentucky and a foreclosure sale was ordered. Radford then sought relief under the Frazier-Lemke Bill. The Federal referee found the appraised value of Radford's 170 acres to be \$4445, even tho the holder of the mortgage offered to pay \$9205.09 in cash in open court. The referee also found that the fair rental the first year should be \$325. A stay of proceedings was entered and Radford seemed to be sitting pretty. However, the mortgage happened to be the Louisville Joint Stock Land Bank and it at once took an appeal and out of this appeal came the decision which in substance reaffirmed an old principle that private property shall not be taken, even for a public use without just compensation. Specifically, the decision can be taken to mean that the rights of the Louisville Joint Stock Land Bank were taken and handed over to Mr. Radford without just compensation, which is contrary to the Fifth Amendment to the Constitution. Since the Frazier-Lemke Act operates on this principle, the act is invalid.

EAGLE VS. CHICKEN.

Many a fortune has been won and lost on a cock fight, but never has such a political, economic and industrial fortune been wagered as on the much heralded struggle between the Blue Eagle and a "sick" New York chicken. When the nine judges announced their decision, the Blue Eagle had dropped the bolt of lightning and the symbolic wheel of industry from it's talons and lay in a corner. The "sick" chicken suddenly came to lusty life and emitted a victorious cackle. That cackle is contained in a 9000 word opinion in which all nine Justices of the Supreme Court joined. Here in brief is the cause and the effect. The four Schechter brothers were in the poultry business in New York. They bought poultry in New York or Philadelphia or elsewhere, took them to their slaughterhouses, prepared them for market and then sold them thro butcher shops, grocery stores and other retail trade outlets. Under NRA, a "Live Poultry Code" was put into effect relating to hours, wages, trade practices, etc. It set up a Code Authority to administer the Live Poultry Code and made assessments on it's members. Suddenly the Schechter brothers found themselves charged with violating the code. Specifically, they were charged with (1) violating the wage and hour provisions of the code, (2) conspiracy to violate the code, (3) for permitting their customers to select individual chickens from different coops instead of selling "run of the coop", (4) selling an unfit chicken to a butcher, (5) selling poultry without proper city inspection, (6) the making of false reports, (7) and selling poultry to unlicensed dealers. They were indicted for these alleged violations, tried in the Federal District Court in New York and convicted on the conspiracy charge and 18 separate code violations. The Federal Circuit Court of Appeals upheld the conviction on every count except two. The Schecter's then asked for a review by the Supreme Court. For practical purposes, that decision is the well directed spur of the sick chicken, stabbing deftly thro the eye of the Blue Eagle. That decision did not say however that there could not be an NRA or that there could not be codes of fair competition. What it said in substance was that Congress could not delegate blanket authority to the President to do as he pleased in the matter of authorizing or formulating codes. This constitutes a delegation of legislative power which is contrary to the Constitution. If there is to be an NRA with codes and code regulations and penalties and the like, it is necessary for Congress to legislate

to that effect and create the set up or establish guideposts that are sufficiently clear for the President to follow. Since the writing of all these regulations covering hundreds of codes into law is an almost impossible task unless ample time is available, it would appear that if the Blue Eagle does not retire, he is at least due for a lengthy vacation. The other principle laid down by the Court was that Congress had no authority to legislate over intra-state as distinguished from interstate commerce. Intra-state commerce is commerce solely within the state; interstate commerce is that which moves across state lines.

PEEK VS. HULL.

George Peek, of Moline, Illinois, one time administrator of the AAA before his differences with Secretary Wallace is Special Adviser to the President on foreign trade. He has prepared some startling reports showing that our foreign trade is not all that it's cracked up to be. His theory of boosting foreign trade is to bargain with other nations in shrewd Yankee fashion. Buy certain things from them which we need if they will buy certain things from us of which we have an abundance. In other words, bargain with each nation on a separate basis and abrogate the most-favored nation treaties which provide that any benefits which we confer by way of lowered tariffs to one most favored nation must be given to all 45 nations with which we have treaties. On the other side is the lanky, Tennessee lawyer Cordell Hull, Secretary of State who follows the theory of reciprocal tariffs. Under this reciprocal trade treaty power conferred by Congress, we slash tariffs on a list of items to some nation in return for a tariff slash by them, but the slashes are available to all nations with whom we have most favored nation treaties and at best we can only hope they will not make us a dumping ground. The Peek idea and the Hull idea are in direct conflict. Recently, Peek has been speaking in different sections of the country in a direct and forthright manner, and his remarks are taken as a criticism of administration policy. Hence the recent rumors that Peek is slated for the political axe.

SUPREME COURT.

Singularly enough, the Supreme Court was first organized on February 1, 1790 in the Royal Exchange Building near Wall Street in New York and had 1 Chief Justice and 3 Associate Justices. There have been but 11 Chief Justices in the 145 years of the court's history and all of them have been distinguished. The first Chief Justice was John Jay and after him in order came John Rutledge, Oliver Ellsworth, John Marshall, Roger Brook Taney, Salmon P. Chase, Morrison Remick Waite, Melville Weston Fuller, Edward B. White, William Howard Taft, and Charles Evans Hughes. John Marshall had the longest tenure, serving from 1810 to 1836. Except for Justice White who came from Louisiana, and Taft who came from Ohio, the remainder of the Chief Justices all came from eastern states.

CORDAGE is the generic name for rope and twine. We have rope and twine factories in 13 states, with an investment of 55 millions, who distribute thro 27,000 branches. All operated under NRA, maintained 40 hour weeks for workers and paid an average of 45½¢ per hour. In the Philippine Islands are 3 plants, one owned by Spanish capital. All three have investment of 2½ millions, employ 850 people and pay from 7½¢ to 15¢ per hour. The Attorney General ruled that NRA did not apply to them. Imports of cordage from the Islands to this country were 1.2 million pounds in 1921, 5 1/3 million in 1931, 5 million in 1932 and 10 million in 1934. Imports for Jan. and Feb. 1935 would indicate total imports for 1935 of 15 million pounds. Reason for increase - lower labor and production costs. Result of increase - ruination of American cordage business and addition of more persons to unemployed list. There is now pending before Congress, a bill to limit imports to 6 million pounds per year.

CCC ON A THUMBNAIL. No. of camps 1650; average number of workers enrolled 350,000. Period of enrollment 6 months. Monthly payroll \$14,200,000. Monthly wage \$30 of which \$25 is sent to needy dependents back home. Total wages paid to CCC workers \$205,000,000. Amount distributed to dependents \$160,000,000. Amount expended for camps, food, clothing, etc. \$367,000,000. Other personnel employed in connection with CCC work includes 50,000 skilled and unskilled mechanics in building camps, 25,000 foresters and technicians, 1500 unemployed school teachers. Ninety per cent of those enrolled in CCC camps are unmarried and their ages range from 18 to 25.