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CONSTITUTIONAL LAW — NEW DEAL LEGISLATION — GOLD HOARDING STATUTE — Two cases involving acts of Congress passed in March 1933 to prevent the hoarding of gold¹ were denied a review by the United States Supreme Court on October 8. Both of these cases involved the same facts. Plaintiff had delivered certain gold bars to a bank for safe-keeping. Later the bank notified him that, pursuant to an executive order by the President of the United States, it would have to surrender the gold. Immediately the plaintiff demanded the return of the bullion, which demand was refused, and he filed bills for specific performance of the bailment contract against the bank and for an injunction to restrain the district attorney from prosecuting him for violation of the gold hoarding statute. After the district court² and the circuit court of appeals³ had refused to entertain the bills, the plaintiff unsuccessfully sought writs of certiorari from the Supreme Court. *Campbell v. Chase Nat. Bank*, *Campbell v. Medalie*, United States Sup. Ct., 2 UNITED STATES LAW WEEK, index p. 103, nos. 300, 301 (Oct. 9, 1934).

These cases raised also certain jurisdictional and remedial questions; the courts in deciding them refused to pass upon the constitutionality of the statute and the regulations under which the cases arose.⁴ So the refusal of the Supreme Court to

L. ed. 610 (1912); *United States ex rel. Alaska Smokeless Coal Co. v. Lane*, 250 U. S. 549, 40 Sup. Ct. 33, 63 L. ed. 1135 (1919); *United States ex rel. Hall v. Payne*, 254 U. S. 343, 41 Sup. Ct. 131, 65 L. ed. 295 (1920); *Wilbur v. United States ex rel. Kadrie*, 281 U. S. 206, 50 Sup. Ct. 320, 74 L. ed. 809 (1930); *Commercial Solvents Corp. v. Mellon*, (App. D. C. 1922) 277 Fed. 548; *Ambuster v. Mellon*, (App. D. C. 1930) 41 F. (2d) 430; *United States ex rel. Wattis v. Lane*, (App. D. C. 1919) 266 Fed. 1005; *United States ex rel. Lincoln Highway Ass'n v. Ewing*, 42 App. D. C. 508 (1914); *Allen v. United States ex rel. The Regina Music Box Co.*, 22 App. D. C. 271 (1903).

⁴ *Williamsport Wire Rope Co. v. United States*, 277 U. S. 551, 48 Sup. Ct. 587, 72 L. ed. 985 (1928), followed in *Nat. Bank of Commerce of Seattle v. United States*, (D. C. W. D. Wash. 1928) 34 F. (2d) 203; *Nat. Park Bank of New York v. United States*, (D. C. S. D. N. Y. 1929) 33 F. (2d) 1006. The cases cited in note 3, *supra*, seem to have been influenced by the same factors.

⁵ 1 GEO. WASH. L. REV. 278 (1933) criticizes the meaning attached to the word by the Commission.

¹ 48 Stat. 1, c. 1, art. 1, U. S. C. A. tit. 12, sec. 95a (1933 Cum. Supp.).

² *Campbell v. Chase Nat. Bank*, *Campbell v. Medalie*, (D. C. S. D. N. Y. 1933) 5 F. Supp. 156.

³ *Campbell v. Chase Nat. Bank*, (C. C. A. 2d, 1934) 71 F. (2d) 669; *Campbell v. Medalie*, (C. C. A. 2d, 1934) 71 F. (2d) 671.

⁴ In the case against the bank, for example, the courts held that the facts did not bring the case within the jurisdiction of the federal courts since a plaintiff cannot invest a federal court with jurisdiction by alleging an anticipated defense and asserting that such defense is invalidated by some provision of the Constitution of the United States.

hear these cases is not an opinion upon the constitutionality of the New Deal legislation in any sense. However, the Court has granted a writ of certiorari to the appellants in the case of *Norman v. Baltimore & Ohio Railway*,⁵ which case presents the direct question of the constitutionality of the so-called Gold Standard Repeal Resolution.⁶ An opinion on this important case, which comes up from the Court of Appeals in New York,⁷ will probably be handed down sometime during the next few months; when decided it will be discussed in this Review.

J. W. C.

On the delegation of federal legislative power to executive or administrative agencies, see 31 MICH. L. REV. 786 (1933). For a discussion of the constitutionality of banking reform by statute, see Rodkey, "Banking Reform by Statute," 32 MICH. L. REV. 881 at 883 (1934). See also 32 MICH. L. REV. 405 (1934).

⁵ 2 UNITED STATES LAW WEEK, index p. 102 (Oct. 9, 1934).

⁶ Public Resolution No. 10, 73d Congress, 48 Stat. 113, sec. 1, U. S. C. A. tit. 31, sec. 463 (1933 Cum. Supp.); Mason's U. S. Code, tit. 31, c. 8, sec. 430-4 (June 5, 1933).

⁷ *Norman v. B. & O. Ry.*, 265 N. Y. 37, 191 N. E. 726 (1934).