



1936

## Constitution Protects Minorities

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ceptible of further and possibly dangerous application. Suppose a Congress and President bent on doing something which the Supreme Court deems contrary to the Constitution. They pass a statute. A case arises under it. The court on the hearing of the case unanimously declares the statute to be null, as being beyond the powers of Congress. Congress forthwith passes and the President signs another statute more than doubling the number of justices. The President appoints to the new justiceship men who are pledged to hold the former statute constitutional. The Senate confirms his appointments. Another case raising the validity of the disputed statute is brought up to the Court. The new Justices outvote the old ones; the statute is held valid; the security provided for the protection of the Constitution is gone like a morning mist.

"What prevents such assaults on the fundamental law—assaults which, however immoral in substance, would be perfectly legal in form? Not the mechanism of government, for all its checks have been evaded. Not the conscience of the legislature and the President, for heated combatants seldom shrink from justifying the means by the end. Nothing but the fear of the people, whose broad good sense and attachment to the great principles of the Constitution may generally be relied on to condemn such a perversion of its forms. Yet if excitement has risen high over the country, a majority of the people may acquiesce; and then it matters little whether what is really a revolution be accomplished by openly violating or by merely distorting the forms of law. To the people we come sooner or later; it is upon their wisdom and self-restraint that the stability of the most cunningly devised scheme of government will in the last resort depend."

Opponents of the President's proposal object to it on the ground that it would make the Supreme Court subservient to the President. And, yet, some of them would substitute, for the President's proposal, one which would make any act of Congress constitutional if, after having been declared unconstitutional by the Supreme Court, it should be reapproved or reenacted by two-thirds of the Congress. A proposed constitutional amendment, having the purpose and effect last mentioned, is now pending. This proposal would substitute a new form of subserviency for that proposed by the President; it would make the Supreme Court subservient to the Congress, rather than to the President.

Any proposal to make the Supreme Court subservient to either the President or the Congress should provide thinking people with food for thought, particularly those who belong to classes who have been subject, in the past, and may, again, be subject to class persecution.

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### CONSTITUTION PROTECTS MINORITIES

It should be remembered that the provisions of the Bill of Rights in the Constitution were designed to protect minorities

from the fanaticism of temporary majorities, in respect of matters that closely affect the life, the conscience and the well-being of the citizen. What those guarantees are and how they are protected will be explained in our next number, as space will not permit it in this one.

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### OUR SUPREME COURT HOLDS

In Anton J. Kary, vs. N. D. Workmen's Compensation Bureau, From Morton County.

That the only injury for which an employee may recover compensation from the Workmen's Compensation Bureau under the Workmen's Compensation Act is one "arising in the course of employment." (Section 396a2 of the Supplement.)

That Plaintiff was employed by the county in grading and improving a highway, and furnished horses and his own labor in driving a grader. After his work had ceased, and at some distance from his field of labor, he was injured while en route home on the public highway. Held, plaintiff is not entitled to compensation from defendant for such injury as the injury did not arise "in the course of employment."

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In G. W. Jones Lumber Company, a Corporation, vs. City of Mar-  
marth, a Municipal Corporation, From Slope County.

That a judgment against a city for breach of duty, negligence, and wrongful acts or omission on the part of the city is not such a debt or indebtedness as is governed by section 18 of the Constitution of this State which provides that the "debt of any \* \* \* city \* \* \* shall never exceed five per centum upon the assessed value of the taxable property therein. \* \* \* All bonds and obligations in excess of the amount of indebtedness permitted by this Constitution, given by any city, \* \* \* shall be void."

That where a judgment has been rendered against a city on account of its "negligence or breach of duty in the levy or collection of \* \* \* special assessments," the city may, under the provisions of chapter 196 of the Session Laws of 1935, compromise and find such judgment by the issuance of bonds "payable in stated annual installments over a period of years, not exceeding twenty-five, and at a rate of interest not exceeding five per cent per annum", provided that the judgment creditor agrees to a compromise of such judgment wherein and whereby at least twenty-five per cent of the judgment is rebated. In such event, under the provisions of said chapter, the city may agree to "levy a direct annual and irrepealable tax sufficient in amount to pay the principal and interest of said bonds as they severally mature."

That such bonds may be issued without reference to the constitutional limitations set forth in section 183 of the State Constitution.