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THE CONGRESSIONAL FRONT
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THE BIRTH OF A CONSTITUTIONAL ISSUE

How often have you heard people refer to a law or an undertaking by the Federal government as unconstitutional. What they mean of course is that it violates the basic, organic law of the land which is found in the Constitution. But let us tell you of a constitutional issue that is in the labor-pains stage and is about to be born. It relates to three professors on the Federal payroll.

WHO THEY ARE AND WHAT THEY'VE DONE

The three professors are Dr. Goodwin Watson, Dr. William E. Dodd Jr. and Dr. Robert Morss Lovett. All are presently employed by the Federal Government. Long ago, the Dies Committee on Un-American Activities charged them among many others with activities which were subversive and disloyal to our form of government. The members of Congress were insistent that they be removed from the rolls and when the pressure got so strong that this was likely to happen, a special committee was created to take testimony on their cases and make a report to the House. This was done. The professors appeared to defend their actions. The testimony and exhibits cover more than 375 printed pages. The Committee found that they did in fact belong to or were affiliated with a dozen or more organizations which were characterized by the Attorney General of the U.S. as subversive in character. On May 14th, the special committee accordingly recommended that the gentlemen in question were "unfit to continue in government employment" and proposed an amendment to an appropriation bill whereby no public funds could be used to pay their salaries. This would have the effect of removing them from the rolls. The House approved the amendment by a vote of 318 to 62.

THE SENATE ACTS

This bill thereupon went to the Senate for action. The Senate committee took no testimony whatsoever in the case of two of the professors and received but a single short statement by Secretary Ickes with respect to the third. Senators took the position that an attempt to remove the gentlemen from the Federal payroll in this fashion was in the nature of a bill of attainder and in violation of the Constitution. They also insisted that it was an invasion of the President's constitutional function of appointing persons to the Federal rolls. By a vote of 65 to 0, they therefore struck this amendment from the bill.

IT GOES TO CONFERENCE

This bill then went to a conference committee of the two Houses where an effort was made to reach a compromise on the matter. But the Senate stood pat and the House stood pat and there the matter rested. The urgency of the matter lay in the fact that this House proposal to get the professors out of public service was attached to an appropriation bill containing the pay for many thousands of persons on the Federal rolls. The bill must be passed by June 30, (end of the fiscal year) or there would be no pay for these folks unless Congress took other action.

WHAT FINALLY HAPPENED

As the Congressional Front goes to press, nothing has happened. The House and Senate are still deadlocked over this issue, even though a committee of the two Houses has recommended that the three men be permitted to remain on the rolls until November 15th, after which they are automatically dropped unless appointed by the President and confirmed by the Senate. Many members of the House are not willing to accept such a compromise and insist that the professors be dropped from Federal service at once. That issue must be resolved before Congress undertakes a

recess

AND SO AN ISSUE IS BORN

The Senate feels that since the Constitution gives to that body the power to confirm Executive appointments, the House was encroaching upon Senatorial rights. The professors themselves stated that the House had no authority to remove them from the rolls since this is a Presidential function under the constitution ~~under the constitution~~. They insisted also that the bill seeks to inflict a punishment for something that was heretofore not regarded as criminal or subversive and is therefore in the nature of a bill of attainder. They could if so disposed remain on the rolls without pay and later go into Federal Court and sue for their salaries on the ground that the action by the Congress violates the bill of rights. Thus an issue is born, involving that great, fresh document which was adopted more than 150 years ago as the basic law of the land.

POSITION OF THE HOUSE

Members of the House of Representatives consider themselves the stewards and guardians of the public purse and that under that same Constitution, they have a complete right to determine how and for what purposes the people's money shall be spent. They consider that after a finding by a special committee which reported the professors as unfit to remain in Federal Service, that they have the constitutional right to withhold public funds for the payment of such persons and that if they choose to remain on the rolls without pay, that is their choice so long as the Executive continues them on the rolls. And so the three professors become a cause celebre and give birth to a constitutional issue. The final outcome will add another chapter to the judicial history of the nation.