

Congress Must Stay in Framework of Constitution in Changing Court Verdicts

Washington—Congress is about to undo, or at least modify, one of the Supreme Court's highly-disputed decisions of last month. This is the Jencks decision in which the court held that a defendant must be given access to reports made to the FBI by informers who testify against him in federal court.

What are the circumstances in which the Congress can reverse a Supreme Court decision? Congress and the Court

In general, Congress can limit or reverse Supreme Court decisions however it chooses so long as it stays within the framework of the Constitution.

On constitutionality, the high court has the last word and can reverse Congress. In *Marbury v. Madison*, one of the most famous of all its opinions, Chief Justice John Marshall established the principle that the court may reverse laws passed by Congress. That was in 1803 when the court was only 14 years old. It marked the first step toward a powerful federal bench.

There are two ways for legislation to thwart the court. One is immediate and direct: To pass a law that does the opposite of what the court rules.

The long range but more drastic method is one Congress has been historically reluctant to employ: To enact legislation limiting the court's jurisdiction; or increasing or reducing its membership.

Congress took the first route on the hot political issue of tidelands oil after the high court in 1947 ruled that the United States—not the states—owned the valuable deposits outside the low water mark.

In 1953 President Eisenhower signed a bill guaranteeing state ownership of all submerged land out to the three-mile limit. The next year the court refused to

entertain a challenge to the new law on the ground that Congress may do as it pleases with U. S. property.

The second method was attempted by President Franklin D. Roosevelt in his court-packing plan of 1937. His supporters in Congress introduced legislation to add a member for each incumbent who was 70 or over. The failure of this bill to pass was Roosevelt's first severe political defeat.

There appears little likelihood that Congress will initiate any sweeping limitations on the present court despite legislators' fulminations. But it seems in-

tervention on passing a law to modify the Jencks decision.

Background of Jencks Decision

The court ruled on June 3 that when a witness summoned by the government in a criminal trial has previously made reports about the case to the FBI the witness in question in the Jencks case specifically was an erstwhile FBI undercover agent, then the defense must be given access to those reports to the FBI. The idea is that the defense then can check whether the witness tells the same story in court that he told in his previous reports.

This seems like forcing one side in a law case to supply am-

munition to the other side. It is an extension of the old legal principle.

The demand by the defense for such papers stems from a common law right to attack the credibility of an opposition witness; and from trial practices that have developed over the years in federal courts.

Not Ordinary Litigant

One of the main considerations—*noted in the court's opinion*—is that the government is not an ordinary litigant. The government's duty is not just to win cases but to see that justice is done.

Justice William J. Brennan Jr.

ruled in the Jencks case that only defense counsel can decide whether his purpose will be served seeing reports made to the FBI by agents or informers who are testifying. Prior Supreme Court rulings had left this decision up to the trial judge.

Attorney General Herbert Brownell Jr., in urging legislation to modify the Jencks decision, pointed out that he agreed "in principle" with what the court was trying to do in protecting defendants' rights.

Brownell and the FBI were greatly upset, however, because the Jencks decision set no plain boundaries. Some lower federal

courts interpreted it as giving defense lawyers access to entire FBI "raw" files concerning a case. The Justice Department and FBI Director J. Edgar Hoover have vowed never to release these files, which contain hearsay and rumors as well as established data.

Would Restore Power

The solution urged on Congress by Brownell—and approved by Senate and House committees—would restore to trial judges the power to decide which reports must be handed over to the defense and would put other limits on the Jencks decision.

The proposed new law would

require disclosure only of those parts of a witness' report to the FBI that relate to testimony he had given against a defendant. The trial judge would inspect the witness' report to the FBI, determine which parts were relevant and order the rest withheld from the defense.

If the government balked at turning over the portions held by the judge to be relevant, then the bill would empower the judge to strike out the witness' testimony or declare a mistrial.

Justice Brennan's opinion in the Jencks case did not rest on a premise that any constitutional right of the defendant was in-

involved. If the proposed bill is enacted, a new legal test might well raise this point.

Don't Say "Hello" Say --- "FILTER-FLO"

Rescue Team Seeks Stranded Climber In Kings Canyon

Kings Canyon National Park, Calif.—A crack team of mountain climbers entered a remote section of Kings Canyon National park today in an attempt to rescue an injured hiker stranded on a ledge.

John Findley Scott, 23, Stockton, Calif., a University of California student at Berkeley, was injured late Sunday when he fell 40 feet to the rocky ledge. The mishap occurred at the 12,000-foot high North Palisades area near the northeast boundary of the park. Rangers described the area as "extremely rugged" and hoped to reach Scott late this afternoon.

Scott was hiking in the area with five other students, James Evans, Los Angeles; and Lynn Marshall, Lawrence Marshall, Dorothy Frey and Lincoln Axtell, all of Berkeley. They notified packer Dudley Boothe at South Lake of the accident and he called the Inyo county sheriff's office at Bishop.

Word was relayed then to the park's Ash Mountain headquarters and the rescue team, headed by Assistant Chief Ranger Carl Schreiber, was flown to Bishop at dawn. The team reached South Lake at mid-morning and began the pack trip to the scene of the accident.

Other members of the team were rangers Gene Blaz and Ray Murphy, trail boss Joe Davis and warehouseman Barney Scharn. They took with them special climbing gear needed to remove Scott from the ledge.

The extent of Scott's injuries was not immediately known.

Actor Jeffrey Hunter Marries Arizona Model

Hollywood — Actor Jeffrey Hunter and model Dusty Bartlett were married Sunday at Ojai, Calif., 65 miles north of here.

The bride is the daughter of Mr. and Mrs. Richard E. Killian of Tucson, Ariz. She previously was married to John Bartlett, a Phoenix, Ariz., businessman. Hunter formerly was married to actress Barbara Rush.

Liverpool, England—The British luxury liner *Reina del Pacifico* crashed into a reef off Bermuda today, its owners reported.

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