

States' Rights Issue Looms Again In Race Problem

By WILLIAM J. EATON
United Press International
Washington—President Kennedy's request that Congress outlaw racial discrimination in hotels, theaters, restaurants and stores raised a Constitutional question that has concerned the U.S. Supreme Court for 150 years.

The issue is simple: How much authority does the Federal government have in regulating commerce and how much should be left under State control?

Answers from the Supreme Court have varied with the times—and the temper of the justices. But few legal authorities dispute that there has been a tremendous expansion of federal authority over the national economy in the past 25 years.

That is one reason Justice department attorneys are so confident the high tribunal would uphold a federal ban if they can show how race discrimination impedes the flow of goods across state lines.

The President used another Constitutional precept for his bill to halt race restrictions in public facilities—the 14th Amendment. This forbids states from depriving any person of equal protection of the laws. But it is doubtful whether it bars discrimination by a hotel or restaurant owner, for example.

Yet the government feels it can demonstrate that such discrimination can take place only with the help of a state's police force, courts and other institutions that constitute state action under the law.

An 1883 Supreme Court decision in civil rights cases struck down a Federal law passed in the stormy reconstruction period that attempted to forbid segregation in hotels and restaurants via the 14th Amendment.

This decision, which still prevails, is one reason why the government's main reliance is placed on Congress power to regulate commerce "among the several states" in the event a similar law is passed this year and its Constitutionality is challenged.

Chief Justice John Mar-

shall, who played a major role in building the Federal-State framework through his decisions in the early 19th century, came out strongly for broad federal powers in a landmark ruling in 1820.

The case involved a steamboat monopoly granted to Robert Fulton by the State of New York.

Forbids Monopoly

Fulton's competitors argued that the federal power to regulate interstate commerce should forbid New York from granting a monopoly in steamboat travel.

Marshall ruled against Ful-

ton for another reason but his opinion is still cited today to justify sweeping federal authority over commerce.

That power, Marshall held, is "complete in itself, may be exercised to its utmost extent and acknowledges no limitations other than are prescribed in the Constitution."

And commerce, he said, includes "every species of commercial intercourse" and covers every part of a journey across state borders.

After Marshall died, Chief Justice Roger B. Taney's court adopted a new doctrine that said the national government could regulate in cases where a uniform national rule was required. But in other cases the states could act.

The federal government's power was whittled down further by the court in a series of decisions following the Civil War.

Sugar Trust Case

Perhaps the most amazing of these rulings, from today's viewpoint, was the "sugar trust" decision in 1892 which said that firms engaged in producing 95 per cent of the nation's sugar supply were not subject to the anti-trust laws. The court reasoned that the

manufacture of sugar was primarily a matter for state control since it only "indirectly" affected interstate commerce.

The court switched slightly, however, to uphold the Mann Act, forbidding transportation of prostitutes across state lines, and the Pure Food and Drug Act, aimed at barring interstate shipment of impure or harmful products.

Yet a few years later, the court knocked down federal laws to regulate child labor on grounds this was an intrusion on local authority.

The doctrine adopted in the "sugar trust" case in the 1890s was used by the Supreme Court to scuttle major portions of the Roosevelt New Deal program in the 1930s. The National Industrial Recovery Act, the Bituminous Coal Act and the Agricultural Adjustment Act all were nullified.

Uphold Wagner Act

Then, in an about-face that followed former President Franklin D. Roosevelt's so-called court-packing plan, the justices upheld the Wagner Act, the Federal Minimum Wage Law and the Social Security Act.

By 1942, the justices even

upheld a law that placed limits on wheat grown for on-the-farm consumption although none of it was sold in interstate commerce. Feeding some wheat to livestock, the court said, could have an effect on the amount of wheat that would move across state lines.

Robert G. McCloskey, Harvard professor who has written a book about the court's role in American life, says: "It was evident that Congress could reach just about any commercial subject it might want to reach and could do to that subject just about anything it was likely to want to do, whether for economic, humanitarian or other purposes."

McCloskey said that after the New Deal revolution "the Constitutional distinction between intrastate and interstate commerce was no longer a practical limit on federal power."

Justice department attorneys agree that the President's proposed ban on discrimination in virtually all places open to the public is far-reaching. But they are sure that if Congress passes the bill, Supreme Court approval would be a "sure thing."



HOMELAND COSTUMES—Lissome Miss Universe contestants, Susan Pratt, left of England, and Grace Calder Taylor of Scotland display costumes of their homelands, the "beef eater" and the "hill" respectively, as they arrive in New York. They are headed for Miami Beach, Fla., and the beauty contest, which starts next week. (UPI)

Junior Foreign Service Officer Tests Planned

Congressman Robert B. Duncan, (D-Ore.), said today the U.S. State Department has informed him that the deadline for filing applications for the test for Junior Foreign Service Officer is July 22.

"The United States Foreign Service is an unusual and challenging career opportunity for young men and women interested in serving their country abroad and at home," Duncan said. "The State Department is eager to obtain the best talent the United States can provide from all sections of the country."

To be eligible to take the examination, an applicant should be at least 21, but under 21 years old as of July 1, and have been a citizen of the United States for at least nine years. A person 20 years of age is eligible to take the written examination if he has a bachelor's degree or has successfully completed his junior year in college as of July 1.

Congressman Duncan pointed out that in addition to individuals with backgrounds in political science, history, government, and a broad educational background, the Foreign Service seeks those who are trained in such diverse specialties as budget and fiscal work, management, personnel labor relations, law, banking and finance, industry, foreign trade, and other aspects of economics and administration.

Applicants from Oregon's 4th District would be able to take the written examination in Portland. There are also oral and medical examinations and a background investigation.

Additional information and application forms can be obtained from Congressman Robert B. Duncan, 123 Cannon House Office building, Washington 25, D.C., or from the Congressman's district representative, Cliff Ouellette, room 312, 720 East 13th avenue, Eugene, Ore.

Typhoon Wendy Bypasses Guam

Honolulu—(AP)—Typhoon Wendy, with winds of more than 100 miles an hour near the center, appeared today to have bypassed the island of Guam.

The Philippines could catch the full brunt of the storm.

The Honolulu Weather Bureau said the typhoon center was about 90 miles southwest of Guam early today and was expected to be about 170 miles due west of the island early Friday.

The weather bureau said winds at the center were expected to increase as the typhoon headed toward the Philippines.



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