

A case study of American legal culture flexibility: The supreme court's controversial decisions of 1935-1937

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Abstrak

INTRODUCTION

America is a country of laws rather than of men. Laws that are agreed on by representatives of the people, implemented by the government and reviewed for their legal constitutionality by judges of the Supreme Court rule America. These laws must conform to certain broad principles of moral justice. They then govern the actions of the population of America.

Since laws govern the actions of the people, they must be stable. Judges of the court who apply laws to existing cases are expected to make consistent decisions. They should do so and must also bear in their minds that the decisions they made might be referred to as precedents when other judges decide cases of similar type. "Stability of laws and consistency of decisions are basic values of our judicial system", said Harold O. Berman in his article, "Philosophical Aspects of American Law", broadcast by the Voice of America (Berman, 1973:323).

In 1936, the Supreme Court, by 5 to 4 vote in the case of *Morehead v. New York ex rel. Tipaldo*, 298 U.S. 587 (1936) invalidated a statute of the state of New York prescribing minimum wages for women and children. But only one year later, the Supreme Court upheld a Washington State minimum wage law. The Supreme Court not only changed its decision of 1936 but also repudiated the then prevailing interpretation of the due process clause of the United States Constitution. Before 1973 the due process clauses were traditionally used to curb legislation of the social welfare type. Since then, "no federal, and relatively few state, laws of this type have been declared unconstitutional on the due process ground" (Carr, 1961: 95).

The above Court's inconsistent decision has greatly attracted my attention to write this thesis. It seems to me that some of the American Supreme Court's decisions in the course of the first two terms of President Franklin Delano Roosevelt had to be accordingly adjusted in response to deep social and political demands of the changing times and conditions.

Dexter Perkins quoted an assertion of President Roosevelt's supporters saying, "if the President lost the battle, he won the war, that if his legislation failed, he had the satisfaction of seeing the Court bend to the spirit of the times". Perkins further wrote: "History itself demonstrates that our highest tribunal will suffer grievously in prestige and power if it fails to conform to the spirit of the times" (Perkins, 1957:61-63).

This thesis will examine some factors affecting reversals of the Supreme Court's decisions during the first two terms of President Roosevelt. Perhaps these decisions, which became controversial at the times, had to be made in response to social and political pressures. It might also be possible that these decisions had been

influenced by the Supreme Court's justices' personal values and orientations, the state of the law applicable to each of the selected cases, the interaction among its members and other external factors, which will be discussed in detail in Chapter III and Chapter IV.

