

OPINION OF Superior Court Judge C. Guy Cutlip, Seminole, Okla.  
upholding the constitutionality of the president's re-employment  
agreement of the National Recovery Act.

Rendered Saturday, January 20, 1934 at Seminole, Okla.

" I am unable to agree that the constitution is a document of rigid, inflexible rules. I consider it a live, vivid, fundamental law based upon human needs as applied by and through government. It should be considered and construed with due regard to the needs of the people who cherish it as a guaranty of protection and security.

It was not designed for the immediate problems of the times in which it was adopted, but was intended for emergencies in those times of stress that no human sensibility could or would likely foresee.

To apply or construe it otherwise would render it harmful whereas it was meant to be helpful. Surely no one will contend that the basic law of the land was intended to render a nation helpless in times of unforeseen stress or adversity -- or from protecting itself and its people in a critical or unexpected situation.

Ours is a government <sup>for</sup> ~~of~~ the people as distinguished from the old version that the people were born to serve the government. Our government was erected and the constitution enacted to serve the people. To construe or apply it in a sense of restriction or limitation, where the people are concerned, would render it useless under changing circumstances. Its limitations should be applied to the government, never to the needs of the people.

It is contended here that there is no consideration flowing from the contract in question to the party sought to be charged, that at most it would be a moral consideration and not one considered in the law.

What greater consideration could flow to the party charged in the code or contract than the stabilization of business where it is confronted with ruin? Every member of our business fabric is a recipient of that consideration.

It is strictly a government function to protect the citizen in his business, his home and his property. There is a direct consideration going to the business man who profits or stands to profit by a contract with the government that stabilizes business generally.

His very business existence is dependent upon the making and the keeping of the contract. To say the constitution prohibits a contract made to bridge an emergency would render that document in effective and abortive I hold otherwise. I give it life, and vigor and flexibility. It was so intended. The demurrer will be overruled.

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