

Coal Trade Not Under Lever Act, Hughes Contends

Argues Rules Laid Down by President Made the Law Imperative and Seeks to Quash Conspiracy Charges

INDIANAPOLIS, Ind., May 8.—Rules promulgated by President Wilson made the Lever act inoperative in the fuel industry, Charles Evans Hughes declared in the United States District Court here to-day. Mr. Hughes, who is acting as special counsel for members of the United Mine Workers of America, charged with conspiracy to violate the Lever act, continued his argument in support of a motion filed yesterday to quash the indictment against his clients. Mine operators also are under indictment on the same charge.

The President promulgated rules under Section 25 of the Lever act in regulation of the fuel industry, which superseded the general provisions of the law, Mr. Hughes declared.

Says Wilson Had Full Control. With the promulgation of the regulations the President took complete possession of the fuel industry in every department of the field, and while he was in control no jury had a right to define what might be reasonable or unreasonable in respect to

the conduct of the industry, Mr. Hughes said.

The attorney for the defense argued that the Lever act was "hopelessly vague and indefinite" and could not be applied, if valid, to sustain the indictment against the coal men, in view of the authority given the President in controlling the fuel industry.

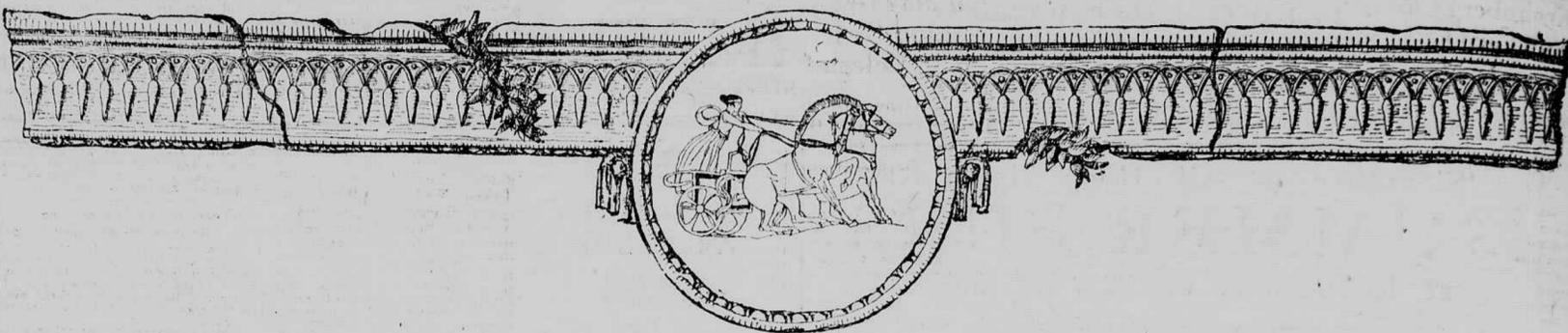
Mr. Hughes pointed out that counts of the indictment drawn under Section 4 of the Lever act as unamended could not stand, because Section 4 provided no penalty. He further said counts drawn under the amended Section could not stand because the amended section was class legislation and therefore unconstitutional. Section 9 of the act, he pointed out, had been repealed October 22, 1919, and therefore was not operative to sustain the counts drawn under it.

Answer of Government
Samuel D. Miller, representing the Indiana coal operators, spoke briefly, saying their case would rest on the arguments of Mr. Hughes.

Daniel W. Sims, Special Assistant United States Attorney, representing the government, who followed Mr. Hughes, said that the President's rules did not supersede the general provisions of the Lever act. As to class legislation he declared there was no constitutional inhibition against the passage of class legislation in Section 6 of the Constitution as it relates to "due process of law."

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