The incidental effect which such rules have in lowering the value of memberships does not constitute a taking, but is only a reasonable regulation in the exercise of the national police power. Hence, the Board is not deprived of its property without due process of law and for this and the foregoing reasons, the act was held to be constitutional.

MINIMUM WAGE LAW—CONSTITUTIONALITY.

In the recent case of Adkins v. Children's Hospital (67 L. Ed., U. S., Supreme Court, 440) the appellee filed a bill for an injunction to restrain the enforcement of an order issued by a board created by an act of Congress passed on September 19, 1918 (40 Stat. at Large 960) providing for the fixing of minimum wages for women and children in the District of Columbia. Under the act, a board was created and empowered to set the standards of minimum wages for women and children. The board had made an order which affected the appellee, a hospital employing a large number of women and some minors. The bill for the injunction was based on the ground that this enactment of Congress violated the Fifth Amendment to the Constitution, which provides that no person shall be deprived of his life, liberty or property "without due process of law." In construing the statute, the Court invoked the rule that every possible presumption is in favor of the validity of an act of Congress until such presumption is overcome beyond rational doubt. However, a congressional statute is but the act of an agency of the sovereign power, the Congress of the United States, and if in conflict with the Constitution, it must fail, for that which is not supreme must yield to that which is. While the Supreme Court has no power to nullify acts of Congress, it has the power to decide whether or not such acts are consistent with the Constitution. The question for decision in the case under consideration was whether that particular statute was an unconstitutional interference with "freedom of contract" which is included in the terms of the Fifth Amendment. Of course, there is no absolute freedom of contract, but freedom of contract is, nevertheless, the general rule, and restraint the exception; and the exercise of legislative authority to abridge can only be justified by the existence of exceptional circumstances. A review of authorities reveal that such interference has been upheld only under four classes of circumstances: (1) Statutes fixing rates and charges to be exacted by business impressed with a public interest. Munn v. Ill. (94 U. S. 113). (2) Statutes prescribing the character, methods and time for payment of wages. McLean v. Arkansas (211 U. S. 539); Knoxville Iron Co. v. Horbison (183 U. S. 13); Erie R. Co. v. Williams (223 U. S. 685). (3) Statutes relating to contracts for performance of public work. Atkins v. Kansas (119 U. S. 207); Heim v. McCall (239 U. S. 175); Ellis v. U. S. (206 U. S. 246). (4) Statutes fixing hours of labor. Holden v. Hardy (169 U. S. 366) Lockner v. N. Y. (198 U. S. 45); Bunting v. Oregon (243 U. S. 426); Wilson v. New (243 U. S 332).

In a convincing and well-reasoned opinion rendered by Mr. Sutherland, A. J., the Court held that the statute under consideration did not come within any of the four classes heretofore mentioned, and that the setting of standards of minimum wages would be extending the police power too far and would be an infringement of the rights and liberties guaranteed to every citizen by the Constitution and the amendments thereto. The Court points out with special emphasis wherein the statute under consideration differs from those laws fixing hours of labor. The Court says: "It is sufficient now to point out that the latter deals with the incidents of employment having no necessary effect upon the heart of the contract; that is, the amount of wages to be paid and received. A law forbidding work to continue beyond a certain number of hours leaves the parties free to contract about wages, and therefore equalize what additional burdens are placed beyond the employer as a result of the restrictions as to hours, by or adjustment in respect of the amount of wages."

Furthermore, in order for an act to be sustained upon the ground of police power it must be shown that the subject to be corrected is directly connected with the public health or morals. The mere assertion that the subject relates, though but in a remote degree, to the public health or morals does not necessarily render the enactment valid. The Court commented on this phase of the case, saying: "It cannot be shown that well-paid women safeguard their morals more carefully than those who are poorly paid; morality rests upon other considerations than wages." The Court further points out that the statute does not take cognizance of the earning power of the employee, the number of hours which happen to constitute a working day; and while it has no basis to support its validity other than the assumed necessities of the employee, it takes no account of other sources of income she may have. It also follows that if a minimum wage can be established, thus limiting the employer's freedom of contract, should the occasion demand it, a maximum wage could be set, thus limiting the employee's right of contract. C. J. Taft and A. J. Holmes dissented from the decision, both of them believing that the statute was analogous to those statutes limiting the hours of labor, but Taft, C. J., carefully refrained from intimating what his opinion was as to the constitutionality of a minimum wage law for men.

MONOPOLY—FEDERAL TRADE COMMISSION—JURISDICTION—GASOLINE TANKS AND PUMPS.

Federal Trade Commission, Petitioner, v. Sinclair Refining Company (No. 213) (U. S. Sup. Ct. Advs. Ops. May 1, '23, page 483). Federal Trade Commission, Petitioner, v. Standard Oil Company (New Jersey) (No. 637). Federal Trade Commission, Petitioner, v. Gulf Refining Company (No. 638). Federal Trade Commission, Petitioner, v. Maloney Oil & Manufacturing Company (No. 639).