

DENIES STATE MILK CONTROL LAW IN TEST

Board Lawyer Says Kroger Action Involves Only Court Jurisdiction.

A proposed United States Supreme Court appeal by the Kroger Baking and Grocery Co. in connection with an order of the Indiana Milk Control Board will settle only a matter of jurisdiction and not the constitutionality of the 1935 act, Charles Daily, board attorney, said today.

In the event the high court upholds a three-judge Federal court which threw out the original action of the chain store for want of jurisdiction, a test of the law's constitutionality is not likely in this particular case, it was said.

An order issued soon after organization of the Milk Control Board prohibited the Kroger company from selling milk in its 44 stores in Fort Wayne for 1 cent less than the price charged by wagon distributors.

The Kroger company instituted action against the order, contending proper legal notice of the prohibition of the 1-cent differential had not been given.

Order Reinstated

The state board rescinded the order, which had been asked by producers and distributors to stabilize the market in the Fort Wayne area, but later issued a similar order.

Action was filed by the chain store in northern Indiana Federal District Court attacking constitutionality of the board's ruling.

The board filed a petition to dismiss with the three-judge hearing court, contending that body had no jurisdiction since the amount involved was less than \$3000—a requirement for filing Federal civil action.

The petition was upheld and it is that decision of the hearing court that the Kroger company proposes to appeal to the United States Supreme Court.

Reversal of the lower court by the supreme body would open the way for the first Federal Court test on the merits of the 1935 state law.

Injunction Granted

The three-judge Federal Court has granted the Kroger Company a 30-day injunction against execution of the state milk control board order prohibiting the 1-cent differential.

Constitutionality of the State Milk Control law was upheld by the Indiana Supreme Court in a decision rendered during the November term in 1935 on an appeal by Frank Albert, a St. Joseph County milk dealer who refused to purchase a license.

Citing cases in which the United States Supreme Court upheld constitutionality of the state milk control laws of New York and New Jersey, reported to be similar to the Indiana legislation, the high state court upheld the decision of the St. Joseph Superior Court.

"...the power of the Legislature to regulate and control the production, transportation, processing, storage, distribution and sale of milk for human consumption," was upheld by the court.



HINT COUGHLIN QUIZ SAY LINDBERGH TO STAY ABROAD

Friends Report Flier and Family Enjoy Privacy in England.

By United Press
ENGLEWOOD, N. J., Oct. 7.—Col. Charles A. Lindbergh does not intend to bring back his family to the United States soon, friends of the Morrow family revealed today. Mrs. Lindbergh's mother, Mrs. Elizabeth C. Morrow, returned yesterday from a visit with the Lindberghs in Kent, England. According to friends, Mrs. Morrow reported that Col. Lindbergh and his wife are enjoying a privacy denied them in this country, and that their son, Jon, is growing up unaware of his parents' fame.

LOSSES FROM FIRES LESS IN SEPTEMBER

Although more fire alarms were answered during September than during the same period in 1935, the total loss is estimated at \$4000 less, a report of Fire Chief Fred C. Kennedy to the Safety Board showed today.

The total loss in September, 1935, was \$11,584. Last month the estimated fire loss was \$7500.

A request for traffic signals at 12th and West sts. was made by Mrs. Mary Southern, P.T.A. president at Crispus Attucks High School. More than 3300 school children use this intersection, she told the Safety Board.

I.U. IS TO ADVISE WELFARE WORKERS

Indiana University officials announced today that a special advisory service is being offered welfare workers in 30 southern Indiana counties.

Ralph H. Furst, assistant social work professor, is to be available for consultation on public welfare problems. He is to assist social workers with problems not otherwise covered by the State Welfare Department staff.

U. B. MEMBERSHIP NOW 500,000, REPORT

The one-day evangelistic school of the White River Conference of the United Brethren Church in Christ closed last night in the First U. B. Church with an address by Bishop H. H. Fout, who outlined the founding and progress of the U. B. church.

Bishop Fout said that the church now had a membership of approximately 500,000.

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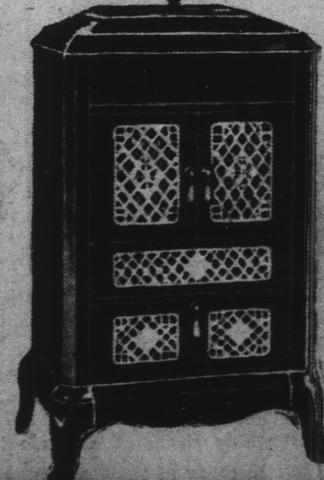
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