

Opinion of the Court.

UNITED STATES *v.* FERGER ET AL. (NO. 2).

ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR
THE SOUTHERN DISTRICT OF OHIO.

No. 777. Argued April 29, 1919.—Decided June 2, 1919.

Congress has power, under the commerce clause, to forbid and punish a conspiracy to forge and utter bills of lading for fictitious interstate shipments. *United States v. Ferger*, ante, 199.

256 Fed. Rep. 388, reversed.

THE case is stated in the opinion.

Mr. Assistant Attorney General Brown, with whom *Mr. Charles H. Weston* was on the brief, for the United States.

Mr. Charles E. Hughes, with whom *Mr. John C. Hermann* and *Mr. Sherman T. McPherson* were on the brief, for defendants in error.

Mr. Francis B. James, by leave of court, filed a brief on behalf of the National Industrial Traffic League, as *amicus curiæ*.

MR. CHIEF JUSTICE WHITE delivered the opinion of the court.

This case is disposed of by the ruling just announced in No. 776, ante, 199. The indictment here was for conspiring to do the various acts charged in the previous case, that is, the fraudulent fabrication and uttering of the same fictitious bills of lading and the obtaining of money thereon by delivering the same to the Second National Bank of Cincinnati as collateral. The demurrer which was sus-

tained by the court below in the previous case was also sustained as to this.

While there is a separate writ of error and a separate record in this case, it is conceded by all parties that the cases are in legal principle the same and that the decision of one concludes the other. It follows, therefore, that for the reasons stated in the previous case, No. 776, the judgment in this must be and it is reversed and the case remanded for further proceedings in conformity with this opinion.

And it is so ordered.

MR. JUSTICE PITNEY dissents.

CAPITAL TRUST COMPANY, ADMINISTRATOR
OF ARNOLD, *v.* CALHOUN.

ERROR TO THE COURT OF APPEALS OF THE STATE OF
KENTUCKY.

No. 368. Argued May 2, 1919.—Decided June 2, 1919.

For the prosecution of a claim for taking and use of private property in the Civil War, claimant agreed to pay an attorney's fee of 50% of the amount to be collected, to be a lien on any warrant to be issued in payment of the claim; the bill was referred by the Senate under § 14 of the Act of March 3, 1887, c. 359, 24 Stat. 505, now Jud. Code, § 151, to the Court of Claims, where, after evidence and trial, favorable findings were secured, upon which Congress appropriated an amount in payment, but with the restriction that no part thereof in excess of 20% should be paid to or received by any attorney on account of services rendered in connection with the claim, the act further declaring it a misdemeanor for any attorney to exact or receive for such services any sum exceeding that percentage of the amount appropriated, any contract to the contrary notwithstanding.