

lished for preventing ambiguous and uncertain statutes under the fifth and sixth amendments as under the fourteenth, the court in the instant case, although obviously in error insofar as it discussed the validity of the Florida statute within the fifth and sixth amendments, nonetheless properly applied a similar test.

In holding that the Florida statute was not so vague as to violate the due process clause, the court seems correct. The plaintiff's contention that the words "marathon" and "walkathon" have no established meaning can hardly be sustained in view of the fact that the terms have been commonly used for the last few years to designate a new type of amusement or contest. See *Survey*, Feb. 1934; *Collier's*, July 23, 1932. The instant case offered opportunity for application of the rule that words of popular meaning in a statute are to be interpreted in their "natural, plain, and ordinary significance." Black, *Interpretation of Laws* § 57 (1896); see *Hygrade Provision Co. v. Sherman*, 266 U.S. 497 (1925) (statute using word "kosher" held not vague or uncertain); *Omaechevarria v. Idaho*, 246 U.S. 343 (1918) (statute failing to define boundaries of "range" or to specify what was meant by a span of time that is "usually" was upheld as constitutional); *State v. Arnold*, 217 Wis. 340, 258 N.W. 843 (1935). But see *U.S. v. Cohen Grocery Co.*, 255 U.S. 81 (1921) (an act punishing any unreasonable rate or charge in dealing with necessaries was held invalid); *Connolly v. General Construction Co.*, 269 U.S. 385 (1926) (statute requiring state contractors to pay wages equal at least to the current rate in the locality where work was to be done was held invalid).

Constitutional Law—Eminent Domain—Right of Federal Government to Condemn Land for Housing—[Federal].—The United States sought to condemn four city blocks for slum clearance and for construction of a low cost housing project under authority of title 2 of the National Industrial Recovery Act § 203(a). *Held*, affirming the district court, that the general welfare clause (U.S. Const., Art. 1, § 8, cl. 1) does not carry with it the power to condemn land for housing purposes, and housing is not a "public use." *U.S. v. Certain Lands in City of Louisville*, 78 F. (2d) 684 (C.C.A. 6th 1935). *Cert. granted, Supreme Court Service, Oct. Term 1935, p. 819.*

Although there is no express constitutional grant to Congress of the power to condemn land, the fifth amendment recognizes the power by requiring that it be exercised for a public use. See *Nichols, Eminent Domain* § 23 (2d ed. 1917). And eminent domain is a necessary attribute of sovereignty. *Nichols, Eminent Domain* § 17 (2d ed. 1917). But it is generally stated that the federal government cannot exercise it except to execute a power delegated by the Constitution. *Kohl v. U.S.*, 91 U.S. 367 (1875); *U.S. v. Gettysburg Elec. Ry. Co.*, 160 U.S. 668 (1895); *Lewis, Eminent Domain* § 408 (2d ed. 1917); *Cooley, Constitutional Limitations* 1113 (8th ed. 1927); but see 1 *Law and Contemporary Problems* 232, 233 (1934); *Brown v. U.S.*, 263 U.S. 78 (1923). Land can be condemned by the federal government for housing, if at all, only under the general welfare clause (U.S. Const., Art. 1, § 8, cl. 1), which provides that Congress shall have power to tax "to pay the debts and provide for . . . the general welfare." 1 *Law and Contemporary Problems* 232. But see remark in *N.Y. City Housing Authority v. Muller*, 279 N.Y.S. 299 (1935) (inter-state commerce power possible).

The general welfare clause had not (until recently) been delimited by the Supreme Court of the United States. 9 *Temple L. Q.* 3 (1934); *Corwin, Twilight of the Supreme Court*, p. 177 (1934). It is generally regarded as including a grant of the power to

spend money for the general welfare. Willoughby, *Constitutional Law* § 62 (2d ed., 1929); Cooley, *Taxation* § 178 (1924). It would seem that the general welfare clause must be held to grant the power not only of spending for housing but of engaging in housing projects, if land is to be condemned by its authority. It is possible that the clause grants this power over the objects of appropriation. 9 Temple L. Q. 10 (1934); Corwin, *The Spending Power of Congress apropos the Maternity Act*, 36 Harv. L. Rev. 548 (1923), citing *U.S. v. Gettysburg Elec. Ry. Co.*, 160 U.S. 668 (1896). See Lawson, *The General Welfare Clause* (1926). But see *Kansas v. Colorado*, 206 U.S. 46 (1907); *U.S. v. Boyer*, 85 Fed. 425, 431 (C.C.A. 5th 1898); Willoughby, *Constitutional Law* § 63 (2d ed. 1929). The attempt to condemn land apparently places the landowner in a position to raise this question of interpretation of the general welfare clause. Cf. *Massachusetts v. Mellon*, 262 U.S. 447 (1923).

It is likely that "general welfare" is broad enough to include housing. Cf. Willoughby, *Constitutional Law* § 62 (2d ed. 1929); 2 Univ. Chi. L. Rev. 470 (1935); 1 Law and Contemporary Problems 232 (1934); *Missouri Utilities Co. v. City of California*, 8 F. Supp. 454 (D.C. Mo. 1934); *contra*, *Washington Water Power Co. v. City of Coeur D'Alene*, 9 F. Supp. 263 (D.C. Idaho 1934). It has been suggested that spending for the "general welfare" includes spending to meet any situation national in scope. See Judge Allen, dissenting in the instant case. Slum clearance, relief of widespread unemployment, and better housing facilities for citizens are, arguably, national problems; they are not proved to be local by the fact that money spent to solve them must be spent in particular localities. See Bunn, *Income and Economic Progress*, 3 Univ. Chi. L. Rev., *ante* p. 173 (1936).

Assuming, in the instant case, the power to engage in housing projects, the federal government could not exercise eminent domain unless housing is a "public use." Nichols, *Eminent Domain* § 17 (2d ed. 1917). One group of states has interpreted "public use" to mean for the use of the government or of the public as a matter of right; another group has held that "public use" is synonymous with "public welfare." Nichols, *Eminent Domain* § 40 (2d ed. 1917). Although the United States Supreme Court has allowed the states to adopt the "public welfare" interpretation under their police power (*Clark v. Nash*, 198 U.S. 361 (1905); *Strickley v. Highland Boy Mining Co.*, 200 U.S. 527 (1906); *Falbrook Irrigation Dist. v. Bradley*, 164 U.S. 112, 161 (1896); *Ackerlind v. U.S.*, 240 U.S. 531, 532 (1916); *Rindge Co. v. Los Angeles*, 262 U.S. 700, 707 (1923)); it has never committed itself to either view in regard to federal eminent domain. 48 Harv. L. Rev. 1021 (1935). The "public welfare" interpretation might well include slum-clearance and housing projects. See *N.Y. City Housing Authority v. Muller*, 279 N.Y.S. 299 (1935); 43 Yale L. J. 815, 821 (1934). If it is held that housing is included in the "general welfare" of the general welfare clause, it would seem that it would come within a "public welfare" interpretation of public use.

If the condemnation of land by the United States for low-cost housing and slum-clearance projects is denied, the future of housing in America may not be seriously endangered. The most serious of the possible difficulties resulting from limits of some states' powers to exercise eminent domain and borrow, and from the relation of local, state and national governments, may prove soluble. See *Chicago Daily News*, Jan. 2, 1935, p. 5 (bill for local housing with federal financial aid, to be introduced in present session of Congress); *American City*, Aug. 1935, p. 77. If on the other hand, the power of the federal government to give housing projects financial backing is limited, the con-

sequences may be unfortunate. Since this note was prepared, a limit on the appropriation power has been for the first time authoritatively announced; but the scope of the remaining power is not yet clear. *U.S. v. Butler*, 296 U.S.—Chicago Daily Tribune, Jan. 7, 1936, p. 6.

Contracts—Consideration—Uniform Written Obligations Act—[Pennsylvania].—Assumpsit was brought on a note, signed by the defendant, which began with a promise to pay the plaintiff \$5,000, was followed by a pledge of collateral security, and concluded with the words “and should any balance remain unpaid, I [defendant] further promise and agree to pay the same to the holder thereof on demand.” The note was not sealed. The defendant contended that because no consideration was averred, the plaintiff did not establish a good cause of action. *Held*, the Uniform Written Obligations Act (Pa. P.L. 985 (1927)) eliminates the defense of absence of consideration where the right of action is based on a written promise which contains an additional express statement, in any form or language, that the signer intends to be legally bound. Here, the express promise to pay was followed by another promise to pay any unpaid balance. *Gilmore, ex'tra. v. Kessler*, 22 Pa. Dist & County. Rep. 274 (1935).

For discussion of the Uniform Written Obligations Act see note, Contracts without Consideration, *ante*, p. 312.

Corporate Reorganization—A Foreclosure Receivership as a “Proceeding in Equity Receivership” within the Meaning of § 77B—[Federal].—A petition was filed for involuntary reorganization proceedings under § 77B(a) of the Bankruptcy Act, the petitioner alleging that a receiver had been appointed in a pending mortgage foreclosure action which involved all of the debtor's property. *Held*, petition dismissed; a foreclosure receivership is not a pending equity receivership within the meaning of the Bankruptcy Act. *In re 2168 Broadway Corp.*, 78 F. (2d) 678 (C.C.A. 2d 1935), *cert. granted, sub nom. Duparquet Huot Moneuse Co. v. Frysinger, Evans et al.*, 56 Sup. Ct. 248 (1935).

By the terms of § 77B, subdivision (a), three creditors having a combined claim of \$1000 or more in excess of their securities, may file an involuntary petition for reorganization of a corporation. Their petition must allege, *inter alia*, that the debtor has committed an act of bankruptcy within the four preceding months or that a prior proceeding in bankruptcy or equity receivership is pending. Exactly what is meant by a “proceeding in equity receivership” has been the subject of sharp controversy. The expression “equity receivership” is broad enough to include all cases in which a receiver is appointed by a court of equity for any purpose whatsoever. 1 Clark, Receivers § 12 (2d ed. 1929). Influenced by this consideration the federal courts in the seventh circuit have held it to include a receivership in a mortgage foreclosure. *In re Granada Hotel Corp.*, 9 F. Supp. 909 (D.C. Ill. 1934), affirmed in 78 F. (2d) 409 (C.C.A. 7th 1935), *cert. granted, sub nom. Tuttle v. Harris*, 56 Sup. Ct. 150 (1935); *In re Flamingo Hotel Corp.*, 1 Corp. Reorg. Mag. 53 (D.C. Ill. 1934); *In re Surf Bldg. Corp.*, 11 F. Supp. 295 (D.C. Ill. 1934). In all of these cases the mortgage covered all or nearly all of the assets. See Spaeth and Friedberg, Early Developments under Section 77B, 30 Ill. L. Rev. 137, 139, note 6 (1935). *Cf.* Hanna, Corporate Reorganization under the Bankruptcy Act, 21 Am. B. Ass'n J. 73, 76 (1935). Among lawyers, however, the phrase “proceeding in equity receivership,” is probably regarded as referring to the