National Industrial Recovery Act and Agriculture Adjustment Act.—The initial effort of Congress to deal with this situation was embodied in the National Industrial Recovery Act (NIRA) of June 16, 1933.[900] The opening section of the act asserted the existence of "a national emergency productive of widespread unemployment and disorganization of industry which" burdened "interstate and foreign commerce," affected "the public welfare," and undermined "the standards of living of the American people." To affect the removal of these conditions, the President was authorized, upon the application of industrial or trade groups, to approve "codes of fair competition" or to prescribe the same in cases where such applications were not duly forthcoming. Among other things, such codes, of which eventually more than 700 were promulgated, were required to lay down rules of fair dealing with customers and to furnish labor certain guarantees respecting hours, wages, and collective bargaining. For the time being, business and industry were to be cartelized on a national scale.

In *A. L. A. Schechter Poultry Corp. v. United States*,[901] one of these codes, the Live Poultry Code, was pronounced unconstitutional. Although it was conceded that practically all poultry handled by the Schechters came from outside the state, and hence via interstate commerce, the Court held, nevertheless, that once the chickens came to rest in the Schechters' wholesale market, interstate commerce in them ceased. The act, however, also purported to govern business activities which "affected" interstate commerce. This, Chief Justice Hughes held, must be taken to mean "directly" affect such commerce: "the distinction between direct and indirect effects of intrastate transactions upon interstate commerce must be recognized as a fundamental one, essential to the maintenance of our constitutional system. Otherwise, . . . there would be virtually no limit to the federal power and for all practical purposes we should have a completely centralized government."[902] In short, the case was governed by the ideology of the *Sugar Trust* case, although that case was not mentioned in the Court's opinion.[903]

---

[900] 48 Stat. 195.

[901] 295 U.S. 495 (1935).

[902] 295 U.S. at 548. *See also* id. at 546.

[903] In United States v. Sullivan, 332 U.S. 689 (1948), the Court interpreted the Federal Food, Drug, and Cosmetic Act of 1938 as applying to the sale by a retailer of drugs purchased from his wholesaler within the state nine months after their interstate shipment had been completed. The Court, speaking by Justice Black, cited United States v. Walsh, 331 U.S. 432 (1947); Wickard v. Filburn, 317 U.S. 111 (1942); United States v. Wrightwood Dairy Co., 315 U.S. 110 (1942); United States v. Darby, 312 U.S. 100 (1941). Justice Frankfurter dissented on the basis of FTC v. Bunte Bros., 312 U.S. 349 (1941). It is apparent that the *Schechter* case has been thor-