Constitutional Law - Commerce Clause -- Agricultural Adjustment Act of 1938

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construing § 20 say that it does not change the common law, even though the word "agent" can be said to place the other party on his guard that the signer is acting for another in a representative capacity. Parole evidence is properly held inadmissible in this case as § 20 read with § 18 show the intent that the name of the principal must be disclosed on the paper. Those states allowing parole evidence to be introduced by the agent to escape personal liability may refuse to admit extrinsic evidence of disclosure of the principal to hold the principal liable on the instrument, as prohibited by § 18, yet such evidence may be admissible to hold the principal liable, not on the note, but on the debt the note evidenced.

A. P. Z., Jr.

CONSTITUTIONAL LAW—COMMERCE CLAUSE—AGRICULTURAL ADJUSTMENT ACT OF 1938.—The plaintiffs were farmers who raised tobacco in Georgia. They sold their tobacco in the year of production as they were unable to process and hold it for sale in a later year. The sales were at auction markets, through the defendants who are warehousemen in Georgia, to purchasers intending to take the tobacco out of the state. The plaintiffs sued in the district court of the United States to restrain the defendants from deducting penalties for marketing tobacco in excess of quotas fixed under the AAA of 1938, from the sale price of tobacco sold at the defendants' warehouse on behalf of the plaintiffs. From a decree dismissing the bill, the plaintiffs appealed. Held, decree affirmed. Mulford et al. v. Smith et al., 59 Sup. Ct. 648 (1939).

The plaintiffs contended that the AAA of 1938 is unconstitutional for the following reasons: (1) The Act is a statutory plan to control agricultural production and, therefore, beyond the powers delegated to Congress; (2) The standard of calculating farm quotas is uncertain, vague and indefinite resulting in an

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14NEGOTIABLE INSTRUMENTS LAW, § 18: "No person is liable on the instrument whose signature does not appear thereon. . . ."

1527 YALE L. J. 686 (1918).

16Vorachek v. Anderson, 54 N. D. 891, 211 N. W. 984 (1927); 35 W. VA. L. Q. 92 (1928).

RECENT CASES

unconstitutional delegation of legislative power to the Secretary of Agriculture; (3) The Act permits the taking of their property without due process of law. First, the Act does not purport to control production. It sets no limit upon the acreage which may be planted or produced. It purports to be solely a regulation of interstate commerce which it reaches and affects at the place where tobacco enters the stream of commerce,—the marketing warehouse. The Supreme Court has recently declared that sales of tobacco by growers through warehousemen to purchasers for removal outside the state constitutes interstate commerce. Second, the Act sufficiently discloses that definite standards are laid down for the Secretary of Agriculture both in fixing the quota and in making allotments among the states and farms. He is directed to adjust allotments so as to allow for specified factors which have abnormally affected the production of state or farm in question in the test year. Congress has indicated in detail the considerations which are to be held in view in making these adjustments, and, in order to prevent arbitrary action, has afforded both administrative and judicial review to correct errors. Third, in applying the Act to the crop year of 1938, the plaintiffs are not deprived of their property without due process of law. It is argued that the statute operates retroactively and, therefore, amounts to taking of the plaintiffs' property without due process of law. This argument overlooks the fact that the statute operates not on farm production but upon the marketing of the tobacco in interstate commerce. The law enacted in February affected the marketing which was to take place about August 1, following, and so was prospective in its operation upon the activity it regulated. The Act did not prevent any producer from holding over the excess tobacco produced, or processing and storing it for sale in a later year.

Before this decision, whether Congress had power to forbid or condition transportation in interstate commerce depended upon the nature and character of the subject matter. Some of the cases where the Supreme Court has sustained Congressional legislation of broad interstate control of subjects under the commerce clause have been the following laws: The Anti-Lottery Act of 1895,3 closing the channels of interstate transportation to lottery tickets; The Pure Food and Drug Act of 1906, barring from interstate transportation foods and drugs not inspected and labeled in

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accordance with the Act;\textsuperscript{4} The Mann Act of 1910, forbidding transportation of women from one state to another for immoral purposes;\textsuperscript{5} The Federal Motor Vehicle Act of 1919, prohibiting the transportation of stolen motor vehicles from one state to another and the receiving, concealment, or sale of the same.\textsuperscript{6} From these cases, it appears that the Court has heretofore made the extent of regulation under the commerce clause depend on the nature and character of the subject of commerce. But, it does not necessarily follow that the power of Congress to prohibit the movement of articles in interstate commerce is limited to unwholesome commodities. In the instant case, as the Court points out, any rule which is intended to foster, protect and conserve commerce among the states or to prevent the flow of commerce from working harm to the people of the nation is within the competence of Congress, and it may extend to the absolute prohibition of the amount of a given commodity which may be transported in such commerce, without regard to its nature or character. In short, Congress may use its power over commerce among the states to prohibit the movement from one state to another of commodities in themselves wholesome where it appears that such movement if unrestricted would tend to disorganize the economic structure of the commodity market. But whether the commerce power extends to the total prohibition of the movement of an entire commodity, which is wholesome, from the state of production to the state of marketing, is still an open question.

E. W. H.

Sales—Implied Warranty—Uniform Sales Act.—The defendant, a department store, leased space within its store to a grocery company and carried advertisements for the grocery under its own name. In response to such an advertisement the plaintiff purchased a loaf of bread and, when eating some of it, was injured by wood splinters contained therein. Action was brought against the department store. \textit{Held}, judgment for the plaintiff. \textit{Timmins v. F. N. Joslin Co.}, 22 N. E. (2d) 76 (Mass. 1939).

In many instances a firm wishing to offer a service to its patrons but unwilling to assume the duties of dispensing that service, leases space within its establishment to an independent person

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