

Sec. 8—Powers of Congress

Cl. 3—Power to Regulate Commerce

ion for the Court, however, sets forth the conception of the federal system that controlled the decision: "It is vital that the independence of the commercial power and of the police power, and the delimitation between them, however sometimes perplexing, should always be recognized and observed, for while the one furnishes the strongest bond of union, the other is essential to the preservation of the autonomy of the States as required by our dual form of government; and acknowledged evils, however grave and urgent they may appear to be, had better be borne, than the risk be run, in the effort to suppress them, of more serious consequences by resort to expedients of even doubtful constitutionality."⁸⁷⁷ Thus the Court, in pursuance of the doctrines of "dual federalism" then dominant, turned the act from its intended purpose and destroyed its effectiveness for several years, just as the Interstate Commerce Act was being contemporaneously impaired.

In short, what was needed, the Court felt, was a hard and fast line between the two spheres of power. In a series of propositions, the Court endeavored to lay down such a line: (1) production is always local, and under the exclusive domain of the states; (2) commerce among the states does not begin until goods "commence their final movement from their State of origin to that of their destination;" (3) the sale of a product is merely an incident of its production and, while capable of "bringing the operation of commerce into play," affects it only incidentally; (4) such restraint as would reach commerce, as above defined, in consequence of combinations to control production "in all its forms," would be "indirect, however inevitable and whatever its extent," and as such beyond the purview of the Act.⁸⁷⁸ Applying this reasoning to the case before it, the Court proceeded: "The object [of the combination] was manifestly private gain in the manufacture of the commodity, but not through the control of interstate or foreign commerce. It is true that the bill alleged that the products of these refineries were sold and distributed among the several States, and that all the companies were engaged in trade or commerce with the several States and with foreign nations; but this was no more than to say that trade and commerce served manufacture to fulfill its function."

"Sugar was refined for sale, and sales were probably made at Philadelphia for consumption, and undoubtedly for resale by the first purchasers throughout Pennsylvania and other States, and refined sugar was also forwarded by the companies to other States for sale. Nevertheless it does not follow that an attempt to monopolize, or the actual monopoly of, the manufacture was an attempt, whether

⁸⁷⁷ 156 U.S. at 13.

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