tic, nonreturnable containers but permitting sales in other nonreturnable, nonrefillable containers, such as paperboard cartons. The Court found no discrimination against interstate commerce, because both in-state and out-of-state interests could not use plastic containers, and it refused to credit a lower, state-court finding that the measure was intended to benefit the local pulpwood industry. In *Exxon Corp. v. Governor of Maryland*,[1159] the Court upheld a statute that prohibited producers or refiners of petroleum products from operating retail service stations in Maryland. The statute did not on its face discriminate against out-of-state companies, but, as there were no producers or refiners in Maryland, "the burden of the divestiture requirements" fell solely on such companies.[1160] The Court found, however, that "this fact does not lead, either logically or as a practical matter, to a conclusion that the State is discriminating against interstate commerce at the retail level,"[1161] as the statute does not "distinguish between in-state and out-of-state companies in the retail market."[1162]

Still, a model example of balancing is Chief Justice Stone's opinion in *Southern Pacific Co. v. Arizona*.[1163] At issue was the validity of Arizona's law barring the operation within the state of trains of more than 14 passenger cars (no other state had a figure this low) or 70 freight cars (only one other state had a cap this low). First, the Court observed that the law substantially burdened interstate commerce. Enforcement of the law in Arizona, while train lengths went unregulated or were regulated by varying standards in other states, meant that interstate trains of a length lawful in other states had to be broken up before entering Arizona. As it was not practicable to break up trains at the border, that act had to be done at train yards quite removed, with the result that the Arizona limitation controlled train lengths as far east as El Paso, Texas, and as far west as Los Angeles. Nearly 95 percent of the rail traffic in Arizona was interstate. The other alternative was to operate in other states with the lowest cap, Arizona's, with the result that Arizona's

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[1159] 437 U.S. 117 (1978).

[1160] 437 U.S. at 125.

[1161] 437 U.S. at 125.

[1162] 437 U.S. at 126.

[1163] 325 U.S. 761 (1945). Interestingly, Justice Stone had written the opinion for the Court in South Carolina State Highway Dep't v. Barnwell Bros., 303 U.S. 177 (1938), in which, in a similar case involving regulation of interstate transportation and proffered safety reasons, he had eschewed balancing and deferred overwhelmingly to the state legislature. *Barnwell Bros*. involved a state law that prohibited use on state highways of trucks that were over 90 inches wide or that had a gross weight over 20,000 pounds, with from 85% to 90% of the nation's trucks exceeding these limits. This deference and refusal to evaluate evidence resurfaced in a case involving an attack on railroad "full-crew" laws. Brotherhood of Locomotive Firemen & Enginemen v. Chicago, R.I. & P. Railroad Co., 393 U.S. 129 (1968).