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INTERSTATE COMMERCE - CONSTITUTIONALITY OF STATE WEIGHT AND SIZE LIMITATIONS AS APPLIED TO INTERSTATE MOTOR CARRIERS

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INTERSTATE COMMERCE — CONSTITUTIONALITY OF STATE WEIGHT AND SIZE LIMITATIONS AS APPLIED TO INTERSTATE MOTOR CARRIERS — A South Carolina statute limited the width of motor trucks (including semi-trailers) to 90 inches and their gross weight to 20,000 pounds.¹ The validity of this legislation was challenged before a three-judge federal court on three grounds: (1) that it was a denial of due process under the Fourteenth Amendment; (2) that the power of the states to regulate size and weight of motor vehicles used in interstate commerce had been superseded by the Federal Motor Carrier Act of 1935;² (3) that the statute as applied to vehicles used by interstate motor carriers placed an unreasonable burden upon interstate commerce. The three-judge court declared the statute valid in so far as the first two grounds of attack were concerned, but as to the third held that the statute placed an unreasonable burden upon interstate commerce and enjoined enforcement thereof as to interstate carriers.³ An appeal was taken by the South Carolina Highway Department. *Held*, the decree of the three-judge court should be reversed since the limitations adopted were not so unreasonable as to constitute an unlawful burden upon interstate commerce.⁴ *South Carolina Highway Dept. v. Barnwell Bros.*, (U. S. 1938) 58 S. Ct. 510.

A comment on the three-judge court's decision, reversed by the Supreme Court in the principal case, appeared in an earlier number of this *Review*.⁵ The writer there pointed out that the lower court's decision in holding the weight limitation invalid was based on a consideration of scientific evidence

¹ S. C. Code (1934 Supp.), § 1617.

² 49 Stat. L. 543 (1935), 49 U. S. C. (Supp. 1937), § 302.

³ *Barnwell Bros., Inc. v. South Carolina State Highway Dept.*, (D. C. S. C. 1937) 17 F. Supp. 803.

⁴ It should be noted that the questions whether the statute violated the due process clause and whether the power of the states to impose size and weight limitations upon interstate motor carriers had been superseded by the passage of the Federal Motor Carrier Act were not before the Supreme Court in this case; the trial court's conclusions on these two questions were adverse to the carrier's contentions, but the carrier did not take a cross-appeal to the Supreme Court on these issues, with the result that only the third question was argued before the Supreme Court.

⁵ 36 MICH. L. REV. 443 (1938).

relating to standard pavement construction and the proper measure and maximum figure to be used in connection therewith in limiting the load on such pavements; in reliance on this evidence the court held that the 20,000 pounds gross weight limitation, when converted into terms of wheel-load distribution, placed a much more drastic limitation upon the use of the state's highways by interstate motor carriers than was reasonably required in the interest of highway conservation. In holding the 90-inch width limitation invalid, the lower court relied on evidence showing that legislators, road designers, highway engineers and truck manufacturers have generally agreed that 96 inches is the standard width to be used. The Supreme Court, in reversing the decree, gave the following reasons in support of its opinion that the weight limitation could not be considered unreasonable: (1) the legislature was justified in adopting gross weight of the loaded truck rather than weight distribution per wheel, since truckers carrying loads not evenly distributed over all the wheels could more conveniently be guided by a weight limitation for the entire loaded truck rather than by a limitation measured by wheel-load distribution; (2) because of this possible unevenness in load distribution per wheel the reasonableness of the gross weight maximum under the statute could not be determined simply by converting it into maximum wheel load limitations, since this method presupposed an even distribution of the weight on all the wheels; (3) the proper maximum weight distribution per wheel—8000 or 9000 pounds, depending on whether low-pressure or high-pressure tires were used—relied on by the lower court on the basis of scientific evidence relating to the capacity of highway pavements of modern construction, was inapplicable since approximately sixty per cent of South Carolina's standard paved highways were not capable of supporting indefinitely wheel loads in excess of 4200 pounds, inasmuch as they were built without a longitudinal center joint; (4) the history of legislative attempts to limit weight of trucks using South Carolina highways showed that the present limitations were adopted after experience with more liberal limitations previously in force had convinced the legislature that the state's highways would be ruined or greatly injured unless more drastic limitations were adopted. In overruling the lower court's decision on the validity of the 90-inch width limitation, the Supreme Court held that because of the width of the South Carolina highways it was not unreasonable for the legislature to limit the width of trucks to 90 inches—6 inches less than the generally accepted standard—in order to reduce the cost of repairing the edge of the pavements and also to promote highway safety. There can be no valid criticism of the reasons given by the Court in holding that the weight and size limitations were not unreasonable; namely, considerations of convenience in administration, the actual conditions of South Carolina highways and the history of legislative experience in dealing with this problem. It is to be noted, however, that presumably the same arguments based upon the evidence in the record were made before the trial court, which refused to attach any persuasive weight to them. Apparently the Supreme Court feels that since this question is preeminently a legislative question, all doubts are to be resolved in favor of the legislative determination as long as there is any possible basis in the evidence for justifying the legislative departure from accepted scientific standards. Thus viewed, the decision means that the

states can cripple motor carrier competition to an appreciable extent, even where interstate transportation is involved, under the guise of weight and size limitations, and that the only effective relief interstate motor carriers can get from burdensome state limitations is through the enactment of federal legislation covering the field.⁶

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⁶ As pointed out in note 4, *supra*, the question of supersedure of state power by enactment of the Federal Motor Carrier Act of 1935 was not before the Supreme Court in the principal case. However, the trial court had held that the act did not purport to occupy the field of weight and size limitations so far as interstate carriers were concerned. This seems to be a proper construction of the act. See the comment on extent of supersedure of state jurisdiction by the Federal Motor Carrier Act in 36 MICH. L. REV. 450 at 452 (1938).

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