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Constitutional Law - Interstate Commerce - Validity of Segregation in Interstate Railway Facilities

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CONSTITUTIONAL LAW—INTERSTATE COMMERCE—VALIDITY OF SEGREGATION IN INTERSTATE RAILWAY FACILITIES—The defendant, St. Louis and San Francisco Railway Company, maintained separate accommodations in railway coaches and terminal waiting-rooms for white and Negro passengers. Section 3 (1) of the Interstate Commerce Act makes it unlawful for a rail carrier to subject any person to any unreasonable prejudice or disadvantage.[1]

[1] 24 Stat. L. 380 (1887), 49 U.S.C. (1952) §3 (1).

Plaintiff association joined with seventeen individual parties in filing a complaint with the Interstate Commerce Commission charging the carrier with violating the provisions of this act and in seeking an order requiring it to cease and desist from using these discriminatory practices. *Held,* assignment of accommodations on the basis of race implies that the Negro race is inferior to the white and, therefore, subjects Negroes to unreasonable prejudice and disadvantage within the meaning of section 3 (1) of the Interstate Commerce Act, even though the facilities for Negroes are equal in all respects to those given to white passengers. *National Association for the Advancement of Colored People v. St. Louis and San Francisco Ry. Co.,* (I.C.C. 1955) 11 Fed. Carr. Cas. ¶33,403.

In the past the federal courts and the ICC have interpreted section 3 (1) to allow carriers to segregate races so long as equal facilities were supplied to all passengers.[2] These decisions followed the so-called separate but equal doctrine, which long dominated legal thinking in the field of race relations.[3] The decision in the principal case is a reversal of the position of the ICC and is based on the view that it is impossible to offer substantially equal accommodations as long as the Negro passenger is subjected to the humiliation of segregation. This is, of course, the same approach that was taken by the Supreme Court in dealing with the problem of segregation in educational facilities.[4] The ICC interpreted the Supreme Court decisions in the educational area as abolishing the separate but equal principle in the field of interstate commerce as well.[5]

The decision in the principal case creates new problems as to the power of the states in this area, for many state laws require segregated facilities in terminal waiting-rooms. These problems were vividly illustrated on January 11, 1956, the last day for the railways to comply with the ICC order. While many railways took down signs indicating areas in the terminals reserved to the different races, some state officials put the signs back up, claiming to act under state segregation laws.[6] A Supreme Court decision indicated that, in the absence of federal regulation, it would be possible for the states to enact and enforce such laws to promote the public welfare.[7]

2 Chiles v. C. & O. R. Co., 218 U.S. 71, 30 S.Ct. 667 (1910); Councill v. Western & A. R. Co., 1 I.C.C. 339 (1887); Heard v. Georgia R. Co., 1 I.C.C. 428 (1888).

3 See Plessy v. Ferguson, 163 U.S. 537, 16 S.Ct. 1138 (1896).

4 Brown v. Board of Education, 347 U.S. 483, 74 S.Ct. 686 (1954).

5 Support is given to this theory by the fact that Supreme Court decisions in the two areas have paralleled each other in the past. In the field of education the Court indicated that the end of the separate but equal doctrine was in sight by so stressing the requirement of equality in graduate school education as to virtually end any segregation there. Sweatt v. Painter, 339 U.S. 629, 70 S.Ct. 848 (1950); McLauren v. Oklahoma State Regents, 339 U.S. 637, 70 S.Ct. 851 (1950). It followed the same policy in dealing with carrier-enforced segregation. Mitchell v. United States, 313 U.S. 80, 61 S.Ct. 873 (1941); Henderson v. United States, 339 U.S. 816, 70 S.Ct. 843 (1950).

6 N.Y. TIMES, Jan. 11, 1956, p. 19:1.

7 Chiles v. C. & O. R. Co., note 2 supra.

In the principal case the ICC rejected the early view that the Interstate Commerce Act does not cover segregation in interstate commerce.[8] If its interpretation is correct, state segregation laws clash directly with federal regulation of interstate commerce and are thereby rendered ineffective.[9] Even if the ICC reasoning is not followed by the Supreme Court, it would seem clear that the application of state segregation legislation to interstate *or* intrastate transportation is a violation of the Fourteenth Amendment.[10] While the ICC can easily enforce the order against the railways by procuring an injunction in a federal district court, it may not be as easy to prevent state officers from continuing to enforce segregation laws. There is no explicit federal statutory provision which would allow the ICC to enjoin state interference with its order.[11] However, if the Supreme Court follows the ICC interpretation of the Interstate Commerce Act, it will be possible for an individual to enjoin state action by proceeding under the Civil Rights Act.[12]

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8 State segregation legislation may also be invalid as a burden on interstate commerce. Morgan v. Virginia, 328 U.S. 373, 66 S.Ct. 1050 (1946). It is probable, however, that a requirement of segregation in terminal facilities would not be as great a burden on interstate commerce as regulations that require railroad coaches traveling through many states to alter their seating arrangements to conform to local racial laws. *Accord,* Hart v. State, 100 Md. 595, 60 A. 457 (1905). However, the "burden" terminology in these decisions may only represent the fact that courts recognize a national policy against discrimination. Compare Bob-Lo Excursion Co. v. Michigan, 333 U.S. 28, 68 S.Ct. 358 (1948).

9 Gibbons v. Ogden, 9 Wheat. (22 U.S.) 1 (1824).

10 See Fleming v. South Carolina Electric & Gas Co., (4th Cir. 1955) 224 F. (2d) 752.

11 It is possible for railroads that are subject to an I.C.C. order to enjoin state authorities from interfering with that order. Railroad Commission v. Chicago B. & Q. Ry. Co., 257 U.S. 563, 42 S.Ct. 232 (1922). It would seem that an extension of this reasoning would allow the commission to institute injunction proceedings in a federal district court.

12 A court may grant an injunction if state authorities interfere with a right secured by federal law. 17 Stat. L. 13 (1871), 42 U.S.C. (1952) §1983. However, parties not involved in the original injunction proceeding could not enforce the order at a later date. A class suit under rule 23(a) of the Federal Rules of Civil Procedure, 28 U.S.C. (1952), does not aid in solving this problem, for suits to benefit minority groups are considered as spurious class suits. This classification prevents enforcement of an order by members of the class not present in the original proceedings. See 31 IND. L. J. 286 (1955). *Contra,* System Federation No. 91 v. Reed, (6th Cir. 1950) 180 F. (2d) 991.