CONSTITUTIONAL LAW--COMMERCE CLAUSE--IS ORGANIZED BASEBALL INTERSTATE COMMERCE

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Constitutional Law—Commerce Clause—Is Organized Baseball Interstate Commerce?—Plaintiff contracted to play baseball for defendant ball club. The agreement contained the usual "reserve" clause whereby the player agreed not to perform for a team other than defendant unless assigned or released. By terms of the contract, broad disciplinary power over the contracting parties was accorded the commissioner of baseball, and when plaintiff breached the reserve clause, an exercise of that power resulted in his being barred from Organized Baseball for a period of five years. Suit was brought against the organizations comprising Organized Baseball\(^1\) under the Sherman Act,\(^2\) for damages caused by the consequent deprivation of plaintiff's means of livelihood. The lower court sustained a motion to dismiss for lack of jurisdiction. Held, reversed and remanded. By means of radio and television, baseball games are carried on pro tanto in interstate commerce. However, because application of the Sherman Act requires more than incidental participation in commerce, the lower court must determine whether defendant's interstate activities form a large enough part of

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\(^1\) A composition of three voluntary, unincorporated associations, the American League of Professional Baseball Clubs, the National League of Baseball Clubs, and the National Association of Baseball Leagues. The commissioner's power over players associated with these groups allegedly extends into Canada, Cuba, Puerto Rico and Mexico.

\(^2\) Suit was brought under sections 1, 2 and 3 of the Sherman Act, 26 Stat. L. 209 (1890), 15 U.S.C.A. (1941) 1, and sections 4, 13 and 14 of the Clayton Act, 38 Stat. L. 730 (1914), 15 U.S.C.A. (1941) 12. The officers of the involved associations, the commissioner of baseball and the contracting baseball club were also made parties.

The wrong alleged in this case is essentially the product, not of the relationship between plaintiff and defendant, but rather of the relationship between plaintiff and all of Organized Baseball.\(^3\) In determining whether control of the national game falls within the scope of the commerce power, it must be recognized that the business of baseball is a vast collection of interstate and intrastate transactions. If in the aggregate, however, a substantial amount of interstate commerce is involved, it seems clear that baseball is subject to federal control under the commerce clause.\(^4\) Whether there is still room for exercise of this power if a substantial amount of commerce is not found seems to depend in a large degree on the approach taken to the facts. In the principal case, because of the use of radio and television broadcasts, the games are treated as though played in interstate commerce. Judge Hand considers the situation to be the same “as that which would exist at a ‘ballpark’ where a state line ran between the diamond and the grandstand.”\(^5\) Under this view of the facts, it would seem that since part of the product of the business, the exhibition, is being shipped interstate, the business itself would come within the regulatory power regardless of the amount of interstate activity.\(^6\) If the exhibitions themselves are treated as not played in interstate commerce, but rather as purely local events, still if it can be assumed that a sale of broadcasting rights is in effect a sale, at least to some extent, in an interstate market, then again Congressional regulation should be valid independent of the amount of commerce involved in those sales.\(^7\) If this assumption is not made, the relationship between the local baseball club, the broadcaster, and the consumer is analogous to that of a local business which supplies part of its output to an independent dealer who in turn deals in the interstate market. For a purely local activity to come within the scope of the commerce power, it must have a substantial effect on that commerce.\(^8\) Under the present decisions, it appears unlikely

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\(^3\) Cohesion is given to Organized Baseball in part through use of express agreements, the last of which were executed in 1945 and 1946. Among the terms of these contracts are provisions prescribing the use of a standard contract containing the reserve clause for all member teams, and granting disciplinary and supervisory powers to defendant Chandler, the baseball commissioner, over the major and minor leagues, their clubs and players. See *Gardella v. Chandler*, (D.C. N.Y. 1948) 79 F. Supp. 260.


\(^5\) *Mabee v. White Plains Publ. Co.*, 327 U.S. 178, 66 S.Ct. 511 (1946). Defendant shipped ½ of 1% of its output to an interstate market. The Court held that under the Fair Labor Standards Act regular interstate shipments of goods, regardless of amount, were sufficient bases for Congressional regulation of employer-employee relations involved in the production of those goods.

\(^6\) Ibid.

\(^7\) *Wickard v. Filburn*, 317 U.S. 111, 63 S.Ct. 82 (1942); *Mandeville Island Farms v. American Crystal Sugar Co.*, 334 U.S. 219, 68 S.Ct. 996 (1948). In the latter case, which represents the present high-water mark of the extension of the commerce power over local activities, price restraints were imposed upon local growers of sugar beets by refiner-pur
that the alleged restraints imposed in the course of producing the exhibition would be held to have a substantial effect on interstate commerce as represented by the broadcasting operation.\textsuperscript{9}

Charles Hansen

\textsuperscript{9} This belief is prompted by the variance in the assumed proximity of the relationship between the exhibition and broadcaster in the principal case and that between the grower and refiner in Mandeville Island Farms v. American Crystal Sugar Co., note 8, supra.