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Recent Decisions - State and Federal: Ban on Company Operated Gas Stations Upheld

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Finally, the comparison was made between maximum sentences in Virginia for other offenses and the marijuana offense. Examples of other crimes drawing a 20-year sentence in Virginia were second degree murder, malicious shooting with intent to maim, and attempted murder.

The court thus concluded that the sentences effected exceptional hardships on the defendant and constituted an improprietous application of the law to the offenses so as to offend the Eighth Amendment to the United States Constitution.

Ban On Company Operated Gas Stations Upheld

by Robert C. Becker

Events surrounding the oil embargo of 1973 should be fresh in memory. Great inconvenience to petroleum consumers and much misinformation and rumor surrounding fuel shortages prompted the State Comptroller's office to propose and the General Assembly to pass, legislation regulating the operation of retail service stations. (Chapter 854 of the Laws of Maryland of 1974 amended by Chapter 608 of the Laws of 1975; Maryland Code Annotated, Article 56 §157E).

After July 1, 1977, no producer or refiner of petroleum products may open a retail service station to be operated by company employees, nor, after July 1, 1978, may such producer or refiner continue to operate a retail service station by use of company employees; the stations must be operated by independent service station managers. Producers, refiners and wholesalers of petroleum products must extend voluntary allowances uniformly and equitably to the retail service stations they supply. The Comptroller will have discretion to allow company operation of service stations, and extensions of the time limits of the act upon a showing of cause.

Exxon Corporation brought an action in the circuit court for Anne Arundel County challenging the validity of the legislation and asking that its enforcement be enjoined. Exxon soon was joined by other oil companies. The companies argued that the act denied them due process of law, unduly burdened interstate commerce, constituted a taking of property without compensation, denied them equal protection of the laws, was an unlawful delegation of legislative authority, conflicted with federal legislation and was void for vagueness. The circuit court agreed with the companies and granted the relief sought. The State appealed this decision, and the Court of Appeals granted certiorari.

Writing for the court, in *Gov. of the State of Md. v. Exxon Corp.*, 279 Md. 410, 370 A.2d 1102, Judge Eldridge answered the arguments of the companies point by point. The act does not deny due process of law because it is arguably of such benefit to the people of Maryland as to make it a legitimate exercise of the state's police power. It does not unduly burden interstate commerce because it regulates an activity which occurs entirely intrastate, and it is not so written as to protect a domestic industry by discriminating against products in interstate commerce.

The argument that the act is an unconstitutional taking of property without compensation fails because there is in fact no taking of property at all. The oil companies keep possession of their service stations and their right to use them as service stations. The only restriction is that company employees may not operate the service stations.

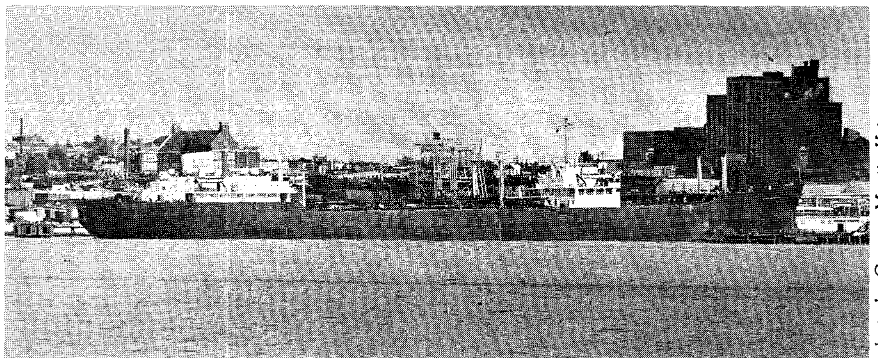
Equal protection of the laws is not denied where a classification is not purely arbitrary and has a rational basis. Here the classification is based on diligent research on the part of the Comptroller's office and the results of three hearings held as the act was being considered for passage. It cannot be said to be purely arbitrary and irrational.

The delegation of power to the Comptroller is a reasonable one under the circumstances. It would be impossible for the legislature to anticipate in detail the possible needs for modification of the terms of the act.

This act does not conflict with the Robinson-Patman Act as charged, for the laws address different problems. The Maryland statute would, in the future, be held invalid only to the extent that it actually conflicted with federal legislation. No such conflict is found here.

The statute is not void for vagueness because the terms held to be vague are terms of trade within the regulated industry. Members of that industry may reasonably be held to understand their own vernacular.

Reaction to this decision has been strong, and appeals have been made to the United States Supreme Court by Exxon Corporation, Shell Oil Company and Continental Oil Company (docket numbers 77-10, 77-11, and 77-12 respectively). The decision is most notable for its impact on the Corporation's control over their distribution of petroleum goods and services. In the balance is the future of the petroleum industry as a wholly integrated enterprise.



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