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Appeal No. : 128 U.S. 1

Appellant : Kidd

Respondent : Pearson

Judgement :

Kidd v. Pearson - 128 U.S. 1 (1888)
U.S. Supreme Court Kidd v. Pearson, 128 U.S. 1 (1888)

Kidd v. Pearson

No. 779

Argued and submitted April 4, 1888

Decided October 22, 1888

128 U.S. 1

ERROR TO THE SUPREME COURT

OF THE STATE OF IOWA

SYLLABUS

Following *Mugler v. Kansas,* 123 U. S. 623 , *held* that a State has the right to prohibit or restrict the manufacture of intoxicating liquors within its limits, to prohibit all sale and traffic in them in the state, to inflict penalties for such manufacture and sale, and to provide regulations for the abatement, as a common nuisance, of the property used for such forbidden purposes, and that such legislation does not abridge the liberties or immunities of citizens of the United States nor deprive any person of property without due process of law, nor contravene the provisions of the Fourteenth Amendment of the Constitution of the United States.

A statute of a state which provides (1) that foreign intoxicating liquors may be imported into the State, and there kept for sale by the importer in the original packages or for transportation in such packages and sale beyond the limits of the state; and (2) that intoxicating liquors may be manufactured and sold within the State for mechanical, medicinal, culinary, and sacramental purposes, but for no other, not even for the purpose of transportation beyond the limits of the state -- does not conflict with Section 8, Article I, of the Constitution of the United States by undertaking to regulate commerce among the states.

The right of a state to enact a statute prohibiting the manufacture of intoxicating liquors within its limits is not affected by the fact that the manufacturer of such spirits intends to export them when manufactured.

The police power of a state is as broad and plenary as the taxing power (as defined in *Coe v. Errol,* 116 U. S. 517), and property within the state is subject to the operation of the former so long as it is within the regulating restrictions of the latter.

The case, as stated by the Court, was as follows:

This is a writ of error to the Supreme Court of the State of Iowa, allowed by the Chief Justice thereof upon the ground that the judgment in the case affirmed the validity of a statute of that state, which the plaintiff in error claimed to be in conflict with the federal Constitution. The case arose upon a petition in equity filed December 24, 1885, in the Circuit Court of Polk County, Iowa, by defendants in error, I. E. Pearson and S. J. Loughran, against the plaintiff in error, J. S. Kidd, praying that a certain distillery, erected and used by said Kidd for the unlawful manufacture and sale of intoxicating liquors, be abated as a nuisance, and that the said Kidd be perpetually enjoined from the manufacture therein of all intoxicating liquors. The provisions of the law under which these proceedings were instituted are found in chapter 6, Title 11, of the Code Iowa, amended by chapter 143 of the acts of the General Assembly in 1884. The sections necessary to be quoted for the purposes of this decision are as follows:

Section 1523 provides:

"No person shall manufacture or sell by himself, his clerk, steward, or agent, directly or indirectly, any intoxicating liquors except as hereinafter provided, and the keeping of intoxicating liquors with intent on the part of the owner thereof or any person acting under his authority or by his permission to sell the same within this state contrary to the provisions of this chapter is hereby prohibited, and the intoxicating liquor so kept, together with the vessels in which it is contained, is declared a nuisance, and shall be forfeited and dealt with as hereinafter provided."

Section 1524 provides:

"Nothing in this chapter shall be construed to forbid the sale by the importer thereof of foreign intoxicating liquor imported under the authority of the laws of the United States regarding the importation of such liquors and in accordance of [with] such laws, provided that the said liquor at the time of said sale by said importer remains in the original casks or packages in which it was by him imported, and in quantities not less than the quantities in which the laws of the United States require such liquors to be imported, and is

sold by him in said original casks or packages and in said quantities only, and nothing contained in this law shall prevent any persons from manufacturing in this state liquors for the purpose of being sold according to the provisions of this chapter, to be used for mechanical, medicinal, culinary, or sacramental purposes."

Section 1525 prescribes a penalty for a violation of the law by manufacturers, as follows:

"Every person who shall manufacture any intoxicating liquors as in this chapter prohibited shall be deemed guilty of a misdemeanor, and upon his first conviction for said offense shall pay a fine of two hundred dollars and costs of prosecution or be imprisoned in the county jail not to exceed six months, and on his second and every subsequent conviction for said offense, he shall pay a fine of not less that five hundred dollars nor more than one thousand dollars and costs of prosecution, and be imprisoned in the county jail one year."

Section 1526 defines who may be permitted to manufacture under the law, and for what purpose the manufacture may be carried on, as follows:

"Any citizen of the state except hotel keepers, keepers of saloons, eating houses, grocery keepers, and confectioners is hereby permitted, within the county of his residence, to manufacture or buy and sell intoxicating liquors for mechanical, medicinal, culinary, or sacramental purposes only, provided he shall first obtain permission from the board of supervisors of the county in which such business is conducted, as follows."

Sections 1527 and 1529 provide for the manner of obtaining the permit, and 1530 sets out the conditions under which it may be granted. It is as follows:

"At such final hearing, any resident of the county may appear and show cause why such permit should not be granted, and the same shall be refused unless the board shall be fully satisfied that all the requirements of the law have, in all respects, been fully complied with; that the applicant is a person of good moral

character, and that, taking into consideration the wants of the locality and the number of permits already granted, such permit would be necessary and proper for the accommodation of the neighborhood. "

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The manufacturer, like the seller, is required to make monthly reports to the county auditor, the evident purpose of the requirement being to show whether or not the holder of a permit was manufacturing or selling in compliance with the law.

Section 1543 provides for proceedings in equity to abate and enjoin unlawful manufacture.

The averments of the petition are in substance that the distillery described therein was erected by said J. S. Kidd for the manufacture of intoxicating liquors, contrary to the statute of Iowa; that said Kidd had been, ever since the 4th of July, 1884, and is still, engaged in the manufacture of intoxicating liquors upon the premises aforesaid for other than mechanical, medicinal, culinary, and sacramental purposes, with the concluding averment

"that the defendant manufactures, keeps for sale, and sells within this state and at the place aforesaid intoxicating liquors to be taken out of that state and there used as a beverage and for other purposes than for mechanical, medicinal, culinary, and sacramental purposes, contrary to the statute of Iowa."

Kidd in his answer specifically pleaded that he is now, and has been ever since the 4th of July, 1884, authorized by the board of supervisors to manufacture and sell intoxicating liquors, except as prohibited by law, and that in the manufacture and sale of liquors, this defendant has at all times complied with the requirements of the law in that behalf. Upon the trial it was proved by undisputed evidence that Kidd held each year from July 4, 1884, a permit, regularly issued from the Board of Supervisors of Polk County covering the period of the alleged violations of law, authorizing him to manufacture and sell intoxicating liquors for mechanical, medicinal, culinary, and sacramental purposes; that his monthly reports, made on oath, in compliance with the requirements of the law, show that there were no

sales for mechanical, medicinal, culinary, and sacramental, or any other purpose, in the State of Iowa, and that all the manufactured liquors were for exportation, and were sold outside of the State of Iowa. A decree was rendered against Kidd ordering that the said distillery

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be abated as a nuisance according to the prayer of the petitioner, and enjoining said Kidd from the manufacture therein of any and all intoxicating liquors. On appeal to the Supreme Court of Iowa, this decree was affirmed by that court. Hence this writ of error.

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MR. JUSTICE LAMAR, after stating the facts as above, delivered the opinion of the Court.

The Supreme Court of Iowa, in its opinion, a copy of which, duly authenticated, is found in the record, having been transmitted according to our eighth rule of practice, held the sections in question to mean: (1) that foreign intoxicating liquors might be imported into the state, and there kept for sale by the importer in the original packages, or for transportation in such packages and sale beyond the limits of the state; (2) that intoxicating liquors might be manufactured and sold within the state for mechanical, medicinal, culinary, and sacramental purposes, but for no other -- not even for the purpose of transportation beyond the limits of the state; (3) that the statute, thus construed, raised no conflict with the Constitution of the United States, and was therefore valid.

As the record presents none of the exceptional conditions which sometimes impel this Court to disregard inadmissible constructions given by state courts to even their own state statutes and state constitutions, we shall adopt the construction of the statute of Iowa under consideration which has been given it by the Supreme Court of that state.

The questions, then, for this Court to determine are: (1) does the statute as thus construed conflict with Section 8, Article I, of the Constitution of the United States by undertaking to regulate commerce between the states, and (2) does it conflict with the Fourteenth Amendment to that Constitution by depriving the owners of the distillery of their property therein without "due process of law." All of the assignments of error offered are but variant statements of one or the other of these two propositions.

The second of the propositions has been disposed of by this

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Court in the case of *Mugler v. Kansas,* 123 U. S. 623 , wherein this very question was raised upon a statute similar in all essential respects to the provisions of the Iowa Code whose validity is contested. The Court decided that a state has the right to prohibit or restrict the manufacture of intoxicating liquors within her limits; to prohibit all sale and traffic in them in said state; to inflict penalties for such manufacture and sale, and to provide regulations for the abatement as a common nuisance of the property used for such forbidden purposes, and that such legislation by a state is a clear exercise of her undisputed police power, which does not abridge the liberties or immunities of citizens of the United States nor deprive any person of property without due process of law, nor in any way contravenes any provisions of the Fourteenth Amendment of the Constitution of the United States. Upon the authority of that case and of the numerous cases cited in the opinion of the Court, we concur in the decision of the Iowa courts that the provisions here in question are not in conflict with the said amendment. The only question before us, therefore, is as to the relation of the Iowa statutes to the regulation of commerce among the states.

The line which separates the province of federal authority over the regulation of commerce from the powers reserved to the states has engaged the attention of this Court in a great number and variety of cases. The decisions in these cases, though they do not in a single instance assume to trace that line throughout its entire extent or to state any rule further than to locate the line in each particular

case as it arises, have almost uniformly adhered to the fundamental principles which Chief Justice Marshall, in the case of *Gibbons v. Ogden,* 9 Wheat. 1, laid down as to the nature and extent of the grant of power to Congress on this subject, and also of the limitations, express and implied, which it imposes upon state legislation with regard to taxation, to the control of domestic commerce, and to all persons and things within its limits of purely internal concern. According to the theory of that great opinion, the supreme authority in this country is divided between the government

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of the United States, whose action extends over the whole union, but which possesses only certain powers enumerated in its written Constitution, and the separate governments of the several states, which retain all powers not delegated to the union. The power expressly conferred upon Congress to regulate commerce is absolute and complete in itself, with no limitations other than are prescribed in the constitution; is to a certain extent exclusively vested in Congress, so far free from state action; is coextensive with the subject on which it acts, and cannot stop at the external boundary of a state, but must enter into the interior of every state whenever required by the interests of commerce with foreign nations or among the several states. This power, however, does not comprehend the purely internal domestic commerce of a state, which is carried on between man and man within a state or between different parts of the same state.

The distinction is stated in the following comprehensive language:

"The genius and character of the whole government seem to be that its action is to be applied to all the external concerns of the nation, and to those internal concerns which affect the states generally, but not to those which are completely within a particular state, which do not affect other states, and with which it is not necessary to interfere for the purpose of executing some of the general powers of the government. The completely internal commerce of a state, them, may be considered as reserved for the state itself."

Page 22 U. S. 195 .

Referring to certain laws of state legislatures which had a remote and considerable influence on commerce, the Court said that the acknowledged power of the state to regulate its police, its domestic trade, and to govern its own people may enable it to legislate over this subject to a great extent, but these and other state laws of the same kind are not considered as an exercise of the power to regulate commerce with foreign nations and among the several states or enacted with a view to it, but, on the contrary, are considered as flowing from the acknowledged power of a state to provide for the safety and welfare of its people, and form a part of that legislation which

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embraces everything within the territory of a state not surrendered to the general government. Sacred, however, as these reserved powers are regarded, the Court is particular to declare with emphasis the supreme and paramount authority of the Constitution and laws of the United States relating to the regulation of commerce with foreign nations and among the several states, and that whenever these reserved powers, or any of them, are so exercised as to come in conflict with the free course of the powers vested in Congress, the law of the state must yield to the supremacy of the federal authority, though such law may have been enacted in the exercise of a power undelegated and indisputably reserved to the states.

In the light of these principles and those which this Court in its numerous decisions has added in illustration and more explicit development, it will not be difficult to determine whether the law of Iowa under consideration invades, either in purpose or effect, the domain of federal authority.

To support the affirmative, the plaintiff in error maintains that alcohol is in itself a useful commodity, not necessarily noxious, and is a subject of property; that the very statute under consideration, by various provisions, and especially by those which permit in express terms the manufacture of intoxicating liquors for mechanical, medicinal, culinary, or sacramental purposes, recognizes those

qualities, and expressly authorizes the manufacture; that the manufacture being thus legalized, alcohol not being *per se* a nuisance, but recognized as property and the subject of lawful commerce, the state had no power to prohibit the manufacture of it for foreign sales.

The main vice in this argument consists in the unqualified assumption that the statute legalizes the manufacture. The proposition that, supposing the goods were once lawfully called into existence, it would then be beyond the power of the state either to forbid or impede their exportation may be conceded. Here, however, the very question underlying the case is whether the goods ever came lawfully into existence. It is a grave error to say that the statute "expressly authorized" the manufacture, for it did not; to say that it had not prohibited the manufacture, for it had done so; to say that the goods were

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of Iowa's lawful manufactures, for that is substantially the very point at issue. The exact statute is this: "No person shall manufacture *or* sell, . . . directly or indirectly, any intoxicating liquors except as hereinafter provided." In a subsequent section it is provided further that

"Nothing contained in this law shall prevent any persons from manufacturing in this state liquors for the purpose of being sold according to the provisions of this chapter, to be used for mechanical, medicinal, culinary, or sacramental purposes."

Here then is first, a sweeping prohibition against not the manufacture *and* sale, not a dealing which is composed of both steps, and consequently must include manufacture as well as sale, or, *e converso,* sale as well as manufacture, in order to incur the denunciation of the statute, but against either the sale or the manufacture. The conjunction is disjunctive. The sale is forbidden, the manufacture is forbidden, and each is forbidden independently of the order. Such being the case on the subject of the lawfulness or unlawfulness of the *manufacture* (which is the point before the Court), it is useless to argue as to the conditions under which it is permissible to hold intoxicating liquors in possession or

to sell them.

Looking again to the statute, we find that the unqualified prohibition of any and all manufacture made by 1523 is, by the joint operation of a proviso in 1524 and of 1526 and 1530, modified by four exceptions, *viz.,* sale for mechanical purposes to an extent limited by the wants of the particular locality of the seller, sale for medicinal purposes to the same extent, sale for culinary purposes to the same extent, and sale for sacramental purposes to the same extent. The supreme court of the state held (and we agree with it) that these exceptions do not include sales outside of the state. The effect of the statute, then, is simply and clearly to prohibit all manufacture of intoxicating liquors except for one or more of the four purposes specified. "For the purpose," says the statute. The excepted purpose is all that saves it from being *ab initio* and through each and every step of its progress unlawful.

It is a mistake to say as to this case that, the act of transporting

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the alcohol from the state in the course of lawful commerce with other states not being a crime, to perform that act was not a criminal intent, no matter when formed, whether before or after the alcohol was manufactured. It is not the criminality of the intent to *export* that is here the question, but it is the innocence or criminality, under the statute, of the *manufacture,* in the absence of all four of the specific exceptions to the prohibition, the actual and controlling and *bona fide* presence of at least one of which was indispensable to the legality of the manufacture.

We think the construction contended for by plaintiff in error would extend the words of the grant to Congress in the Constitution, beyond their obvious import, and is inconsistent with its objects and scope. The language of the grant is, "Congress shall have power to regulate commerce with foreign nations and among the several states," etc. These words are used without any veiled or obscure signification.

"As men whose intentions require no concealment generally employ the words which most directly and aptly express the ideas they intend to convey, the enlightened patriots who framed our Constitution, and the people who adopted it, must be understood to have employed words in their natural sense, and to have intended what they have said."

Gibbons v. Ogden, supra.

No distinction is more popular to the common mind or more clearly expressed in economic and political literature than that between manufactures and commerce. Manufacture is transformation -- the fashioning of raw materials into a change of form for use. The functions of commerce are different. The buying and selling and the transportation incidental thereto constitute commerce, and the regulation of commerce in the constitutional sense embraces the regulation at least of such transportation. The legal definition of the term, as given by this Court in *County of Mobile v. Kimball,* 102 U. S. 691 , 102 U. S. 702 , is as follows:

"Commerce with foreign nations and among the states, strictly considered, consists in intercourse and traffic, including in these terms navigation and the transportation and transit of persons and property,

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as well as the purchase, sale, and exchange of commodities."

If it be held that the term includes the regulation of all such manufactures as are intended to be the subject of commercial transactions in the future, it is impossible to deny that it would also include all productive industries that contemplate the same thing. The result would be that Congress would be invested, to the exclusion of the states, with the power to regulate not only manufacture, but also agriculture, horticulture, stock-raising, domestic fisheries, mining -- in short, every branch of human industry. For is there one of them that does not contemplate, more or less clearly, an interstate or foreign market? Does not the wheat grower of the northwest and the cotton planter of the south plant, cultivate, and harvest his crop with an eye on the prices at Liverpool, New York, and Chicago? The power being

vested in Congress and denied to the states, it would follow as an inevitable result that the duty would devolve on Congress to regulate all of these delicate, multiform, and vital interests -- interests which in their nature are, and must be, local in all the details of their successful management.

It is not necessary to enlarge on, but only to suggest, the impracticability of such a scheme when we regard the multitudinous affairs involved, and the almost infinite variety of their minute details. It was said by Chief Justice Marshall that it is a matter of public history that the object of vesting in Congress the power to regulate commerce with foreign nations and among the several states was to insure uniformity for regulation against conflicting and discriminating state legislation. *See also County of Mobile v. Kimball, supra,* 102 U. S. 697 . This being true, how can it further that object so to interpret the constitutional provision as to place upon Congress the obligation to exercise the supervisory powers just indicated? The demands of such a supervision would require not uniform legislation generally applicable throughout the United States, but a swarm of statutes only locally applicable and utterly inconsistent. Any movement toward the establishment of rules of production in this vast country, with its many different

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climates and opportunities, could only be at the sacrifice of the peculiar advantages of a large part of the localities in it, if not of every one of them. On the other hand, any movement toward the local, detailed, and incongruous legislation required by such an interpretation would be about the widest possible departure from the declared object of the clause in question. Nor this alone. Even in the exercise of the power contended for, Congress would be confined to the regulation not of certain branches of industry, however numerous, but to those instances in each and every branch where the producer contemplated an interstate market. These instances would be almost infinite, as we have seen, but still there would always remain the possibility, and often it would be the case that the producer contemplated a domestic market. In that case, the supervisory power must be executed by the state, and the interminable trouble would be presented that whether the one power or the other should exercise the authority in question would

be determined not by any general or intelligible rule, but by the secret and changeable intention of the producer in each and every act of production. A situation more paralyzing to the state governments, and more provocative of conflicts between the general government and the states, and less likely to have been what the framers of the Constitution intended it would be difficult to imagine.

We find no provisions in any of the sections of the statute under consideration the object and purpose of which are to exert the jurisdiction of the state over persons or property or transactions within the limits of other states, or to act upon intoxicating liquors as exports or while they are in process of exportation or importation. Its avowed object is to prevent not the carrying of intoxicating liquors out of the state, but to prevent their manufacture, except for specified purposes, within the state. It is true that notwithstanding its purposes and ends are restricted to the jurisdictional limits of the State of Iowa, and apply to transactions wholly internal and between its own citizens, its effects may reach beyond the state by lessening the amount of intoxicating liquors exported. But it does not follow that because the products of a domestic

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manufacture may ultimately become the subjects of interstate commerce at the pleasure of the manufacturer, the legislation of the state respecting such manufacture is an attempted exercise of the power to regulate commerce exclusively conferred upon Congress. Can it be said that a refusal of a state to allow articles to be manufactured within her borders (for export) any more directly or materially effects her external commerce than does her action in forbidding the retail within her borders of the same articles after they have left the hands of the importers? That the latter could be done was decided years ago, and we think there is no practical difference in principle between the two cases.

"As has been often said, legislation [by a state] may in a great variety of ways affect commerce and persons engaged in it without constituting a regulation of it within the meaning of the Constitution,"

unless, under the guise of police regulations, it imposes a direct burden upon interstate commerce or directly interferes with its freedom. *Hall v. De Cuir,* 95 U. S. 485 , 95 U. S. 487 , Chief Justice Waite delivering the opinion of the Court in that case, citing *Sherlock v. Alling,* 93 U. S. 103 ; *State Tax on Railway Gross Receipts,* 15 Wall. 284; *Munn v. Illinois,* 94 U. S. 113 ; *Chicago, Burlington & Quincy Railroad Co. v. Iowa,* 94 U. S. 155 ; *Willson v. Blackbird Creek Marsh Co.,* 2 Pet. 245; *Pound v. Turck,* 95 U. S. 459 ; *Gilman v. Philadelphia,* 3 Wall. 713; *Gibbons v. Ogden, supra,* and *Cooley v. Board of Wardens,* 12 How. 299.

We have seen that whether a state, in the exercise of its undisputed power of local administration, can enact a statute prohibiting within its limits the manufacture of intoxicating liquors except for certain purposes is not any longer an open question before this Court. Is that right to be overthrown by the fact that the manufacturer intends to export the liquors when made? Does the statute, in omitting to except from its operation the manufacture of intoxicating liquors within the limits of the state for export, constitute an unauthorized interference with the power given to Congress to regulate commerce?

These questions are well answered in the language of the

Court in the *License Tax Cases,* 5 Wall. 470:

"Over this commerce and trade [the internal commerce and domestic trade of the states] Congress has no power of regulation, nor any direct control. This power belongs exclusively to the states. No interference by Congress with the business of citizens transacted within a state is warranted by the Constitution except such as is strictly incidental to the exercise of powers clearly granted to the legislature. The power to authorize a business within a state is plainly repugnant to the exclusive power of the state over the same subject."

The manufacture of intoxicating liquors in a state is nonetheless business within that state because the manufacturer intends at his convenience, to export such liquors to foreign countries or to other states.

This Court has already decided that the fact that an article was manufactured for export to another state does not *of itself* make it an article of interstate commerce within the meaning of Section 8, Article I, of the Constitution, and that the intent of the manufacturer does not determine the time when the article or product passes from the control of the state and belongs to commerce.

We refer to the case of *Coe v. Errol,* 116 U. S. 517 . In that case, certain logs cut at a place in New Hampshire had been hauled to the Town of Errol, on the Androscoggin River, in that state, for the purpose of transportation beyond the limits of that state to Lewiston, Maine, and were held at Errol for a convenient opportunity for such transportation. The selectmen of the town assessed on the logs state, county, town, and school taxes, and the question before the Court was whether these logs were liable to be taxed like other property in the State of New Hampshire. The Court held them to be so liable, and said, MR. JUSTICE BRADLEY delivering the opinion:

"Do the owner's state of mind in relation to the goods, that is, his intent to export them, and his partial preparation to do so, exempt them from taxation? This is the precise question for solution. . . . There must be a point of time when they cease to be governed exclusively by the domestic law and begin to be governed and protected by the national law of

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commercial regulation, and that moment seems to us to be a legitimate one for this purpose, in which they commence their final movement for transportation from the state of their origin to that of their destination. When the products of the farm or the forest are collected and brought in from the surrounding country to a town or station serving as an entrepot for that particular region, whether on a river or a line of railroad, such products are not yet exports, nor or they in process of exportation, nor is exportation begun until they are committed to the common carrier for transportation out of the state to the state of their destination, or have started on their ultimate passage to that state. Until then, it is reasonable to regard them as not only within the state of their origin, but as a part of the general mass of

property of that state, subject to its jurisdiction and liable to taxation there if not taxed by reason of their being intended for exportation, but taxed without any discrimination, in the usual way and manner in which such property is taxed in the state. . . . The point of time when state jurisdiction over the commodities of commerce begins and ends is not an easy matter to designate or define, and yet it is highly important, both to the shipper and to the state, that it should be clearly defined, so as to avoid all ambiguity or question. . . . But no definite rule has been adopted with regard to the point of time at which the taxing power of the state ceases as to goods exported to a foreign country or to another state. What we have already said, however, in relation to the products of a state intended for exportation to another state will indicate the view which seems to us the sound one on that subject -- namely that such goods do not cease to be part of the general mass of property in the state, subject as such to its jurisdiction and to taxation in the usual way until they have been shipped or entered with a common carrier for transportation to another state or have been started upon such transportation in a continuous route or journey. . . . It is true it was said in the case of *The Daniel Ball,* 10 Wall. 557, 77 U. S. 565 : 'Whenever a commodity has begun to move as an article of trade from one state to another, commerce in that commodity between the states has commenced.'

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But this movement does not begin until the articles have been shipped or started for transportation from the one state to the other."

The application of the principles above announced to the case under consideration leads to a conclusion against the contention of the plaintiff in error. The police power of a state is as broad and plenary as its taxing power, and property within the state is subject to the operations of the former so long as it is within the regulating restrictions of the later.

The judgment of the Supreme Court of Iowa is

Affirmed.

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