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Supreme Court on the Adamson Law

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THE SUPREME COURT ON THE ADAMSON LAW

THE Act of Congress commonly called the "Adamson Law" was sustained by the Supreme Court in an opinion of the Chief Justice delivered March 19, 1917. Five Justices concurred in the judgment, the Chief Justice and Justices Holmes, McKenna, Brandeis and Clarke. Justice McKenna delivered a separate concurring opinion. Justice Day delivered a dissent based upon one point. Justice Pitney delivered a dissent, in which Justice Van Devanter concurred, agreeing with Justice Day but resting also on additional grounds. Justice McReynolds dissented separately.

The title and text of the Act so far as material are:

"An Act to establish an eight-hour day for employees of carriers engaged in interstate and foreign commerce, and for other purposes.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That beginning January first, nineteen hundred and seventeen, eight hours shall, in contracts for labor and service, be deemed a day's work and the measure or standard of a day's work for the purpose of reckoning the compensation for services of all employees who are now or may hereafter be employed by any common carrier by railroad, except railroads independently owned and operated not exceeding one hundred miles in length, electric street railroads, and electric interurban railroads, which is subject to the provisions of the Act of February fourth, eighteen hundred and eighty-seven, entitled 'An Act to regulate commerce,' as amended, and who are now or may hereafter be actually engaged in any capacity in the operation of trains used for the transportation of persons or property on railroads, except railroads independently owned and operated not exceeding one hundred miles in length, electric street railroads, and electric interurban railroads, . . .

"Sec. 2. That the President shall appoint a commission of three, which shall observe the operation and effects of the institution of the eight-hour standard work day as above defined and the facts and conditions affecting the relations between such common carriers and employees during a period of not less than six months nor more than nine months, in the discretion of the commission, and within thirty days thereafter such commission shall report its findings to the President and Congress; . . .

"Sec. 3. That pending the report of the commission herein provided for and for a period of thirty days thereafter the compensation of railway employees subject to this Act for a standard eight-hour workday shall not be reduced below the present standard day's wage, and for all necessary time in excess of eight hours such employees shall be paid at a rate not less than the pro rata rate for such standard eight-hour workday.

"Sec. 4. That any person violating any provision of this Act shall be guilty of a misdemeanor and upon conviction shall be fined not less than $100 and not more than $1,000, or imprisoned not to exceed one year, or both."

The pivotal question was, whether Congress had power to pass the act, and no power of Congress was suggested in any of the opinions except its power to regulate commerce with foreign nations, among the states and with the Indian tribes.

The typical contract between railroad companies and their employees affected by the act is a contract basing pay on one hundred miles or less, ten hours or less; ten hours' pay is given for a one hundred miles or less and overtime is paid *pro rata*. This contract may be thus summarized: one hundred miles or less, ten hours or less, shall constitute a day. During the year 1916 the labor unions of employees demanded of the railways an eight-hour basis of pay and extra overtime pay beyond eight hours, overtime at fifty per cent above normal rate. The railways and labor unions having failed to reach any agreement and a strike having been called, Congress passed the act above quoted.

It having been frequently decided and being conceded that, in order to be within the power of Congress to regulate commerce, legislation must have some real or substantial relation to or connection with commerce, the inquiry was whether this legislation had a real or substantial relation to commerce.

It will be seen that the first section of the act says only that in contracts for labor and service eight hours shall be deemed a day's work and the measure or standard of a day's work for the purpose of reckoning compensation of employees. Unless the ordinary sense of this language may be enlarged by reference to the title of the act, or by considering the facts leading up to the passage of the act, or by reference to the statements of legislators in committee or in debate, it would seem to be a mere rule for the interpretation of contracts. But apparently the majority of the court holds that it imposes an obligatory standard of pay on both the railways and their employees.

The more essential controversy was the validity of section 3. Section 2 having provided for a commission to observe during a period of not less than six months or more than nine months the operation and effect of the eight-hour standard workday and the facts and conditions affecting the relation between railways and their employees during that period, section 3 provides that until thirty days after this commission shall report to Congress the compensation of railway employees subject to the act for the standard eight-hour day shall not be less than standard day's wage then existing, with overtime beyond eight hours *pro rata.* In other words, pending the report of the commission and for thirty days thereafter each railway company was required to pay for eight hours at least as much wages as it then paid for its standard day.

It is obvious and not disputed that the act contains no prohibition against employees working more than eight hours and leaves in effect the sixteen-hour law. On this ground the railways urged that the whole effect of the act is to fix a scale of wages. But the court said the act establishes a standard day as well as a scale of wages; a standard day permanently, a scale of wages during a period not exceeding ten months. Apparently the court holds that as to the employees governed by the act, both they and their employers are prohibited from contracting on any other basis than that of a standard day of eight hours.

Touching the validity of section 3, the fixing of a wage scale during the temporary period, the argument of the opinion of the Chief Justice is, that the business of common carriers is public, that society has an interest in the continued operation and rightful conduct of the business, and that the public interest begets a public right of regulation to the full extent necessary to secure and protect it; that on failure of the railways and their employees to agree, thus threatening interruption of interstate commerce and great injury of public interests, the power of Congress arises to make this agreement for the parties; to provide for a standard of wages to fill the want caused by the failure to agree. The court argues that this is a proper part of governmental regulation, because necessary to prevent the stoppage of commerce resulting from failure of the railway companies and their employees to agree on wages. To what purpose, the court asks, is governmental regulation if it cannot secure to the public an efficient and reasonable service and prevent service from being destroyed?

"To what derision it would reduce the power of government" if that power did not extend to doing what is essential to prevent railway operation from being stopped.

Pursuing this argument, the court said that the act of Congress amounts in substance and effect to exertion of its authority compulsorily to arbitrate between the parties wage disputes by establishing a legislative standard of wages—exercised in this case by direct legislation—but the same power involved in establishment by Congress of other means of compulsory arbitration.

As to the carrier, the court said that it engaged in the business of interstate commerce, a business charged with a public interest, subject to the power of Congress to regulate; and that the very absence of a scale of wages by agreement called for the appropriate legislative remedy. As to the employee, the court said it was again obvious that he engaged in a business charged with a public interest which subjects his right to leave the employment to the regulative power of Congress.

Mr. Justice McKenna concurring said that when one enters into interstate commerce he enters a service in which the public has an interest and subjects himself to that public interest and to the regulation thereof as a condition attaching to the employment.

Mr. Justice Day dissenting said he was not prepared to deny the power of Congress to regulate wages of railway employees engaged in commerce among the states. On the question of congressional power to fix wages he agrees with the majority opinion. Conceding that every presumption exists in favor of legitimate exercise of legislative power and that the courts have no authority to inquire into motives of legislators, conceding that ordinarily every enactment pre-supposes proper motives and sufficient information and knowledge of the legislature to warrant the action taken, Mr. Justice Day said that this law on its face shows Congress had no knowledge or information of the facts, did not pass on the facts, and expressed in the law itself inability to fix in advance of investigation a just and proper wage; that the act, unlike most legislation, professes on its face to provide an experiment for the very purpose of determining what is a proper wage. Consequently he said that the act, fixing a wage during the period of experiment and for the purposes of experiment, and imposing on the carriers and the public the very large cost of the experiment with no provision for recoupment should the temporary

wage be found unjust, is a taking of property without due process, contrary to the fifth amendment. He said that no emergency, whatever its character, can justify the unlawful appropriation of private property.[1] In this view Justices Pitney and Van Devanter concurred.

The reader will determine for himself whether the opinion of the court answers Mr. Justice Day. The opinion of the court, in asserting the supremacy of the public right of control over the private right of agreement on wages, said:

"Nor is it an answer to this view to suggest that the situation was one of emergency and that emergency cannot be made the source of power. *Ex parte Milligan*, 4 Wall. 2. The proposition begs the question, since although an emergency may not call into life a power which has never lived, nevertheless emergency may afford a reason for the exertion of a living power already enjoyed. If acts which, if done, would interrupt, if not destroy, interstate commerce may be by anticipation legislatively prevented, by the same token the power to regulate may be exercised to guard against the cessation of interstate commerce threatened by a failure of employers and employees to agree as to the standard of wages, such standard being an essential prerequisite to the uninterrupted flow of interstate commerce."

Justices Pitney and Van Devanter were of opinion that fixing wages of train employees has no such real or substantial relation to or connection with commerce as to be a regulation of commerce; and therefore that fixing wages is beyond the power of Congress. In this Mr. Justice McReynolds apparently concurs, but six members of the court expressed the opinion that fixing wages is so pertinent and closely related to transportation as to be a regulation of commerce and within the power of Congress.

Mr. Justice Day says he is not prepared to admit that Congress may coerce employees to continue in service in interstate commerce, and he thinks this question not involved in the case. But the views of the majority opinion as to this question certainly are not *obiter*. The whole majority opinion proceeds upon the argument that both carriers of commerce and their employees engage in a business which is subject to a public use and to public regulation, and that both employer and employees engaging voluntarily in such a business surrender their private rights to the extent necessary to make public regulation effective; and that, as a vital part of public regulation is to prevent the stoppage of

1. Ex parte Milligan, (1867) 4 Wall. (U. S.) 2, 18 L. Ed. 281.

commerce and to secure its continued flow, Congress has a right to arbitrate between employer and employee and to force agreement between them on wages and terms of service. There would appear to be no good answer to Mr. Justice McReynolds, who dissented but said:

"But, considering the doctrine now affirmed by a majority of the Court as established, it follows as of course that Congress has power to fix a maximum as well as a minimum wage for trainmen; to require compulsory arbitration of labor disputes which may seriously and directly jeopardize the movement of interstate traffic; and to take measures effectively to protect the free flow of such commerce against any combination, whether of operatives, owners, or strangers."

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