Constitutional Law -- Taxation -- Special Taxes on Liquor Dealers in Dry States

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NOTES AND COMMENTS

Constitutional Law—Taxation—Special Taxes on Liquor Dealers in Dry States.¹

A federal statute imposes annual taxes on all dealers in alcoholic beverages, at the following rates: retail beer $20, retail liquor $25, wholesale beer $50, wholesale liquor $100.² Another federal statute imposes in addition an annual tax of $1,000 on any person carrying on any such business contrary to the laws of any state or municipality.³

In two cases the plaintiffs, residents of the dry states of Alabama and Georgia respectively, who had paid the taxes imposed under the first statute,⁴ asked that defendant revenue officers be enjoined from collecting by distraint the assessment of $1,000 on the ground that it was not a revenue measure, but a penalty to regulate and prohibit liquor dealing in dry territories,⁵ a matter beyond the control of Congress.

¹ The question of territorial uniformity is not treated in this note; however, it was held in United States v. Kesterson, 8 F. Supp. 680 (N. D. Okl. 1934) that the statute here considered did meet the constitutional requirement of uniformity. But in Constantine v. United States,—F. (2d)—(C. C. A. 5th, 1935) the court expressed grave doubt, should the act be construed as imposing an excise tax, that it meets the uniformity requirement.


³ 44 STAT. 95 (1926), 26 U. S. C. A. §206 (1928). This statute provided a special excise tax of $1000 to be paid annually by every person carrying on the business of a "brewer, distiller, wholesale liquor dealer, retail liquor dealer, wholesale dealer in malt liquor, retail dealer in malt liquor, or manufacturer of stills . . . in any State, Territory, or District of the United States contrary to the laws of such State, Territory, or District, or in any place therein in which carrying on such business is prohibited by local or municipal law." The statute does not exempt any person from any "punishment or penalty" provided by local law or authorize them to do business contrary to local law. The act provides further that if any person does business in a dry territory without paying the $1000 tax, he subjects himself to a fine of as much as $1000, or maximum imprisonment of one year, or both. The statute was passed originally in the Revenue Act of 1918 together with the Child Labor Tax and the tax on grain futures, both of which have been declared unconstitutional. The original statute was reenacted in 1921, 1924, and 1926; but as it now stands, it is treated as dating back to the Revenue Act of 1918: United States v. La Franca, 282 U. S. 568, 572, 51 Sup. Ct. 278, 75 L. ed. 551 (1931).


⁵ After the passage of Revised Statutes §3224, 26 U. S. C. A. §154 (1928), prohibiting the enjoining of any tax, grounds which usually give equity jurisdiction, such as resulting multiplicity of suits, or cloud on title, or unconstitutionality were specifically rejected. Dodge v. Osborn, 240 U. S. 118, 36 Sup. Ct. 275, 60 L. ed. 557 (1916). A "penalty" designed to regulate and prohibit, as contradistinguished from a "tax" designed to raise revenue, is not collectible by distraint proceedings, 26 U. S. C. A. §142 (1928), and may be enjoined since it does not come within the prohibition of the injunction statute. Lipke v. Lederer, 259 U. S. 557, 42 Sup. Ct. 549, 66 L. ed. 1061 (1922); Miller, Restraining the Collection of Federal Taxes and Penalties by Injunctions (1922) 71 U. Pa. L. Rev. 318. It was urged in Cleveland v. Davis, 9 F. Supp. 337 (S. D. Ala. 1934) that a bill to enjoin the so-called tax of $1000 on liquor dealers should be dismissed because plaintiff did not come into equity with clean hands since the bill showed he was doing business in the state of Alabama contrary to its laws; the court held that
Held, injunctions granted. In a third case the defendant was convicted in the Northern District of Alabama for selling liquor without having paid the $1,000 tax; on appeal the conviction was reversed on the ground that the statute did not impose a tax, and that it "imposed a penalty as part of the enforcing machinery of the Eighteenth Amendment, and fell with it."

The government was not in position to raise the question, for by its statutes and regulations it put plaintiff in a position where he was absolutely remedyless unless the court would give him relief.

Cleveland v. Davis, 9 F. Supp. 337 (S. D. Ala. 1934) (The court held the $1000 "tax" was a penalty, declaring: (1) that the exaction could not be a revenue measure because "Congress would have no right to impose two taxes or a double tax on the same business done at the same place," and the twenty-five dollars imposed under the first statute is the value Congress put upon the right to retail liquor everywhere; (2) that the lump sum applicable to the different dealers alike in the dry territories in disregard of the previous classification of the dealers everywhere was penal in its nature; and (3) that this was an attempt to punish for the violation of the local laws a power which Congress does not have).

Green v. Page, 9 F. Supp. 844 (S. D. Ga. 1935) (This case went further than the preceding case to hold that crime was the basis of the imposition, and that the statute imposing the "tax," which was too high to produce revenue, was unconstitutional. Significance was attached to the fact that a high revenue official had pronounced, in a radio address, that the "tax" was prohibitive; and that the revenue department did not list this so-called tax with the liquor taxes on forms sent to their collectors and did not try to collect it for several months after the repeal of the Eighteenth Amendment).

Constantine v. United States.—F. (2d)—(C. C. A. 5th, 1935) The District Court thought the intention and effect of the statute to impose a tax was plain on its face; that it was valid, and that since defendant failed to pay the $1000 assessment, after having paid the twenty-five dollar tax imposed on all retail liquor dealers, he was subject to be prosecuted and convicted under it. The Circuit Court did not "find the statutory intent and effect so plain as that its history and administrative interpretation may not be looked to for the light they throw." In deciding whether the act imposed a tax or a penalty, the court laid down the rule that "the question must be determined from a consideration of its language, its operation and effect, and particularly the consequences which one or the other construction will entail." In holding the imposition a penalty the court declared it was "beyond question that its function and purpose was to penalize and prohibit" on the ground that: (1) the language of the act requiring all types of dealers to pay the same amount instead of, as liquor taxing acts do, "making the exaction fit the business done;" (2) the history of the act from its first introduction Feb. 24, 1919 just prior to the ratification of the Eighteenth Amendment; (3) the fact that the imposition during the existence of the National Prohibition Act and the Eighteenth Amendment was judicially treated as a penalty; (4) the administrative rulings and acts of departmental officers treating it as a penalty; and (5) the failure of Congress to reenact the statute after the repeal of the Eighteenth Amendment. The court concluded that "it was enacted as a penalty, not a tax, and that it may not now, the Amendment which authorized it repealed, be enforced as a penalty."

It was held in United States v. La Franca, 282 U. S. 568, 572, 51 Sup. Ct. 278, 75 L. ed. 551 (1931) that, although the original statute was reenacted in 1921, 1924, and 1926, the $1000 tax was imposed by an act in force prior to the National Prohibition Act and the Eighteenth Amendment. Accepting this as the law, quaere as to whether the repeal of the Eighteenth Amendment repealed a statute passed prior to said Amendment? It seems that the better view is that the statute was passed originally as a regulatory or prohibitory measure without constitutional authority; that it was subsequently validated by the Eighteenth Amendment giving Congress the authority to regulate intrastate liquor traffic, and that by the repeal
It may be difficult to determine whether a statute is a regulatory or a revenue measure, yet the consequences of the distinction are material "when one sovereign can impose a tax only, while the power of regulation rests in another." A tax of ten cents a pound on butter substitutes designed to protect the dairy interests, a tax of $300 a pound on the manufacture of opium designed to restrict its manufacture, and a registration tax of one dollar on dispensers of dope for the purpose of regulating its sale, notwithstanding their regulatory character, were held to be taxes because "on their face" they were acts to raise revenue. The courts laid down the rule that they could not go beyond the face of the act to determine the motive or purpose of Congress. This trend toward a system of regulation through the taxing power in derogation of state rights was checked in the Child Labor Tax Case.

It was there held that a "tax" of ten per cent on the net profits of any

of the Eighteenth Amendment the act reverted to its original status and is therefore again unconstitutional.


9 McCray v. United States, 195 U. S. 27, 24 Sup. Ct. 769, 49 L. ed. 78 (1904) (There was a tax of only one-fourth of one cent on the plain oleomargarine while the tax on the colored was ten cents a pound. It was well known that this was a regulatory measure but the court confined itself to the "face of the act" to hold it a tax). See Cushman, The National Police Power Under the Taxing Clause of the Constitution (1920) 4 Minn. L. Rev. 247.

10 Lee Mow Lin v. United States, 250 Fed. 694 (C. C. A. 8th, 1918) (The statute provided that a "tax of $300 per pound shall be levied and collected upon all opium manufactured in the United States for smoking purposes. . . ." This court followed the test set up in the McCray Case, and stated at page 696, "The law on its face is a law imposing a tax for revenue purposes. The tax imposed of $300 a pound on all opium manufactured for smoking purposes may be so high as to defeat the purpose of raising revenue, but the power to tax, as has been said, is the power to destroy.")

11 United States v. Doremus, 249 U. S. 86, 39 Sup. Ct. 214, 63 L. ed. 493 (1919) (The court went further in this case than in the previous cases to uphold a detailed system of regulation and control of the drug traffic under 38 Stat. 785 (1914), wherein the court practically admitted the moral purpose of the act, but upheld the government's argument that, on its face, its main purpose was revenue, and since Congress had power to tax, the judiciary would not look beyond the statute. The court was of the opinion that the regulatory provisions of the law could not be said to have no reasonable relation to the collection of the revenue although the tax amounted to only one dollar).

12 Bailey v. Drexel Furniture Co., 259 U. S. 20, 42 Sup. Ct. 449, 66 L. ed. 817 (1922) (The court found here that the statute did not impose a tax with only an incidental restraint and regulation which a tax must inevitably involve, but that it attempted to regulate by a so-called tax. Chief Justice Taft was fearful of the invasion of state rights: "Grant the validity of the law, and all that Congress would have to do hereafter in seeking to take over to its control any one of the great number of subjects of public interest, jurisdiction over which is reserved to the states by the Tenth Amendment to the federal Constitution, would be to enact a detailed regulation of the subject and enforce it with a so-called 'tax' upon departures from it. To give such magic to the word tax would be to break down all constitutional limitations of the power of Congress and completely wipe out the sovereignty of the states."") See also Hill v. Wallace, 259 U. S. 44, 42 Sup. Ct. 453, 66 L. ed. 822 (1922).
one who knowingly employed child labor in certain businesses was in fact a penalty to prohibit employment of children, and not a tax for revenue. The court did not purport to reject the test applied in the earlier cases, but did apply it and found on the face of the act features which marked it as a regulatory rather than a revenue measure. Yet the Child Labor Tax Case seems inharmonious with the prior decisions although expressly it does not overrule them.

What, then, is the status of the $1,000 liquor tax involved in the principal cases? The special taxes upon the occupation of liquor dealers, which were enacted prior to the Eighteenth Amendment, remained in force but took on a "new character and status under the Eighteenth Amendment"; they were said to be no longer exactions for revenue purposes. They became "penalties or fines imposed for criminal misconduct." The $1,000 assessment was included in the assessment on the defendants in Thome v. Lynch, and it was adjudged a penalty on the ground that where an exaction is made by governmental authority upon an occupation which is expressly prohibited as criminal by the

The court stressed the element of scienter, that the employer must know that the child is under age and that he is departing from the prescribed course, else he is not subject to the assessment. The court added, "Scientists are associated with penalties, not with taxes."

The amount was not to be proportioned in any degree to the extent or frequency of the departures, but was, as the court stated at page 36, "to be paid by the employer in full measure whether he employs five hundred children for a year, or employs only one for a day."

The court stated that this case could not be distinguished from Hammer v. Daggenhart, 247 U. S. 251, 38 Sup. Ct. 529, 62 L. ed. 1101 (1918) which held unconstitutional the effort of Congress to regulate the hours of labor of children by means of a prohibition against the movement in interstate commerce of ordinary commercial commodities which they helped to produce. See Powell, Child Labor, Congress, and the Constitution (1922) 1 N. C. L. Rev. 61.

It seems that the court could very well have followed the previous cases to sustain the Child Labor Tax, but it seems to have recognized that Congress was encroaching too much upon the reserved police power of the states and found features on the face of the act sufficient to distinguish this act from those previously sustained and which were almost as far reaching, and passed with the same regulatory intent. See Note (1922) 71 U. Pa. L. Rev. 54.

La Franca v. United States, 37 F. (2d) 269 (C. C. A. 5th, 1930).


La Franca v. United States, 37 F. (2d) 269, 270 (C. C. A. 5th, 1930).

269 Fed. 995, 1007 (D. Minn. 1921). Assessment against one defendant:

1. Taxes on retail liquor dealer, R. S. §3224 ................................... $ 25.00
2. Above tax doubled by §35 of Nat. Prohibition Act .................. 25.00
3. Penalty of 25% on (1) and (2) under R. S. §3176 .................... 12.50
4. Special tax on liquor dealer under 26 U. S. C. A. §206 .......... 1,000.00
5. Above tax doubled by §35 of Nat. Prohibition Act .............. 1,000.00
6. Penalty of 25% on (4) and (5) under R. S. §3176 ............... 500.00
7. Special penalty provided by §35 of Nat. Prohi. Act ............ 500.00

$3,062.50
8. 5% penalty under R. S. §3186 ........................................... $ 153.13
same governmental authority, the exaction is a penalty unless it is clearly shown to be made for revenue purposes. Section 35 of the National Prohibition Act doubled the tax on the pre-existing dealer's licenses. In reference to that section, the Supreme Court in United States v. La Franca declared:

"This, in reality, is but to say that a person who makes an illegal sale shall be liable to pay a 'tax' in double the amount of the tax imposed by pre-existing law for making a legal sale, which existing law makes it impossible to make. . . . the exaction here involved is not a true tax, but a penalty involving the idea of punishment for infraction of the law."

The imposition was held a penalty, not because it was doubled, but because the occupation taxed had become unlawful. Although the statute was here considered in connection with the National Prohibition Act, it seems the same thing may be said of the $1,000 "tax" standing alone following the adoption of the Twenty-first Amendment because the sole basis of the assessment is illegality,—the carrying on of a liquor business in violation of the law of a state or municipality. It would seem that the exaction is not a true tax but remains "a penalty involving the idea of punishment for infraction of the law" of dry territories.

The La Franca Case expressly does not overrule the decision in United States v. One Ford Coupe Automobile, which held that the basic production tax on liquor did not become a penalty under the Eighteenth Amendment because the tax had always been applied to

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2 Thome v. Lynch, 269 Fed. 995, 1003 (D. Minn. 1921).
28 228 U. S. 568, 572, 51 Sup. Ct. 278, 75 L. ed. 551 (1931) (Civil suit by the United States to recover for non-payment of the double taxes, including the taxes levied by both statutes considered in the principal cases of this note and the additional penalty of $500 incurred by defendant's liquor sale in violation of the National Prohibition Act. Defendant pleaded in bar his prior conviction in a criminal prosecution for the same illegal sales. Held, the "tax" clearly involved the idea of punishment for infraction of law; the suit for these penalties, notwithstanding it was civil in form, amounted to a second punishment for the same acts, and the first prosecution barred the second action).
29 Thome v. Lynch, 269 Fed. 995 (D. Minn. 1921).
31 228 U. S. 321, 47 Sup. Ct. 278, 71 L. ed. 279 (1926) (This decision was to the effect that the law taxing liquor was not in conflict with the law prohibiting its manufacture because the tax applies to the manufacture the same whether it was legally or illegally made. The court, at page 328, declared, "A tax on intoxicating liquors does not cease to be such because the sovereign has declared that none shall be manufactured, and because the main purpose in retaining the tax is to make law-breaking less profitable. . . . What was sought to be enforced and held to be a penalty in Lipke v. Lederer . . . was the so-called double tax. Here we are dealing with the basic production tax.")
32 Lipke v. Lederer, 259 U. S. 557, 42 Sup. Ct. 549, 66 L. ed. 1061 (1922), referred to in the preceding case, held that the special license taxes doubled by §35 of the National Prohibition Act had become penal in their nature and must be treated as penalties although designated as taxes. The government was enjoined from collecting these doubled taxes by distraint on the ground that they were penalties and not within the scope of the statute preventing the enjoining of any taxes.
all liquor whether manufactured legally or illegally; otherwise any liquor unlawfully manufactured would be exempt from the tax.

No question is raised as to the validity of the tax imposed by the statute levying taxes on all dealers in alcoholic beverages, because it was early established by the License Tax Cases that a tax applicable everywhere over the country applied to the sale of liquor in the dry as well as the wet states; naturally illegal sales should not be exempt from taxation. The payment of this tax does not authorize the dealing in liquor but simply privileges the licensee from penal interference by the federal government during the period covered by the so-called license. The $1,000 tax is sui generis—the sole basis of the imposition being the violation of local laws, usually criminal offenses. It would seem the intention to derive revenue from taxes on criminal offenses as such should not be imputed to Congress.

It may not be inferred solely from the heavy burden of a tax that a prohibition was intended; but there is an indefinite limit beyond which a so-called tax ripens into a penalty, dependent upon the circumstances in the individual statute. The taxes imposed by the first

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2272 U. S. 462, 18 L. ed. 497 (1866) (13 STAT. 248 (1864) provided that no person should retail liquor without first obtaining a license from the United States. The statute is vastly different from the $1000 tax statute in question which is dependent upon crime for its application).
23North Carolina provides by statute, N. C. CODE ANN. (Michie, 1931) §3379 (1), that proof of possession of a federal license for the sale of liquors is prima facie evidence of a violation of the state law prohibiting possession of intoxicating liquors for purpose of sale.
24Thome v. Lynch, 269 Fed. 995, 1003 (D. Minn. 1921). It would seem that the imposition of a so-called tax upon any one who commits a specified criminal offence has as its purpose punishment for the commission of the crime. It should not matter that the offense be against the laws of a state instead of the laws of the federal government since the statute has adopted the "criteria of wrongdoing."
25Trusler v. Crooks, 269 U. S. 475, 46 Sup. Ct. 165, 70 L. ed. 365 (1926) (In declaring that the federal "tax" of twenty cents per bushel on the dealing in grain "futures" was unconstitutional because regulatory, the court recognized that it could not infer prohibition solely from the heavy burden of the exaction. Nevertheless, in determining that the so-called tax was a penalty, the court attached significance to the fact that there would be a total destruction by the tax of the thing taxed); cf. Magnano v. Hamilton, 292 U. S. 40, 54 Sup. Ct. 599, 78 L. ed. 1109 (1934); Fox v. Standard Oil Co., 55 Sup. Ct. 333 (1935).
26Bailey v. Drexel Furniture Co., 259 U. S. 20, 38, 42 Sup. Ct. 449, 66 L. ed. 817 (1922) ("Taxes are occasionally imposed in the discretion of the legislature on proper subjects with the primary motive of obtaining revenue from them, and with the incidental motive of discouraging them by making their continuance onerous. They do not lose their character as taxes because of the incidental motive. But there comes a time in the extension of the penalizing features of the so-called tax when it loses its character as such and becomes a mere penalty, with the characteristics of regulation and punishment. Such is the case in the law before us. Although Congress does not invalidate the contract of employment, or expressly declare that the employment within the mentioned ages is illegal, it does exhibit its intent practically to achieve the latter result by adopting the criteria of wrongdoing, and imposing its principal consequence on those who transgress its standard.")
statute\textsuperscript{34} are graduated as to the several dealers and are not prohibitive. The so-called tax under the second statute\textsuperscript{35} is not graduated, but applies alike to the smallest retailer of beer in the tiny hamlet and to the largest wholesaler of liquor with the whole state as his territory; and it is, for most retailers at least, absolutely prohibitive. Furthermore the taxes on the conduct of the business in violation of local laws are not increased proportionately. The retail beer dealer has to pay fifty times as much “tax” as is imposed where his occupation is lawful; while the wholesale liquor dealer has to pay only ten times his original tax. The heaviest burden falls upon the dealer whom Congress considered the least able to pay under the first statute.\textsuperscript{36} The great disparity between the tax on legal business and the further sum imposed upon illegal business would seem to show the latter to be penal in its nature although designated a “tax.”\textsuperscript{37} It seems from the language of

\textsuperscript{34} 20 STAT. 333, 342 (1879), 26 U. S. C. A. §205 (1928), \textit{supra} note 2.
\textsuperscript{35} 44 STAT. 95 (1926), 26 U. S. C. A. §206 (1928), \textit{supra} note 3.
\textsuperscript{36} 20 STAT. 333, 342 (1879), 26 U. S. C. A. §205 (1928), \textit{supra} note 2.

As stated in the opening paragraph of this note, Congress placed different valuations on the right to engage in the liquor business; the wholesale liquor dealer was required to pay five times as much for his license as the retail beer dealer paid for his. If Congress intended the levy under the second statute to be a tax, it seems that it would have again recognized the difference in the scope of the several occupations. Considering the two statutes together, the imposition of a lump sum in the second clearly imports that it was designed to penalize the person who conducted his business unlawfully.

\textsuperscript{37} Helwig v. United States, 188 U. S. 605, 23 Sup. Ct. 427, 47 L. ed. 614 (1903), This case involved an act imposing an additional “tax” equal to two per cent of the appraised value of imported merchandise for each one per cent that such value exceeded the valuation declared in the entry. The court, in holding that such an imposition was a penalty and not a tax, said at page 613: “Although the sum imposed by undervaluation may be simply described as a ‘further sum’ or an ‘additional duty,’ if it is yet so enormously in excess of the greatest amount of regular duty ever imposed upon an article of the same nature, and it is imposed by reason of the action of the importer, such facts clearly show it is a penalty in its intrinsic nature, but describing it as a ‘further sum’ or ‘additional duty,’ will not work a statutory alteration of the nature of the imposition, and it will be regarded as a penalty when by its very nature it is a penalty. It is impossible, judging simply from its language, to hold the provision to be other than penal in its nature.”

It is submitted that the statement just quoted is applicable to the $1000 liquor tax in several respects, namely: this tax is in effect an “additional sum” imposed upon dealers in dry states; it is “enormously in excess” of that imposed by the first statute everywhere over the country; it is imposed “by reason of the action of the” dealer in violating the local laws; and, in considering the language of the two liquor tax statutes together, the $1000 imposition is “penal in its nature.”

It is significant, though a court might not take notice of it, since it does not so appear “on its face,” that the $1000 tax was added in 1919 after Congress had passed the Reed Amendment, 39 STAT. 1069 (1917), which made it a federal offense to transport liquor into dry states, and after it had submitted the Eighteenth Amendment for ratification.

The statute imposing the $1000 “tax” was in effect for such a short time before Congress was authorized by the Eighteenth Amendment to regulate the intrastate liquor traffic that the constitutionality of the act had not been tested until recently following the repeal of the Eighteenth Amendment. The courts in Constantine v. United States,\textsuperscript{38} F. (2d)—(C. C. A. 5th, 1933) and Green v. Page, 9 F. Supp.
the act that this additional duty was laid for the purpose of enabling Congress to regulate by taxes the intrastate liquor traffic, a power which was withdrawn by the Twenty-first Amendment.

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Contracts—Adoption of Present and Future Laws therein.

In a mortgage the mortgagor declared "his assent to the passing of a decree by the Circuit Court of Baltimore City . . . for a sale of the property herein mortgaged in accordance with sections 720 to 723 inclusive of chapter 123 of the laws of Maryland passed at the January session of 1898, or any amendments or additions thereto". The mortgagor assigned to the plaintiff part of the mortgage debt, but less than a one-fourth interest therein. Thereafter the legislature passed section 720A, amending section 720 to the effect that during the emergency period holders of less than a one-fourth interest in mortgage debts should not have recourse to the summary remedies given under section 720. Upon subsequent default by the mortgagor, the plaintiff petitioned for relief under section 720, alleging that section 720A was unconstitutional, as impairing his contract rights and violating the equal protection clause. The judgment of the trial court, upholding both contentions of the plaintiff, was affirmed by the Maryland Court of Appeals on the basis of impairment of contract only. On appeal to the Supreme Court of the United States, judgment was reversed on the theory that the amendment did not impair the plaintiff's contract rights.

The Maryland Court of Appeals took the position that assent of the mortgagor to a decree as provided by section 720 "or any amendments or additions thereto", did not amount to an agreement that the proceedings should be governed by "future amendments effective before application for the decree", but that the intention of the parties "embraced only such amendments as had been made prior to the execution of the mortgage". After quoting that argument, Justice McReynolds, for the United States Supreme court, said, "Prior to the mortgage there had been no such amendments, and it cannot be correctly said that the 'intention of the parties embraced only such amendments as had been made prior to the execution of the mortgage'. On the contrary the words

844 (S. D. Ga. 1935) hold directly that the statute is a regulatory measure and unconstitutional.

1 Md. Laws 1898, c. 123, §720 (providing that where the mortgagor declared his assent to such decree, upon the petition of the mortgagee or his assigns to the named court, that court could issue such decree of sale and prescribe terms for same).
2 Md. Laws 1933, c. 56, §1.