



1913

The Constitutionality of the Webb Act

Kentucky Law Journal

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Recommended Citation

Kentucky Law Journal (1913) "The Constitutionality of the Webb Act," *Kentucky Law Journal*: Vol. 1 : Iss. 4 , Article 7.

Available at: <https://uknowledge.uky.edu/klj/vol1/iss4/7>

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Kentucky Law Journal

Published Monthly at the State University of Kentucky by the Students of
the College of Law.

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All subscriptions should be addressed to the Business Manager. Rates:
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Application for admission as second-class matter pending.

AN UNUSUAL AND VALUABLE OPPORTUNITY.

We desire to call the attention of the bench and bar of Kentucky to the courses offered by the Summer Law School in this issue. In addition to the regular courses in law, a special course in the critical analysis and discussion of the Common and Statute Law of Kentucky is offered for the benefit of lawyers, officers and business men who desire a knowledge of the Kentucky Statutes and the Common Law of the State. This work will undoubtedly prove to be invaluable to every one who takes advantage of this unusual opportunity. Judge Lyman Chalkley, who will conduct the special course, has so well stated its purposes in the Summer Law School advertisement printed in this issue as to leave very little room for comment.

THE CONSTITUTIONALITY OF THE WEBB ACT.

A nice point in constitutional law will undoubtedly soon be brought before the Supreme Court for decision as a result of the passage of the Webb Act over the President's veto. The President gave as his reason for his veto that he believed the act "a violation of the interstate commerce clause of the Constitution, in that it is in substance and effect a delegation by Congress to the States of the power of regulating interstate commerce in liquors, which is vested exclusively in Congress."

In the opinion of the Supreme Court in the case of *In re Rahrer*, 140 U. S. 545, it was held that Congress cannot delegate its power to regulate interstate commerce in liquors to the States. The question is, then, does the Webb Act "in substance and effect" delegate power to the States to regulate interstate commerce.

It was also decided in the *Rahrer* case that power was not delegated by

the Act of August 8, 1890 (3 Fed. St. Ann. 853), which provided:—"That all fermented, distilled or other intoxicating liquors or liquids transported into any state or territory or remaining therein for use, consumption, sale or storage therein, shall upon arrival in such state or territory, enacted in the exercise of its police power, to the same extent and in the same manner as though such liquids or liquors had been produced in such state or territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise."

If there was no delegation of power to the states by Congress in the Act cited above surely there is none in the Webb Act, which is merely a regulation designed to prevent the shipment of liquors into "Dry" States. Instead of delegating power to the States to regulate interstate commerce the Webb Act seems to bring about co-operation between the Federal and State laws.

BOOK REVIEWS.

The Reform of Legal Procedure. By Moorefield Story, ex-President of the American Bar Association, New Haven; Yale University Press, London; Henry Frowder, Oxford University Press, 1912. pp. VII, 263.

In late years the legal profession has fallen in public estimation, and the public has not hesitated to voice its sentiments. Undesirable men and methods are often employed in the personal actions which flood our courts. There are numerous delays during the trial which should be eliminated. Our appellate courts dispose of about one-third the number of cases disposed of by similar English courts. Furthermore the small percentage of convictions after arrest in criminal cases, due to the prisoners escaping on technicalities, has led the public to a belief that it is inadequately protected.

Few men are better fitted to discuss the above and other problems of legal procedure than the scholar and practical jurist who delivered a series of lectures before the Yale Law School in 1912, on the "Reform of Legal Procedure". These lectures, with some revision, are published in the volume under review. The criticisms and suggestions made by Mr. Storey in this work, having as an object the lessening of certain clearly-defined and existing evils, deserve wide-spread notice and thorough consideration by the bench and bar.—Yale Law Journal.

Outline of the Jurisdiction and Procedure of the Federal Courts. By Joseph R. Long, Professor of Law in Washington and Lee University. Second Edition, The Michil Company, Charlottesville, Va., 1911, pp. XXII, 278.

This book is "a manual or ready reference book" on Federal Jurisdiction and Procedure. It does pretend to be an exhaustive treatise, yet Mr. Long,