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**The Florida Citrus Code: Free Enterprise and
Protected Industry: Constitutionality of
Citrus Regulation in Florida**

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THE FLORIDA CITRUS CODE: FREE ENTERPRISE AND PROTECTED INDUSTRY: CONSTITUTIONALITY OF CITRUS REGULATION IN FLORIDA

Government regulation of Florida's citrus industry and of the thousands of people who depend on it for their livelihood provides a cogent example of the classic tension between individual freedom guaranteed by fundamental law and the

144. *Id.* at § 601.67(1)(a)-(g). A dealer may lose his license if he obtained a license by fraud, has been guilty of a crime involving moral turpitude, or has made false statements that induced another to act to the other's detriment.

145. Compare FLA. STAT. §§ 601.72, .9912 (1979) with text at note 55 *supra*.

146. FLA. STAT. § 601.73 (1979).

147. See text at note 36 *supra*.

state's inherent power to act for the common good. The Florida Supreme Court has recognized that Florida's citrus industry is one of the state's greatest assets and that promotion and protection of the industry redound to the general welfare.¹ Therefore, the court has declared, the legislature necessarily has a wide field of police power within which to pass laws to foster, promote and protect the citrus industry.²

The state of Florida often has used its police power to protect and enhance the citrus industry.³ The Florida Citrus Code itself was enacted pursuant to this power.⁴ The necessary criteria for the state's use of its inherent power can be reduced to two factors. First, the exercise by a state of its inherent power must achieve a public purpose such as furthering health, safety, morals or the general welfare. Second, the specific form of police power chosen must be reasonably related to that proper public purpose.⁵ Property rights are not absolute but are held subject to the state's police power.⁶ The

1. *L. Maxcy, Inc. v. Mayo*, 103 Fla. 552, 569, 139 So. 121, 128 (1931). See also *Sligh v. Kirkwood*, 237 U.S. 52 (1915) (reputation of Florida citrus of such importance to state that prohibiting shipment of immature oranges out of state under penalty of criminal sanctions was proper exercise of police power).

2. 103 Fla. at 569, 139 So. at 128.

3. Regulations upheld under the guise of the police power include regulations enacted to: provide for standard citrus fruit containers with designated maximum capacities, *Snively Groves, Inc. v. Florida Citrus Comm'n*, 23 F. Supp. 600 (N.D. Fla. 1938); more effectively control the supply of oranges to their demand and to establish and maintain orderly development of new and larger markets, *State Dep't of Citrus v. Griffin*, 239 So. 2d 577 (Fla. 1970); prevent fraud and deception in the chilled orange juice industry, *Florida Citrus Comm'n v. Golden Gift, Inc.*, 91 So. 2d 657 (Fla. 1956); impose tax on citrus fruit to pay for citrus advertising, *C.V. Floyd Fruit Co. v. Florida Citrus Comm'n*, 128 Fla. 565, 175 So. 248 (1937); provide for licensing and bonding of citrus fruit dealers, *Mayo v. Polk Co.*, 124 Fla. 534, 169 So. 41, *appeal dismissed*, 299 U.S. 507 (1936); prohibit sale, transportation or shipment for sale of citrus fruit sprayed with arsenic, *L. Maxcy, Inc. v. Mayo*, 103 Fla. 552, 139 So. 121 (1931); prohibit interference with authorized citrus fruit inspectors and provide penalties for violations, *Johnson v. State*, 99 Fla. 1311, 128 So. 853 (1930); require quarantine of citrus fruit trees suspected of carrying disease, *Flake v. State Dep't of Agriculture*, 383 So. 2d 285 (Fla. 5th DCA 1980); require a declaration of state origin on state grown grapefruit products, *Florida Canners Ass'n v. State Dep't of Citrus*, 371 So. 2d 503 (Fla. 2d DCA 1979), *aff'd sub nom. Coca-Cola Co. v. State Dep't of Citrus*, 406 So. 2d 1079 (Fla. 1981); require citrus dealers to keep and have available for inspection certain records, *Conner v. Alderman*, 159 So. 2d 890 (Fla. 2d DCA 1964).

4. FLA. STAT. § 601.02(1) (1979).

5. *Florida Canners Ass'n v. State Dep't of Citrus*, 371 So. 2d 503, 513 (Fla. 1979), *aff'd sub nom. Coca-Cola Co. v. State Dep't of Citrus*, 406 So. 2d 1079 (Fla. 1981). The police power doctrine under the Florida Constitution is very similar to the doctrine of substantive due process under the federal Constitution. *Id.* See *Patch Enterprises, Inc. v. McCall*, 447 F. Supp. 1075 (M.D. Fla. 1978).

6. *Mayo v. Polk Co.*, 124 Fla. 534, 542, 169 So. 41, 44, *appeal dismissed*, 299 U.S. 507 (1936).

constitutional guarantee of due process consequently will not interfere with the regular and lawful exercise of that power.⁷ This premise must be tempered, however, by the restriction that police power "cannot properly be exercised beyond such reasonable interferences with the liberty of action of individuals as are really necessary to preserve and protect the public health and welfare."⁸

Because lawmakers may unjustifiably invoke supposed protection of public welfare to excuse arbitrary deprivations of life, liberty and property,⁹ the province of the judiciary is to insure individual litigants the just protection of constitutional law.¹⁰ This Comment will discuss three general constitutional grounds for challenges to state regulation of the citrus industry. First, a litigant may challenge state action as an impermissible interference with individual liberty.¹¹ Second, because legislative power may be delegated only with express constitutional authorization,¹² a claimant may challenge a state action as an invalid delegation of legislative power to make law.¹³ Third, an individual may claim the regulation places an impermissible restraint on interstate commerce.¹⁴

INDIVIDUAL LIBERTY AND PUBLIC WELFARE

Provisions insuring that the state's inherent power will be exercised in a manner that does not unduly impair citizens' basic rights are a common characteristic of state constitutions.¹⁵ Such protections often are cumulative with and occasionally exceeded by individual rights guarantees of the

7. *Id.* The Supreme Court has said that the police power includes not only legislation but "almost every function of civil government." One of the least limitable of government powers, it is "coextensive with the necessities of the case and the safeguards of public interest." *Sligh v. Kirkwood*, 237 U.S. 52, 59 (1914).

8. *Florida Citrus Comm'n v. Golden Gift, Inc.*, 91 So. 2d 657, 660 (Fla. 1956).

9. *L. Maxcy, Inc. v. Mayo*, 103 Fla. 552, 570, 139 So. 121, 129 (1931).

10. *Id.* at 576, 139 So. at 131. The court warned against use of the police power to set up "a species of government paternalism over business and industry, in which the constitutional rights of the individual to possess and enjoy that which is his own, may be unlawfully submerged." *Id.*

11. See text at notes 15-51 *infra*.

12. *Kilgore Groves, Inc. v. Mayo*, 139 Fla. 874, 894, 191 So. 498, 506 (1939).

13. See text at notes 52-78 *infra*.

14. See text at notes 79-101 *infra*.

15. See, e.g., CAL. CONST. art. I (1879), FLA. CONST. art. I (1968), ILL. CONST. art. I (1970), N.J. CONST. art. I (1947), OHIO CONST. art. I (1851), PA. CONST. art. I (1874), TEX. CONST. art. I (1876), VA. CONST. art. I (1971), WASH. CONST. art. I (1889), WIS. CONST. art. I (1848).

United States Constitution.¹⁶ The United States Supreme Court has said that compelling a person to hold life, property, business or means of living at the will of another is an intolerable notion in a country where freedom prevails.¹⁷ The Court also has recognized that a legislature possesses great power to promote the general welfare of a state.¹⁸ Historically, courts have granted a high degree of deference to legislative and administrative judgment regarding regulation of citrus production and distribution in Florida.¹⁹ Nevertheless, constitutional limitations on government interference with individual rights²⁰ can restrict imposition of the state's power in particular situations.²¹

16. U.S. CONST. amends. I to X, as selectively applied to states via amend. XIV.

17. *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886).

18. *Powell v. Pennsylvania*, 127 U.S. 678, 685 (1888).

19. *Sligh v. Kirkwood*, 237 U.S. 52, 61 (1915) (competent for legislature to find that protecting reputation of Florida citrus essential to success of citrus industry); *Polk Co. v. Glover*, 22 F. Supp. 575, 577 (S.D. Fla.) (citrus labeling law upheld; legislature is judge of necessity of such enactment) *rev'd on other grounds*, 305 U.S. 5 (1938); *Snively Groves, Inc. v. Florida Citrus Comm'n*, 23 F. Supp. 600, 603 (N.D. Fla. 1938) (regulation fixing standard containers for citrus fruit upheld, noting Citrus Commission's "careful and exhaustive study and research as to the advisability and the wisdom of" the regulation); *State Dep't of Citrus v. Griffin*, 239 So. 2d 577, 581 (Fla. 1970) (assessment on boxes of oranges placed in primary channels of trade to subsidize development of new markets for surplus orange products not objectionable; "Constitution does not deny to the Legislature necessary . . . flexibility"); *C.V. Floyd Fruit Co. v. Florida Citrus Comm'n*, 128 Fla. 565, 578, 175 So. 248, 253 (1937) (citrus advertising tax upheld; legislature may determine "what is necessary for the protection and expedient for the promotion of [citrus] industry"); *L. Maxcy, Inc. v. Mayo*, 103 Fla. 552, 569, 139 So. 121, 128 (1931) ("Legislature necessarily has a wide field of police power within which to pass laws to foster, promote, and protect the citrus fruit industry"); *Johnson v. State*, 99 Fla. 1311, 1319, 128 So. 853, 857 (1930) (proper for legislature to delegate power to determine facts on which law's action depends; citrus fruit inspectors have discretion to determine if fruit meets standards set by legislature).

20. FLA. CONST. art. I, § 2 (all persons are equal before the law and have right to liberty, to be rewarded for industry, and to possess and protect property); U.S. CONST. amends. V, XIV, FLA. CONST. art. I, § 9, (no persons shall be deprived of life, liberty or property without due process of law); FLA. CONST. art. I, § 10 (no laws shall be passed impairing obligations of contracts); U.S. CONST. amend. I, FLA. CONST. art. I, § 4, (freedom of speech shall not be restrained); FLA. CONST. art. X, § 6 (no private property shall be taken except for a public purpose and then only with full compensation).

21. *See, e.g., State Plant Board v. Smith*, 110 So. 2d 401 (Fla. 1959) (statute invalid insofar as it could be interpreted as authorizing summary destruction of citrus trees without prior opportunity for grove owner to be heard); *Estero River Groves, Inc. v. Conner*, 269 So. 2d 430 (Fla. 2d DCA 1972) (administrative regulation prohibiting sale of oranges smaller than a specific size unconstitutional because the rule was arbitrary, unreasonable and capricious as applied to growers who did not ship under-size fruit but sold such fruit directly to consumers at roadside stands), *cert. denied*, 284 So.2d 698 (Fla. 1973); *Florida Citrus Comm'n v. Owens*, 239 So. 2d 840 (Fla. 4th

Like other legislative enactments under the police power, regulations promulgated for the protection of the citrus industry are presumptively valid.²² But a regulation may not interfere with individual liberty unless the regulation is reasonably necessary to preserve public health and welfare.²³ If a regulation that impairs individual liberty does not bear some reasonable relationship to protection of public safety, health, morals and general welfare, it will be unconstitutional.²⁴ The legislature may create classes for purposes of police regulation if there is a reasonable basis for the classification and if all those similarly situated are treated alike.²⁵ However, a regulation that affects a particular class in an arbitrary, capricious, or unreasonable manner is unconstitutional.²⁶ The importance of the citrus industry to Florida's economy notwithstanding, courts weigh the reasonableness of citrus regulation against infringement on protected basic rights to determine the constitutional validity of a particular police power action.²⁷

In an important early case, orange growers challenged the constitutionality of a statute that made the use of arsenic spray on bearing fruit trees a criminal offense.²⁸ The growers maintained that proper use of arsenic spray to protect trees from insects was legitimate and harmless under ordinary conditions.²⁹ Therefore, the growers contended, the arsenic ban violated both the federal and state constitutions by interfering with their fundamental property right to protect the citrus trees they owned.³⁰ The court noted the apparent legislative

DCA 1970) (Citrus Commission regulation prohibiting grower from continuing to label fruit "Indian River" unreasonably arbitrary as applied to plaintiff), *cert. denied*, 242 So. 2d 873 (Fla. 1971); Florida Citrus Comm'n v. Hi-Acres Concentrate, Inc., 227 So. 2d 707 (Fla. 4th DCA 1969) (regulation requiring easy-open feature on cans of frozen orange juice unconstitutional) *cert. denied*, 241 So. 2d 859 (Fla. 1970).

22. Florida Citrus Comm'n v. Golden Gift, Inc., 91 So. 2d 657, 660 (Fla. 1956) (citing *Varholy v. Sweat*, 153 Fla. 571, 15 So. 2d 267 (1943)).

23. Florida Citrus Comm'n v. Hi-Acres Concentrate, Inc., 227 So. 2d 707, 708 (Fla. 4th DCA 1969), *cert. denied*, 241 So. 2d 859 (Fla. 1970). *But see* Coca-Cola Co. v. State Dep't of Citrus, 406 So. 2d 1079, 1085 (Fla. 1981) (*High-Acres* overruled to extent it holds economic considerations improper basis for exercise of police power).

24. *Stadnick v. Shell's City, Inc.*, 140 So. 2d 871, 874 (Fla. 1962).

25. *Mayo v. Polk Co.*, 124 Fla. 534, 541, 169 So. 41, 44, *appeal dismissed*, 299 U.S. 507 (1936).

26. *Estero River Groves, Inc. v. Conner*, 269, So. 2d 430, 431 (Fla. 2d DCA 1972).

27. *See* note 19 *supra*.

28. *L. Maxcy, Inc. v. Mayo*, 103 Fla. 552, 139 So. 121 (1931).

29. The growers conceded that regulation of arsenic spray was a proper legislative concern but argued that prohibiting all use of arsenic, however small, was arbitrary and unreasonable. *Id.* at 566, 139 So. at 127.

30. *Id.* at 568, 139 So. at 128.

determination that attempting to regulate rather than ban arsenic spray would present such grave difficulties of enforcement as to outweigh the benefit sought to be derived. The court thus upheld the total arsenic ban even though limited use of arsenic, if properly supervised, would cause no harm.³¹ Four years later, the court upheld legislation that established licensing and bonding requirements for citrus fruit dealers.³² The court found the act both reasonable and in the public interest in view of the importance of the citrus industry.³³

Notwithstanding the industry's importance to the state, summary action on behalf of the citrus industry is constitutionally valid only when a compelling public interest justifies the action. The Florida Supreme Court has held that before the state may destroy any citrus trees to prevent danger of citrus disease spread, due process requires that grove owners be afforded an opportunity to be heard on the reasonableness and propriety of the contemplated action.³⁴ Although the state may, consistent with proper exercise of police power, order destruction of deleterious citrus trees, a statute that might be interpreted as permitting summary destruction without prior opportunity to be heard is invalid.³⁵

When a citrus regulation is unreasonably arbitrary as applied to a particular individual, the court will order injunctive relief. In a 1970 case,³⁶ the plaintiff had been marketing citrus fruit grown in Martin County and labeled "Indian River"³⁷ fruit for fifteen years before the action. The grower sought injunctive relief from an amendment to a Florida Citrus Commission regulation that changed the boundaries of the Indian River marketing area in a manner that would have prohibited Indian River labeling of fruit grown on the plaintiff's leased

31. *Id.* at 577, 139 So. at 131. See also *Kilgore v. Mayo*, 54 F.2d 143 (S.D. Fla. 1931); *Mayo v. Florida Grapefruit Growers' Protective Ass'n*, 112 Fla. 117, 151 So. 25 (1933); *Ex parte Kilgore*, 106 Fla. 723, 143 So. 610 (1932).

32. *Mayo v. Polk Co.*, 124 Fla. 534, 169 So. 41, *appeal dismissed*, 299 U.S. 507 (1936).

33. *Id.* at 541, 169 So. at 44.

34. *State Plant Bd. v. Smith*, 110 So. 2d 401 (Fla. 1959).

35. *Id.* at 408. Although diseased trees pose a serious potential threat to the general prosperity, summary destruction is not justified as a compelling public interest. *Id.* (citing *Yakus v. United States*, 321 U.S. 414 (1944)).

36. *Florida Citrus Comm'n v. Owens*, 239 So. 2d 840 (Fla. 4th DCA 1970), *cert. denied*, 242 So. 2d 873 (Fla. 1971).

37. "Indian River" is in effect a form of common trade name associated with The Indian River Citrus League, a non-profit, grower owned association whose 1650 members produce 90% of the citrus fruit grown in the Indian River citrus area. *Id.* at 842-43. Indian River citrus brings a premium price in the market. *Id.* at 841.

land. The court recognized the grower's valuable property right in the business previously established by use of the Indian River label and affirmed the trial judge's finding that the regulation had no reasonable basis as applied to the plaintiff.³⁸

A recent decision of the Florida Supreme Court upheld a rule that required the word "Florida" to appear on all retail containers of Florida grapefruit products packed in the state.³⁹ The court held that economic considerations are a proper basis for exercise of the police power⁴⁰ and that the labeling requirement was reasonable and valid.⁴¹ Citrus canners challenging the labeling requirement claimed that the regulation unconstitutionally deprived them of their right to pursue a lawful business. The court held, however, that the regulation bore a rational relationship to a legitimate state objective—increased sales of Florida citrus.⁴² Therefore, the court reasoned, the labeling requirement was a proper exercise of the police power notwithstanding any resulting infringement of otherwise protected basic rights.⁴³ The court also rejected the canners' argument that the labeling rule impermissibly abridged their free speech rights⁴⁴ by compelling them to

38. *Id.* at 848. *Cf.* *Carlton v. Florida Citrus Comm'n*, 356 So. 2d 1293 (Fla. 4th DCA 1978) (growers who sought to enjoin enforcement of regulation prohibiting them from use of Indian River label did not meet requirements for injunctive relief set out in *Owens*).

39. *Coca-Cola Co. v. State Dep't of Citrus*, 406 So. 2d 1079 (Fla. 1981).

40. Most cases upholding a police power based regulation of Florida's citrus industry have done so because the rule promoted health and safety by preventing fraud or deception. *Id.* at 1085. *E.g.*, *Snively Groves, Inc. v. Florida Citrus Comm'n*, 23 F. Supp. 600 (N.D. Fla. 1938); *Florida Citrus Comm'n v. Golden Gift, Inc.*, 91 So. 2d 657 (Fla. 1956); *L. Maxcy, Inc. v. Mayo*, 103 Fla. 552, 139 So. 121 (1931). Other cases hold that protecting the citrus industry promotes the general prosperity and is, therefore, a valid exercise of the police power. *E.g.*, *Sligh v. Kirkwood*, 237 U.S. 52 (1915); *C.V. Floyd Fruit Co. v. Florida Citrus Comm'n*, 128 Fla. 565, 175 So. 248 (1937); *Johnson v. State*, 99 Fla. 1311, 128 So. 853 (1930). *See also* *Horsemen's Benevolent & Protective Ass'n v. Division of Pari-Mutuel Wagering*, 397 So. 2d 692 (Fla. 1981) (promotion of racing and tourist industries in state benefits public generally by increasing state revenues and is constitutionally permissible objective under state police power).

41. 406 So.2d at 1086. *See* *Belk-James, Inc. v. Nazum*, 358 So. 2d 174 (Fla. 1978) (requirement that all taxable malt beverages sold in Florida have word "Florida" imprinted on lid bore rational relationship to legitimate state objective and did not violate due process).

42. 406 So. 2d at 1082, 1085. Further, the goal could not reasonably be attained with less infringement than the rule imposed. *Id.* at 1082.

43. *Id.* at 1084-1085 (citing *Stadnick v. Shell's City, Inc.*, 140 So. 2d 871 (Fla. 1962)).

44. U.S. CONST. amend. I (applied to states via amend. XIV, *Gitlow v. New York*, 268 U.S. 652 (1925) FLA. CONST. art. I, § 4; *see also* *Stephens v. Stickel*, 146 Fla. 104,

become messengers of the state.⁴⁵ To suggest that state of origin labeling forced canners to adopt the content and theme of Florida's citrus advertising campaign⁴⁶ would be, in the court's view, to exaggerate the rule's effect. The labeling rule merely required canners to indicate that the product came from Florida so that consumers who wanted Florida grapefruit could identify and choose the Florida products.⁴⁷ The court held that the labeling requirement was a necessary and proper police power regulation and, therefore, the rule did not improperly invade first amendment rights.⁴⁸

Even where property or liberty rights are involved, a legislative determination that a particular regulation serves the public interest by promoting the Florida citrus industry carries a heavy presumption of validity.⁴⁹ Citrus regulations that impair personal freedom have been upheld where, in the court's judgment, the action reasonably enhances the general welfare.⁵⁰ Citrus-related police power actions have been invalidated, however, when the action arbitrarily or unreasonably interfered with individual liberty when weighed against the state interest served.⁵¹

DELEGATION OF THE POWER TO MAKE LAW

The legislature often has delegated its police power to administrative agencies charged with the duty to flesh out legislative acts by promulgating rules and regulations.⁵² The com-

200 So. 396 (1941).

45. See *Bigelow v. Virginia*, 421 U.S. 809 (1975) (commercial speech is constitutionally protected).

46. The Second District Court of Appeal had rejected as unsupported by the evidence petitioners' assertion that images associated with Florida's citrus advertising campaign were "ideologically sensitive." *Florida Canners Ass'n v. State Dep't of Citrus*, 371 So. 2d 503, 518 (Fla. 2d DCA 1979), *aff'd sub nom. Coca-Cola Co. v. State Dep't of Citrus*, 406 So. 2d 1079 (Fla. 1981).

47. 406 So. 2d at 1087. Stamping a container "Florida," the court said, is an expression of fact, similar to listing of ingredients. *Id.*

48. *Id.* at 1088.

49. See cases cited note 19 *supra*.

50. See note 40 *supra*.

51. See notes 23 & 26 *supra*. Cf. *Florida Citrus Comm'n v. Golden Gift, Inc.*, 91 So. 2d 657 (Fla. 1956) (regulation that denied processor right to add sugar to cartons of orange juice when all other citrus products except frozen concentrated orange juice could be sweetened was not so clearly arbitrary and discriminatory as to invade protected rights).

52. Authority to make rules and regulations to carry out an expressed legislative purpose, or for the complete operation and enforcement of a law within designated limitations, is not an exclusively legislative power. Such authority is administrative in its nature, and its use by administrative of-

plex and ever-changing conditions attending actions under the police power make it impractical for the legislature to prescribe directly all necessary rules and regulations.⁵³ Administrative agencies thus become ideal vehicles through which the legislature may exercise the state's police power. Such transfers of power have been upheld on the theory that the power to make rules is not exclusively legislative but essentially administrative and necessary to the complete administration of the law.⁵⁴ Problems have arisen, however, when the grant of power to the administrative agency can be construed as a delegation of the power to make the law, a power that necessarily involves direction as to what the law should be.⁵⁵

A common issue in the constitutional litigation concerning administrative agencies today is the validity of a delegation of the lawmaking power.⁵⁶ The fundamental principle that such legislative power may not be delegated to an administrative agency is more firmly embedded in Florida law than in the law of other jurisdictions.⁵⁷ Florida's constitution vests the legislative power of the state in the Florida legislature and thus prohibits delegation of lawmaking power to an administrative agency.⁵⁸ The Florida Supreme Court recently reiter-

ficers is essential to the complete exercise of the powers of all the departments.

Bailey v. Van Pelt, 78 Fla. 337, 350, 82 So. 789, 793 (1919) cited in Florida Canners Ass'n v. State Dep't of Citrus, 371 So. 2d 503, 512 (Fla. 2d DCA 1979), *aff'd sub nom.* Coca-Cola Co. v. State Dep't of Citrus, 406 So. 2d 1079 (Fla. 1981).

53. Hampton, Jr. & Co. v. United States, 276 U.S. 394, 407 (1928); State Dep't of Citrus v. Griffin, 239 So. 2d 577, 581 (Fla. 1970); *Ex parte* Lewis, 101 Fla. 624, 633, 135 So. 147, 151 (1931).

54. Richardson v. Baldwin, 124 Fla. 233, 235, 168 So. 255, 256 (1936).

55. Hampton, Jr. & Co. v. United States, 276 U.S. 394, 407 (1928); Jackson v. Marine Exploration Co., 583 F.2d 1336, 1348 (5th Cir. 1978); Conner v. Joe Hatton, Inc., 216 So. 209, 211 (Fla. 1968); *Ex parte* Lewis, 101 Fla. 624, 633, 135 So. 147, 151 (1931); Lewis v. Florida State Bd. of Health, 143 So. 2d 867, 875 (Fla. 1st DCA 1962).

56. State Dep't of Citrus v. Griffin, 239 So. 2d 577, 580 (Fla. 1970).

57. Florida Canners Ass'n v. State Dep't of Citrus, 371 So. 2d 503, 511 (Fla. 2d DCA 1979), *aff'd sub nom.* Coca-Cola Co. v. State Dep't of Citrus, 406 So. 2d 1079 (Fla. 1981); Department of Business Reg'n v. National Mfd. Housing Fed'n, Inc., 370 So. 2d 1132, 1135 (Fla. 1979); Askew v. Cross Key Waterways, 372 So. 2d 913, 925 (Fla. 1978).

58. FLA. CONST. art. II, § 3 (powers of state government divided into legislative, executive and judicial branches; no person belonging to one branch shall exercise any powers appertaining to the others), FLA. CONST. art. III, § I (legislative power vested in legislature). These two sections operate to prevent the delegation of legislative power in Florida. Florida has specifically rejected the modern trend in administrative law, which is to relax the doctrine of unlawful delegation of legislative power in favor of an analysis which focuses upon the existence of procedural safeguards in the administrative process as opposed to standards enunciated by the legislature. Askew v.

ated its position that

until the provisions of Article II, Section 3 of the Florida Constitution are altered by the people we deem the doctrine of nondelegation of legislative power to be viable in this State. Under this doctrine fundamental and primary policy decisions shall be made by members of the legislature who are elected to perform those tasks, and administration of legislative programs must be pursuant to some minimal standards and guidelines ascertainable by reference to the enactment establishing the program.⁵⁹

This "nondelegation doctrine" has been repeatedly upheld in Florida courts.⁶⁰ Justice Whitfield's definition of the doctrine⁶¹ in a seminal nondelegation case has been frequently cited:

The legislature may not delegate the power to enact a law or to declare what the law shall be, or to exercise an unrestricted discretion in applying a law; but it may enact a law, complete in itself, designed to accomplish a general public purpose, and may expressly authorize designated officials within definite valid limitations to provide rules and regulations for the complete operation and enforcement of the law within its expressed general purpose.⁶²

Cross Key Waterways, 372 So. 2d 913, 924 (Fla. 1978). See K. DAVIS, *ADMINISTRATIVE LAW OF THE SEVENTIES* (1976). With respect to Florida's position, Davis states: "If the Florida test were used, approximately one hundred percent of federal legislation conferring rulemaking authority on federal agencies would be unconstitutional." *Id.* § 2.04, at 33.

59. *Askew v. Cross Key Waterways*, 372 So. 2d 913, 925 (Fla. 1978).

60. *Florida Canners Ass'n v. State Dep't of Citrus*, 371 So. 2d 503, 512 (Fla. 2d DCA 1979), *aff'd sub nom. Coca-Cola Co. v. State Dep't of Citrus*, 406 So. 2d 1079 (Fla. 1981); *D'Alemberte v. Anderson*, 349 So. 2d 164, 169 (Fla. 1977); *State Dep't of Citrus v. Griffin*, 239 So. 2d 577, 580 (Fla. 1970); *Conner v. Joe Hatton, Inc.*, 216 So. 2d 209, 211 (Fla. 1968); *Husband v. Cassel*, 103 So. 2d 69, 71-72 (Fla. 1961); *Sylvester v. Tindall*, 154 Fla. 663, 677, 18 So. 2d 892, 895 (1944); *Mayo v. Texas Co.*, 137 Fla. 218, 223-24, 188 So. 206, 208 (1939); *Robbins v. Webb's Cut Rate Drug Co.*, 153 Fla. 822, 824, 16 So. 2d 121, 122 (1938); *Hollywood Jockey Club v. Stein*, 133 Fla. 530, 548, 182 So. 863, 870 (1938); *Richardson v. Baldwin*, 124 Fla. 233, 235, 168 So. 255, 256 (1936); *Pridgen v. Sweat*, 125 Fla. 598, 604, 170 So. 653, 655 (1936); *Spencer v. Hunt*, 109 Fla. 248, 258-59, 147 So. 282, 286 (1933); *Ex parte Lewis*, 101 Fla. 624, 631, 135 So. 147, 151 (1931); *State v. Fowler*, 94 Fla. 752, 758-59, 114 So. 435, 437 (1927); *Bailey v. Van Pelt*, 78 Fla. 337, 350, 82 So. 789, 793 (1919); *State v. Duval County*, 76 Fla. 180, 193, 79 So. 692, 696-97 (1918); *Lewis v. Florida State Bd. of Health*, 143 So. 2d 867, 875 (Fla. 1st DCA 1962). See also *Snively Groves, Inc. v. Florida Citrus Comm'n*, 23 F. Supp. 600, 604 (N.D. Fla. 1938).

61. *E.g.*, Note, *Florida's Adherence to the Doctrine of Nondelegation of Legislative Power*, 7 FLA. ST. L. REV. 541 (1979).

62. *State v. Atlantic Coast Line Ry.*, 56 Fla. 617, 636-37, 47 So. 969, 976 (1908).

The Florida Supreme Court's latest rulings on the constitutionality of delegations to the Florida Citrus Commission⁶³ illustrate that this test must be tempered by due consideration for the practical problem sought to be remedied or the policy sought to be effected.⁶⁴ In 1970, the Orange Stabilization Act was challenged as an unconstitutional delegation to the Citrus Commission.⁶⁵ The act empowered the Florida Citrus Commission to use marketing orders to ensure orderly citrus marketing techniques and to subsidize the development and expansion of citrus packaging and distribution. These activities were to be financed by assessments levied upon boxes of citrus placed in the primary channels of trade. Upholding the act as constitutional, the court concluded that "the Orange Stabilization Act is such that only a general scheme of policy can with advantage be laid down by the legislature."⁶⁶

More recently, citrus canners claimed the legislature had unconstitutionally delegated to the Florida Citrus Commission the power to adopt a rule requiring a declaration of state origin on Florida grapefruit products packed in retail containers in the state.⁶⁷ The Second District Court of Appeal stated that the mere granting of authority to the State Department of Citrus to make rules and regulations does not alone consti-

63. See notes 65 & 67 *infra*.

64. *Clark v. State*, 395 So. 2d 525, 528 (Fla. 1981); *Askew v. Cross Key Waterways*, 372 So. 2d 913, 918 (Fla. 1979); *State Dep't of Citrus v. Griffin*, 239 So. 2d 577, 580 (Fla. 1970). See also *Albrecht v. Department of Environmental Regulation*, 353 So. 2d 883, 886 (Fla. 1st DCA 1977). "Not infrequently, the delegation issue will turn on, or at least appear to turn on, the extent of the guidelines the legislature could reasonably be expected under the circumstances to impose rather than the actual extent of the agencies rule making power." T. MARKS, *STATE GOVERNMENTAL POWER AND THE FLORIDA CONSTITUTION* II-35-36 (3d ed. 1981).

65. *State Dep't of Citrus v. Griffin*, 239 So. 2d 577 (Fla. 1970).

66. *Id.* at 581. See also *Hampton, Jr. & Co. v. United States*, 276 U.S. 394, 407 (1928) (Congress may deem itself unable to determine when exercise of legislative power should begin and may leave determination of such time to an official), cited in *Ex parte Lewis*, 101 Fla. 624, 633, 135 So. 147, 151 (1931); *Jackson v. Marine Exploration Co.*, 583 F.2d 1336, 1348 (5th Cir. 1978) (intelligible principle for guidance of administrative official all that is needed to sustain such delegation); *Arnold v. State*, 140 Fla. 610, 612, 190 So. 543, 544 (1939) (rules shown to conform to general purpose of act do not violate separation of powers provision of constitution); *State v. Atlantic Coast Line Ry.*, 56 Fla. 617, 622, 47 So. 969, 971 (1908) (while direct exercise of police power by legislature "is in accordance with immemorial government usage," subject matter may be such that only general scheme can be laid down by legislature and working out in detail the indicated policy may be left to discretion of other officials).

67. *Florida Canners Ass'n v. State Dep't of Citrus*, 371 So. 2d 503 (Fla. 2d DCA 1979), *aff'd sub nom. Coca-Cola Co. v. State Dep't of Citrus*, 406 So. 2d 1079 (Fla. 1981).

tute an unlawful delegation of legislative power.⁶⁸ Rather, the test of validity is whether the act defines a pattern to which the rule or regulation must conform.⁶⁹ The pattern in this case was the expressed legislative intent that the Florida Citrus Commission plan and promulgate an advertising campaign with the power to enact any rule proper and necessary to advertise Florida citrus fruit. The court found that the Florida origin designation on grapefruit was indispensable to this end. Otherwise the advertising campaign would promote not only Florida citrus but the citrus of other areas as well.

A challenge to the Citrus Commission's plenary authority to regulate the grading and labeling of fruit brought court recognition of the need for flexibility.⁷⁰ The court deemed the Commission's powers necessary to carry out the legislative intent to regulate the industry for its own sake.⁷¹ However, the court held invalid a Florida Citrus Commission rule that would fix Florida citrus standards according to rules promulgated in the future by the United States Department of Agriculture.⁷² The Florida Supreme Court viewed this rule as an improper attempt to delegate a delegated power. Such a rule would result in the abrogation of Citrus Commission control over standards—control that the legislature intended it to have.⁷³

Although flexibility may be required in certain contexts, the Florida Supreme Court has emphasized that this does not denote a double standard. Even where a general approach would be more practical than a detailed scheme of legislation, enactments may not be drafted in terms so general that administrators are left without standards to guide their official acts.⁷⁴ Consequently, Florida courts reviewing agency action have held unconstitutional statutes that were couched in vague and uncertain terms⁷⁵ or that were too broad in scope

68. *Id.* at 512.

69. *Id.* at 513; *Hutchins v. Mayo*, 143 Fla. 707, 711, 197 So. 495, 496, (1940); *Arnold v. State*, 140 Fla. 610, 612, 190 So. 543, 544 (1939).

70. *Hutchins v. Mayo*, 143 Fla. 707, 197 So. 495 (1940).

71. *Id.* at 711, 197 So. at 497.

72. *Id.* at 714, 197 So. at 498.

73. *Id.*

74. *State Dep't of Citrus v. Griffin*, 239 So. 2d 577, 581 (Fla. 1970).

75. *D'Alemberte v. Anderson*, 349 So. 2d 164 (Fla. 1977) (statute that prohibited public officials from accepting gifts "would cause a reasonably prudent person to be influenced in the discharge of his official duties" unconstitutional); *Sarasota County v. Barg*, 302 So. 2d 737 (Fla. 1974) (statute unconstitutional to extent it prohibited "unreasonable" destruction of vegetation and "undue" or "unreasonable" dredging,

and lacking guidelines⁷⁶ by which the court could determine whether the agency had acted within its legislative mandate.⁷⁷

filling or disturbance of submerged bottoms); *Phillips Petroleum Co. v. Anderson*, 74 So. 2d 544 (Fla. 1954) (statute that provided "no operation should be carried on if injurious to the operating personnel of the business or to other properties" unconstitutionally vague); *State ex rel. Davis v. Fowler*, 94 Fla. 752, 114 So. 435 (Fla. 1927) (statute too vague to become vehicle to establish, adopt, promulgate and put into effect a code governing installation of plumbing, house drainage and sewage disposal).

76. *Department of Business Reg'n v. National Mfd. Housing Fed'n, Inc.*, 370 So. 2d 1132 (Fla. 1979) (statute regulating rental charges in mobile home parks unconstitutional because State Mobile Home Tenant-Landlord Commission given legislative task of striking balance between mobile home park owner and mobile home park tenant without any meaningful guidance); *State v. Cumming*, 365 So. 2d 153 (Fla. 1978) (statute that permitted Florida Game and Fresh Water Fish Commission to issue permits for possession of wildlife unconstitutionally vague and overbroad); *Harrington & Co. v. Tampa Port Auth.*, 358 So. 2d 168 (Fla. 1978) (statute that allowed Port Authority to issue such number of licenses as it deemed necessary found unconstitutional due to lack of guidelines); *High Ridge Management Corp. v. State*, 354 So. 2d 377 (Fla. 1977) (statute that empowered agency of state to rate nursing homes without providing guidelines by which they should be rated unconstitutional); *Lewis v. Bank of Pasco County*, 346 So. 2d 53 (Fla. 1976) (statute that authorized publication of confidential bank records unconstitutional because couched in vague and uncertain terms and overbroad in scope); *Dickinson v. State*, 227 So. 2d 36 (Fla. 1969) (statute that authorized comptroller to determine the need for cemeteries without adequate guidelines unconstitutional); *Mahon v. County of Sarasota*, 177 So. 2d 665 (Fla. 1965) (statute authorizing destruction of fire hazards found unconstitutional as vague, indefinite, uncertain, arbitrary and subject to capricious whim); *Delta Truck Brokers, Inc. v. King*, 142 So. 2d 273 (Fla. 1962) (statute authorizing Florida Railroad and Public Utilities Commission to impose restrictions on the transferring of licenses "where the public interest may be best served thereby" held unconstitutional for lack of adequate guidelines); *Husband v. Cassel*, 130 So. 2d 69 (Fla. 1961) (statute authorizing board to determine qualification of psychologist applicants held unconstitutional as it failed to fix standards); *Barrow v. Holland*, 125 So. 2d 749 (Fla. 1960) (statute authorizing Game and Fresh Water Fish Commission to issue permits to possess wildlife found unconstitutional as there were no specific requirements or standards); *City of West Palm Beach v. State ex rel. Duffey*, 158 Fla. 863, 30 So. 2d 491 (1947) (zoning ordinance that required every newly completed building in subdivision to resemble older buildings held unconstitutional as lacking adequate guidelines); *Robbins v. Webb's Cut Rate Drug Co.*, 153 Fla. 822, 16 So. 2d 121 (1943) (statute authorizing Barbers' Sanitary Commission to prevent "unfair or unreasonable" economic practices among barbers held unconstitutional as lacking adequate guidelines); *Pridgen v. Sweat*, 125 Fla. 598, 170 So. 653 (1936) (statute authorizing Florida State Board of Dental Examiners to test applicants on any subject they deemed necessary held unconstitutional as it did not provide adequate guidelines); *Lewis v. Florida State Bd. of Health*, 143 So. 2d 867 (Fla. 1st DCA 1962) (statute authorizing Board of Health to solicit any information it desired on applications for pest control licenses found unconstitutional because of inadequate guidelines).

77. *Askew v. Cross Key Waterways*, 372 So. 2d 913 (Fla. 1978).

A corollary of the doctrine of unlawful delegation is the availability of judicial review. In the final analysis it is the courts, upon a challenge to the exercise or nonexercise of administrative action, which must determine whether the administrative agency has performed consistently with the mandate of the legislature. When legislation is so lacking in guidelines that neither the agency nor the courts can determine whether the agency is car-

"In other words, the legislative exercise of the police power should be so clearly defined, so limited in scope, that nothing is left to the unbridled discretion or whim of the administrative agency charged with the responsibility of enforcing the act."⁷⁸

In light of the citrus industry's great importance to the state of Florida, a delegation to the Citrus Commission must indeed be reckless before a Florida court will strike it down. The cases illustrate that almost any delegation to the Commission will be upheld as valid. As long as the legislature does not confer on the Commission powers broader in scope than those already granted, it is doubtful that any future delegational challenge will be successful.

COMMERCE CLAUSE LIMITATION ON STATE'S REGULATORY POWER

The commerce clause of the federal Constitution⁷⁹ preempts state exercise of police power that directly regulates or burdens interstate commerce.⁸⁰ If a state regulation is reasonably related to a proper purpose and does not conflict with federal law, however, the regulation will not be held unconstitutional, even though the state law may incidentally affect interstate commerce.⁸¹ To be valid, the state regulation must not discriminate against or unduly burden interstate commerce.⁸²

In *Sligh v. Kirkwood*, the United States Supreme Court upheld a Florida law that prohibited out of state shipment of immature oranges.⁸³ The Court found that the act was reasonably related to a legitimate state concern. The restriction pro-

rying out the intent of the legislature in its conduct, then, in fact, the agency becomes the lawgiver rather than the administrator of the law.

Id. at 918-19.

78. *Dickinson v. State*, 227 So. 2d 36, 37 (Fla. 1969); *Mahon v. County of Sarasota*, 177 So. 2d 665, 666 (Fla. 1965).

79. U.S. CONST. art. I, § 8, cl. 3 (delegating to Congress power "to regulate Commerce with foreign Nations, and among the several states, and with the Indian Tribes").

80. *Savage v. Jones*, 225 U.S. 501, 524 (1912).

81. *Id.* at 525. See also *United Enterprises, Inc. v. Dubey*, 42 F. Supp. 60, 61 (N.D. Fla. 1941), *aff'd*, 128 F.2d 843 (reasonable state measure adopted in interest of health and comfort of people does not run counter to federal power merely because the regulation incidentally involves commerce), *cert. denied*, 317 U.S. 669 (1942).

82. See notes 91 & 92 *infra*.

83. 237 U.S. 52 (1915) (subject area not preempted by federal prohibition of interstate shipment of produce unfit for human consumption due to spoilage).

moted the state's general prosperity by protecting the reputation of Florida oranges in foreign markets.⁸⁴ *Sligh* was decided just three years before *Hammer v. Dagenhart*, which held that Congress has no power to regulate matters of purely local concern.⁸⁵ The courts deciding *Sligh*, *Hammer*, and similar cases⁸⁶ relied on the tenth amendment to find that the states have all powers in regulation of commerce not delegated to Congress or prohibited by the Constitution.⁸⁷ In *United States v. Darby Lumber Company* the Supreme Court overruled *Hammer* and held that production of goods to be placed in the stream of trade affects interstate commerce, and therefore, may properly be subjected to federal regulation under the commerce power.⁸⁸

Following *Darby*, the Court found that as long as Congress has not acted, states may regulate local production and marketing even though commerce may be incidentally affected.⁸⁹ Nondiscriminatory state laws enacted to further the citizenry's health or welfare will be upheld unless the burden

84. *Id.* at 61. Following *Sligh*, two federal district courts in Florida upheld state laws affecting citrus production, finding no commerce clause impairment. In both cases the courts found that even though the citrus and citrus products were intended to be placed in interstate commerce, their production was a proper matter for local regulation. *Polk Co. v. Glover*, 22 F. Supp. 575 (S.D. Fla.), (processing of citrus products a proper matter for state regulation; interstate commerce does not begin until transportation to another state has commenced), *rev'd on other grounds*, 305 U.S. 5 (1938); *Snively Groves, Inc. v. Florida Citrus Comm'n*, 23 F. Supp. 600 (N.D. Fla. 1938) (state may impose container size standards for products packed for shipment out of state; container specifications affect product while in process of manufacturer and still within jurisdiction of state). See also *C.V. Floyd Co. v. Florida Citrus Comm'n*, 128 Fla. 565, 175 So. 248 (1937) (advertising excise tax on oranges did not burden interstate commerce; tax was payable on privilege of turning product into channels of trade and was not levied on product that had begun transportation to another state).

85. 247 U.S. 251 (1918) (struck down federal statute banning interstate shipment of goods made with child labor; local production of goods a matter for local regulation).

86. *E.g.*, *Carter v. Carter Coal Co.*, 298 U.S. 238 (1936) (Congress has no power to regulate production or manufacture of goods produced entirely in one state); *United States v. Butler*, 297 U.S. 1 (1936) (farm production not interstate commerce).

87. U.S. CONST. amend. X, § 1 (reserving to states all powers not delegated to Congress or prohibited by Constitution). See *Stockton v. Powell*, 29 Fla. 1, 10 So. 688 (1892) (where Congress has not acted to usurp power of state, commerce which is carried on exclusively within state is properly subject to exclusive control of state).

88. 312 U.S. 100, 113 (1941).

89. *Parker v. Brown*, 317 U.S. 431 (1943) (upheld state marketing program regulating sale of state grown raisins). See also *R.G. Industries, Inc. v. Askew*, 276 So. 2d 1, 2 (Fla. 1973) (proper application of state's police power is exception to exclusive power of Congress in regulation of interstate commerce if area not preempted by Congress).

imposed on interstate commerce is too great when weighed against the state interest served.⁹⁰ The state regulation may not, however, impose unreasonable burdens upon,⁹¹ nor discriminate against,⁹² interstate commerce.

In *Florida Cannery Association v. State Department of Citrus*, a Florida district court of appeal rejected grapefruit processors' commerce clause challenge to a Department of Citrus regulation requiring the word "Florida" to appear on all retail containers of grapefruit packed in the state.⁹³ The court found that the regulation served a legitimate state concern—advertising Florida citrus—that was not outweighed by a burden placed on interstate commerce.⁹⁴

Had the *Florida Cannery* claimants brought their action in federal court, the commerce clause argument might not have received the short shrift it was accorded by the Florida courts. Although it is well settled that promotion of Florida citrus is a legitimate state concern, federal courts presumably will strike down a state citrus regulation if the resulting burden on interstate commerce is found to outweigh the asserted state interest.⁹⁵ The *Florida Cannery* court ruled that the processors failed to articulate just how the labeling rule burdened interstate commerce.⁹⁶ One possible argument is that the rule causes added expense and inconvenience for proces-

90. *Southern Pacific Co. v. Arizona*, 325 U.S. 761 (1945) (where Congress has not acted, states may regulate local transactions even though they affect interstate commerce).

91. *Hunt v. Washington State Apple Advertising Comm'n*, 432 U.S. 333 (1977) (state could not prohibit import of apples graded according to state grading system; state interest—preventing deception—could be achieved with less impairment on free flow of commerce); *Pike v. Bruce Church*, 397 U.S. 137 (1970) (state may not prohibit local fruit growers from exporting their crops to another state for packaging; regulation imposes too great a burden on interstate commerce).

92. *Polar Ice Cream v. Andrews*, 375 U.S. 361 (1964) (state regulation requiring milk distributors to buy only local milk until supply of local milk exhausted held invalid).

93. 371 So. 2d 503, 516-17 (Fla. 2d DCA 1979) (relying on *Sligh v. Kirkwood*, 237 U.S. 52 (1915); distinguishing *Hunt v. Washington State Advertising Comm'n*, 432 U.S. 333 (1977) and *Pike v. Bruce Church*, 397 U.S. 137 (1970)), *aff'd sub nom.*, *Coca-Cola Co. v. State Dep't of Citrus*, 406 So. 2d 1079 (Fla. 1981).

94. 371 So. 2d at 517.

95. *Southern Pacific Co. v. Arizona*, 325 U.S. 761 (1945); *Trescott v. Conner*, 390 F. Supp. 765 (N.D. Fla. 1975) (state may not in exercising police power unjustifiably discriminate against or unduly burden interstate commerce). When a state is challenged as violating the commerce clause, a federal court may not merely assume the statute serves an asserted state interest, as it may when faced with an equal protection challenge to a state law. *BT Investment Managers, Inc. v. Lewis*, 461 F. Supp. 1187, 1196 n.10 (N.D. Fla. 1978), *aff'd in part, vacated in part*, 447 U.S. 27 (1980).

96. 371 So. 2d at 517.

sors who not only process Florida grapefruit in the state but also import fresh grapefruit from other states or from foreign countries for processing in their Florida plants. The labeling regulation presumably requires these processors to segregate and identify Florida citrus products canned in their facilities.⁹⁷ Just how great a burden on commerce is thus imposed, or whether the burden is justified by the state's interest in advertising its citrus, are questions for the courts. The rule may also effectively discriminate against out of state grapefruit by discouraging importation by Florida canners who process mainly Florida citrus and who may find separate processing economically unfeasible.⁹⁸

It is now a well-established constitutional doctrine that the federal commerce power is all-pervasive.⁹⁹ State citrus regulations that only indirectly affect commerce will be upheld as long as the regulations serve proper state objectives and do not discriminate against interstate commerce.¹⁰⁰ Free flow of commerce and promotion of the economy of the United States as a whole are favored constitutional concepts.¹⁰¹ Therefore, if a court is convinced that a Florida citrus regulation unduly burdens or discriminates against interstate commerce, the regulation will not withstand a commerce clause challenge.

CONCLUSION

Quite clearly, the Florida legislature will not hesitate to use its police power to guard a vital industry. Moreover, the Florida Supreme Court has held repeatedly that the legislature has wide discretion to use this power to foster growth of the citrus industry. Even though it may appear that Florida citrus regulation benefits only one sector of the state's population, Florida courts have consistently upheld this exercise of the police power on the theory that what is good for the Flor-

97. The rule applies only to grapefruit products packed in Florida and derived entirely from grapefruit grown in Florida. *Id.* at 506.

98. Although a statute may have no discriminatory purpose, its practical operation will be the subject of inquiry in determining whether the commerce clause is violated. *Lewis v. BT Investment Managers, Inc.*, 447 U.S. 27, 37 (1980).

99. *United States v. Darby Lumber Co.*, 312 U.S. 100 (1941) (rejecting view of tenth amendment as independent limitation on federal commerce power; local activity affecting interstate commerce properly subject to federal regulation).

100. *Florida Cannery*, 371 So. 2d at 516.

101. *Lewis v. BT Investment Managers, Inc.*, 447 U.S. 27, 36 (1980) (state legislation designed to promote local business by impairing interstate competition per se invalid).

ida citrus industry is good for the people of Florida. The broad scope of the power thus far declared constitutional suggests that we have not yet seen the limit to which the police power will be invoked in order to protect Florida's prized citrus industry.

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