

Lerner Stores Co., 314 U. S. 463, 468. Even if discriminatory legislation may be so arbitrary and injurious in character as to violate the due process clause of the Fifth Amendment, see *Steward Machine Co. v. Davis*, *supra*, 585; *Currin v. Wallace*, 306 U. S. 1, 13, no such case is presented here.

For reasons already indicated we think there is adequate basis for the distinction made by the statute between innocent purchasers of property which passes at the decedent's death and those of property which he conveyed in his lifetime in anticipation of death. As we have pointed out, the estate tax status of property passing at decedent's death is more readily ascertained than that of property which he has conveyed away in his lifetime and which so far as normal probate and tax proceedings are concerned would not appear to be related to his estate or taxable as a part of it. We do not find in such a classification any basis for saying that the discrimination in the statute is so arbitrary as to violate due process.

Affirmed.

MR. JUSTICE MURPHY took no part in the consideration or decision of this case.

MICHIGAN ET AL. *v.* UNITED STATES.

CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE SIXTH CIRCUIT.

No. 214. Argued December 9, 10, 1942.—Decided January 4, 1943

A federal tax lien on private real estate, securing a federal estate tax, takes precedence over later liens securing state taxes. P. 340.
127 F. 2d 64, affirmed.

CERTIORARI, *post*, p. 607, to review a judgment affirming a judgment of the District Court, 41 F. Supp. 41, enforcing a federal estate tax lien.

Mr. John H. Witherspoon, with whom *Messrs. Herbert J. Rushton*, Attorney General of Michigan, *Daniel J. O'Hara*, Assistant Attorney General, *James H. Lee*, *William E. Dowling*, and *Samuel Brezner* were on the brief, for petitioners.

Mr. J. Louis Monarch, with whom *Solicitor General Fahy*, *Assistant Attorney General Clark*, and *Messrs. Sewall Key*, *Alvin J. Rockwell*, and *Valentine Brookes* were on the brief, for the United States.

Messrs. Francis P. Burns and *Charles S. Rhyne* filed a brief on behalf of the National Institute of Municipal Law Officers, as *amicus curiae*, urging reversal.

MR. CHIEF JUSTICE STONE delivered the opinion of the Court.

This is a companion case to *Detroit Bank v. United States*, *ante*, p. 329. It involves the lien for estate taxes asserted by the Government and considered in our opinion in that case.

Petitioners, the City of Detroit, the County of Wayne, and the State of Michigan, assert liens for city, county and state taxes on the real estate in question, accruing subsequent to the federal estate tax lien. As defendants in the suit brought by the Government to foreclose the lien, they attack it on all the grounds considered and rejected in our opinion in the *Detroit Bank* case. They also contend that the state liens are given superiority over the federal lien by virtue of state statutes. Section 3429 of the Compiled Laws of Michigan, 1929, as amended by Act No. 38 of the Extra Session of 1934, declares that taxes "shall become a lien upon such real property" on specified dates following their assessment and, as construed by petitioners, states that they shall be a "first lien, prior, superior, and paramount." Section 3746 authorizes the filing of notice of liens as provided in R. S. § 3186, in the offices of registers

of deeds in the counties of Michigan. Petitioners contend that these and other statutory provisions as construed by Michigan courts give superiority to state tax liens over other unrecorded liens, including the present estate tax lien of the federal Government.

We do not stop to inquire whether this construction of the state statutes is the correct one, for we think the argument ignores the effect of a lien for federal taxes under the supremacy clause of the Constitution. The establishment of a tax lien by Congress is an exercise of its constitutional power "to lay and collect taxes." Article I, § 8 of the Constitution. *United States v. Snyder*, 149 U. S. 210. And laws of Congress enacted pursuant to the Constitution are by Article VI of the Constitution declared to be "the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

"It is of the very nature and essence of a lien, that no matter into whose hands the property goes, it passes *cum onere*." *Burton v. Smith*, 13 Pet. 464, 483; *Rankin v. Scott*, 12 Wheat. 177, 179; *Howard v. Railway Co.*, 101 U. S. 837, 845. Hence it is not debatable that a tax lien imposed by a law of Congress, as we have held the present lien is imposed, cannot, without the consent of Congress, be displaced by later liens imposed by authority of any state law or judicial decision. *United States v. Snyder*, *supra*; *United States v. Greenville*, 118 F. 2d 963. Similarly we held that the priority of payment commanded by R. S. § 3466 could not be set aside by state legislation. *United States v. Texas*, 314 U. S. 480, 486; *Spokane County v. United States*, 279 U. S. 80; *New York v. Maclay*, 288 U. S. 290; cf. *Missouri v. Ross*, 299 U. S. 72.

As the federal lien with which we are here concerned attached to private property prior to the acquisition of

any interest in that property by the state, we need not consider the extent to which Congress may give, or intended by § 315 (a) to give, priority to a federal lien over a previously perfected state lien. Compare *New York v. Maclay*, *supra*, 292; *Spokane County v. United States*, *supra*, 95; *United States v. Texas*, *supra*, 484-6.

Affirmed.

MR. JUSTICE MURPHY took no part in the consideration or decision of this case.

PARKER, DIRECTOR OF AGRICULTURE, ET AL. v.
BROWN.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES
FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

No. 46. Argued May 5, 1942 (No. 1040, 1941 Term). Reargued
October 12, 13, 1942.—Decided January 4, 1943.

1. A suit in a federal court to enjoin enforcement of a state agricultural proration program, in which the validity of the program is challenged as in conflict with federal antitrust laws, is a suit "arising under" a "law regulating commerce" and is maintainable without regard to the amount in controversy. 28 U. S. C. § 41 (1), (8). P. 349.
2. A majority of the Court are of opinion that this suit to enjoin enforcement of a marketing plan adopted under the California Agricultural Prorate Act is within the equity jurisdiction of the district court, since the complaint alleges and the evidence shows threatened irreparable injury to the complainant's business and threatened prosecutions by reason of his having marketed his crop under the protection of the district court's injunction. P. 349.
3. A prorate marketing program under the California Agricultural Prorate Act, adopted by the State for regulating the handling, disposition, and prices of raisins produced in California, a large part of which go into interstate and foreign commerce, *held* not within the intended scope of, and not a violation of, the Sherman Act. P. 350.