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Southeastern Express Co. Vs. Robertson

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Court : US Supreme Court

Decided On : Apr-21-1924

Appeal No. : 264 U.S. 541

Appellant : Southeastern Express Co.

Respondent : Robertson

Judgement :

Southeastern Express Co. v. Robertson - 264 U.S. 541 (1924)

U.S. Supreme Court Southeastern Express Co. v. Robertson, 264 U.S. 541 (1924)

Southeastern Express Co. v. Robertson

No. 216

Submitted April 7, 1924

Decided April 21, 1924

264 U.S. 541

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES

FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

SYLLABUS

Decided upon the authority of *Southeastern Express Co. v. Robertson, ante*, [264 U. S. 535](#) .

Affirmed.

Appeal from a decree of the District Court denying an interlocutory injunction in a suit to restrain the enforcement of a privilege tax. Mr. Miller, successor in office to Mr. Robertson, and Mr. Riley, successor in office to Mr. Miller as state auditor, were substituted in this Court.

Page 264 U. S. 542

MR. JUSTICE Mc KENNA delivered the opinion of the Court.

This case involves the consideration of the privilege tax passed upon in *Southeastern Express Co. v. Robertson, ante*, [264 U. S. 535](#) , just decided.

It is a suit in equity which seeks to have the tax decreed "illegal, void, and unenforceable." An interlocutory injunction was petitioned, and the district judge called to his assistance two other judges, in accordance with 266 of the Judicial Code, to hear the application. A preliminary restraining order was granted.

The application for injunction, coming on subsequently to be heard, was denied, and from the order and decree denying it this appeal was granted and is prosecuted.

The grounds of appeal and assignments of error are the same as in the other case, except as we shall notice, the difference being only in the nature of the suit and procedure -- in this case, a bill in equity to enjoin the enforcement of the second year's tax, in that, grounds of defense against the collection of the first year's tax, the facts being stipulated. In this, they are alleged in the bill of complaint.

In that case, all the grounds relied on in this case were decided adversely to the express company -- that is, the tax was adjudged to be legal, and the judgment was affirmed by the opinion just delivered, and on the authority of that decree, the decree in this case may be based.

It may be well to observe, to avoid misunderstanding, that, in the order and decree denying the interlocutory injunction, the statute of Mississippi was held constitutional against the charge of violation of the Fourteenth Amendment and also as being a charge against Article I, 8, clause 3, being the commerce clause, of the Constitution of the United States. The ruling in the latter respect is assailed and assigned as error in the record, but not in the argument, and we therefore do not discuss it. It will be observed, besides, that the tax imposed is on business done between stations in the state. Section 21, c. 104, Laws of 1920.

Affirmed.

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