

Davis Vs. Newton Coal Co.

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Court : US Supreme Court

Decided On : Mar-02-1925

Appeal No. : 267 U.S. 292

Appellant : Davis

Respondent : Newton Coal Co.

Judgement :

Davis v. Newton Coal Co. - 267 U.S. 292 (1925)

U.S. Supreme Court Davis v. Newton Coal Co., 267 U.S. 292 (1925)

Davis v. Newton Coal Company

Nos. 709 and 710

Argued January 12, 1925

Decided March 2, 1925

267 U.S. 292

ERROR TO THE SUPREME COURT

OF THE STATE OF PENNSYLVANIA

SYLLABUS

1. While coal which plaintiff had purchased through contracts with producers was in course of transportation over railroads then under federal control, it was commandeered by the Director General of

Page 267 U. S. 293

Railroads, acting under orders of the Fuel Administrator, for use in operating the railroads, and he paid the producer the price fixed by the Fuel Administrator, which were the same as the prices named in plaintiffs' contracts.

HELD

(a) That the plaintiff was entitled to be paid the difference between prices thus paid to its vendors and the market value, which was higher. P. [267 U. S. 301](#) .

(b) That, by 206(a) of Transportation Act, 1920, actions therefor could be maintained in the state court against the agent designated by the President under that Act. P. [267 U. S. 301](#) .

281 Pa.St. 74 affirmed.

Error to a judgment of the Supreme Court of Pennsylvania affirming recoveries from the Director General of Railroads, as agent under the Transportation Act, 1920, on account of coal seized and appropriated for operating railroads while under federal control.

Page 267 U. S. 298

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

These causes present the same points of law, and were heard together both here and below. No disputed question of fact remains. In 1919, defendant in error, a

Page 267 U. S. 299

Pennsylvania corporation doing business at Philadelphia, contracted with producers for large quantities of bituminous coal, f.o.b. the mines, subject to the regulations of the United States Fuel Administration. During January and February, 1920, while thirty-three cars of coal consigned to the corporation under these contracts were moving over the Philadelphia & Reading Railway, the Director General of Railroads took possession of them and used the fuel for operating trains on that line. Eighty cars loaded with the same character of coal and moving on the Pennsylvania Railroad were similarly treated. The claim is that the Director General took this action under lawful rules and orders of the President, acting through the Fuel Administrator and pursuant to the Lever Act, approved August 10, 1917, c. 53, 40 Stat. 276, 279, 284. The producers of the coal were paid the prices specified in the contracts of purchase, as required by the Fuel Administrator, and it is now maintained that nothing more can be demanded by the owner. The owner's claim is for the difference between the amount received by producers and the market value of the coal -- approximately \$1.44 per ton.

The Lever Act conferred upon the President certain powers to regulate the prices and distribution of fuel, to be exercised for the efficient prosecution of the war. August 23, 1917, he delegated these powers to a Fuel Administrator, who freely used them during the continuation of hostilities. Shortly after the armistice, substantially all such regulations were suspended and the Administrator ceased to function, but his appointment was not cancelled or revoked.

On October 30, 1919, the President undertook to restore former orders and to employ the Fuel Administrator, as occasion might arise, to change or make regulations relative to the sale, shipment, and apportionment of bituminous coal as the latter might think necessary. The next

Page 267 U. S. 300

day, the Administrator delegated to the Director General of Railroads the power to divert coal upon the railroads as might seem "necessary in the present emergency to provide for the requirements of the country." March 19, 1920, the President suspended all fuel regulations.

Seeking to recover the difference between the amounts paid to the shipper -- the purchase price -- and the market value of the coal, defendant in error commenced these proceedings (June, 1921), in a state court at Philadelphia, against the Agent appointed by the President under the Transportation Act 1920, c. 91, 41 Stat. 456, 461, 206a. Judgments went for it and were affirmed by the Supreme Court. *Newton Coal Co. v. Davis*, 281 Pa. 74. The latter court held that the war with Germany had ceased prior to October 30, 1919, and the purpose of the President's order then issued was to meet an emergency incident to the miners' strike, not to provide for the efficient prosecution of the war. Also that seizure and use of the coal by the Director General rendered the United States liable for just compensation, measured by market value. And further, that the Director General was not an innocent third person to whom property has been delivered by the sovereign for the public welfare, but an agency of the United States for operating the railroads, and, under the Transportation Act 1920, plaintiff in error might be sued upon claims arising therefrom.

Seeking to recover the difference between the amounts paid to the shipper -- the purchase price -- and the market value of the coal, defendant in error commenced these proceedings (June, 1921), in a state court at Philadelphia, against the Agent appointed by the President under the Transportation Act 1920, c. 91, 41 Stat. 456, 461, 206a. The plaintiff in error now insists that the order of October 30, 1919, and the regulations issued by the Fuel Administrator and the Director General of Railroads acting thereunder were authorized by the Lever Act. That, by diverting the coal to himself, the Director General incurred no obligation except to pay the amounts due the shippers under the sale contracts -- the compensation fixed by the orders. That the act of the Director General in diverting the coal to himself and its use on the railroads imposed no liability for which an action can be maintained

Page 267 U. S. 301

against the Agent provided for by the Transportation Act.

From the facts stated, it appears plainly enough that one hundred and thirteen cars of coal cars of coal belonging to defendant in error were seized by the United

States while upon the lines of carriers under their control, and thereafter appropriated and used in the operation of such roads. The taking was for a public use. The incantation pronounced at the time is not of controlling importance; our primary concern is with the accomplishment. As announced in *United States v. New River Collieries Co.*, [262 U. S. 341](#) , [262 U. S. 343](#) -344,

"where private property is taken for public use, and there is a market price prevailing at the time and place of the taking, that price is just compensation"

to which the owner is entitled. Also,

"the ascertainment of compensation is a judicial function, and no power exists in any other department of the government to declare what the compensation shall be or to prescribe any binding rule in that regard."

Transportation Act 1920, 206a:

"Actions at law, suits in equity and proceedings in admiralty, based on causes of action arising out of the possession, use, or operation by the President of the railroad or system of transportation of any carrier (under the provisions of the Federal Control Act, or of the Act of August 29, 1916) of such character as prior to federal control could have been brought against such carrier, may, after the termination of federal control, be brought against an agent designated by the President for such purpose, which agent shall be designated by the President within thirty days after the passage of this Act. Such actions, suits, or proceedings may, within the periods of limitation now prescribed by state or federal statutes, but not later than two years from the date of the passage of this Act, be brought in any court which but for federal control would have had jurisdiction of the cause of action had it arisen against such carrier."

If the Philadelphia & Reading Railway Company or the Pennsylvania Railroad Company, while operating its own line, had seized and used the coal as the United States did while they operated those roads, the jurisdiction of the state court of actions to recover damages or compensation would be clear. And so, under the Transportation Act, that court properly entertained the proceeding now before us.

Affirmed.

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