

Trinityfarm Construction Co. Vs. Grosjean

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Court : US Supreme Court

Decided On : Mar-05-1934

Appeal No. : 291 U.S. 466

Appellant : Trinityfarm Construction Co.

Respondent : Grosjean

Judgement :

Trinityfarm Construction Co. v. Grosjean - 291 U.S. 466 (1934)

U.S. Supreme Court Trinityfarm Construction Co. v. Grosjean, 291 U.S. 466 (1934)

Trinityfarm Construction Co. v. Grosjean

No. 355

Argued February 7, 1934

Decided March 5, 1934

291 U.S. 466

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES

FOR THE EASTERN DISTRICT OF LOUISIANA

SYLLABUS

Petitioner entered into a contract with the federal government for the construction of levees, in aid of navigation of the Mississippi River, in the performance of which gasoline was used to supply power for machinery. *Held* that a state excise tax on the gasoline so used was not invalid, as a tax on a means or instrumentality of the federal government, its effect, if any, upon that Government being consequential and remote. P. [291 U. S. 472](#) .

3 F.Supp. 785 affirmed.

Appeal from a decree of the District Court of three judges, which dismissed a bill to enjoin enforcement of state taxes.

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MR. JUSTICE BUTLER delivered the opinion of the Court.

Appellant has contracts with the United States for the construction of levees in Louisiana to control the waters of

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the Mississippi River. It consumes much gasoline in the operation of machinery employed to do the work. It imports its supply from other states in carload lots and places it in a central tank from which distribution is made to other tanks located on its right of way in proximity to the machines. Appellee, an officer of Louisiana, is required to enforce the provisions of its statutes that impose an excise of 5 cents per gallon in respect of gasoline so imported and used. [[Footnote 1](#)] The state supreme court has held that the exaction is an excise tax levied upon all gasoline or motor fuel sold, used, or consumed in the state (*State v. Tri-State Co.*, 173 La. 682, 138 So. 507), and we accept that characterization. Claiming that these enactments are repugnant to several clauses of the Federal Constitution, appellant brought this suit to enjoin the collection of the tax in respect of the gasoline so used by it. A three-judge court, having granted a temporary injunction, heard the

case on the merits, upheld the tax, and dismissed the bill. 3 F.Supp. 785.

The appellant seeks reversal on the ground that the contracts are federal means or instrumentalities, that the enactments referred to impose a direct burden upon them,

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and that the state was without power to impose the tax. And on that basis, it seeks to invoke the rule that, consistently with the federal Constitution, a state may not tax the operations of an instrument employed by the government of the Union to carry its powers into operation. That principle, while not expressly stated in the Constitution, necessarily arises out of our dual government. It has often been given effect. [[Footnote 2](#)] And, reciprocally, it safeguards every state against federal tax on its governmental agencies or operations. [[Footnote 3](#)] Its application does not depend upon the amount of the exaction, the weight of the burden, or the extent of the resulting interference with sovereign independence. Where it applies, the principle is an absolute one wholly unaffected by matters or distinctions of degree. *Indian Motorcycle Co. v. United States*, [283 U. S. 570](#) , [283 U. S. 575](#) , and cases cited. Its right application is essential to the orderly conduct of the national and the state governments and the attainment of justice as between them.

The power granted by the commerce clause is undoubtedly broad enough to include construction and maintenance of levees in aid of navigation of the Mississippi

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River and to authorize the performance of the work directly by government officers and employees or pursuant to contracts such as those awarded to appellant. The latter method was chosen, and the validity of the challenged tax is to be tested on that basis. It is not laid upon the choice of means, the making of the contracts, the contracts themselves, or any transaction to which the federal government is a party or in which it is immediately or directly concerned. Nor is the exaction laid or

dependent upon the amounts, gross or net, received by the contractor. The exaction in respect of its relation to the federal undertaking is wholly unlike those considered in *Choctaw, O. & G. R. Co. v. Harrison*, [235 U. S. 292](#) , *Indian Oil Co. v. Oklahoma*, [240 U. S. 522](#) , and *Gillespie v. Oklahoma*, [257 U. S. 501](#) . Appellant is an independent contractor. *Casement v. Brown*, [148 U. S. 615](#) , [148 U. S. 622](#) . It is not a government instrumentality. *Cf. Metcalf & Eddy v. Mitchell*, [269 U. S. 514](#) ; *Group No. 1 Oil Corp. v. Bass*, [283 U. S. 279](#) . Unquestionably, as appellant here concedes, Louisiana is free to tax the machinery, storage tanks, tools, etc., that are used for the performance of the contracts. These things are as closely connected with the work as is the gasoline in respect of which is laid the excise in question. There is no room for any distinction between the plant so employed and the gasoline used to generate power. If the payment of state taxes imposed on the property and operations of appellant affects the federal government at all, it at most gives rise to a burden which is consequential and remote, and not to one that is necessary, immediate, or direct. *Thomas v. Gay*, [169 U. S. 264](#) , [169 U. S. 275](#) ; *Metcalf & Eddy v. Mitchell*, *supra*, [269 U. S. 524](#) *et seq.*; *Wheeler Lumber Bridge & Supply Co. v. United States*, [281 U. S. 572](#) , [281 U. S. 579](#) . Appellant's claim of immunity is without foundation.

Affirmed.

MR. JUSTICE CARDOZO concurs in the result.

[[Footnote 1](#)]

Act No. 6, Extra. Session of 1928, as amended by Act No. 8 of 1930, Act No. 16 of 1932, levies a tax of 4 cents a gallon "on all gasoline, or motor fuel, sold, used or consumed in the Louisiana for domestic consumption." Section 1. The tax is collected from "dealers," who, as defined by 2 of the Act, include "the person . . . who imports such gasoline or motor fuel from any other State or foreign country for distribution, sale, or use in the Louisiana." And on

"all gasoline or motor fuel imported from other states and used by him, the 'dealer' . . . shall pay the tax on the amount so imported and used, the same as if it has [sic] been sold for domestic consumption."

Section 14 provides that the tax "shall not apply to sales to the United States Government or any agency or department thereof." Act No. 1,

Extraordinary Session of 1930, imposed an additional tax of 1 cent a gallon.

[[Footnote 2](#)]

M'Culloch v. Maryland, 4 Wheat. 316, [17 U. S. 400](#) , [17 U. S. 436](#) ; *Weston v. Charleston*, 2 Pet. 449, [27 U. S. 463](#) , [27 U. S. 466](#) et seq.; [41 U. S.](#) *Erie County*, 16 Pet. 435, [41 U. S. 443](#) , [41 U. S. 447](#) ; *Farmers' & Mechanics' Sav. Bank v. Minnesota*, [232 U. S. 516](#) , [232 U. S. 526](#) ; *Choctaw, O. & Gulf R. v. Harrison*, [235 U. S. 292](#) ; *Indian Territory Illuminating Oil Co. v. Oklahoma*, [240 U. S. 522](#) ; *Gillespie v. Oklahoma*, [257 U. S. 501](#) ; *Panhandle Oil Co. v. Knox*, [277 U. S. 218](#) . Cf. *Susquehanna Power Co. v. Tax Comm'n*, [283 U. S. 291](#) .

[[Footnote 3](#)]

Collector v. Day, 11 Wall. 113; *United States v. Baltimore & Ohio Railroad Co.*, 17 Wall. 322, [84 U. S. 327](#) ; *Pollock v. Farmers' Loan & Trust Co.*, [157 U. S. 429](#) , [157 U. S. 584](#) ; *South Carolina v. United States*, [199 U. S. 437](#) , [199 U. S. 452](#) , 461; *Indian Motorcycle Co. v. United States*, [283 U. S. 570](#) ; *Burnet v. Coronado Oil & Gas Co.*, [285 U. S. 393](#) . Cf. *Metcalf & Eddy v. Mitchell*, [269 U. S. 514](#) ; *Group No. 1 Oil Corp. v. Bass*, [283 U. S. 279](#) ; *Burnet v. A. T. Jergins Trust*, [288 U. S. 508](#) .