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Case Vs. Bowles

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Court : US Supreme Court

Decided On : Feb-04-1946

Appeal No. : 327 U.S. 92

Appellant : Case

Respondent : Bowles

Judgement :

Case v. Bowles - 327 U.S. 92 (1946)
U.S. Supreme Court Case v. Bowles, 327 U.S. 92 (1946)

Case v. Bowles

No. 261

Argued January 10, 1946

Decided February 4, 1946

327 U.S. 92

CERTIORARI TO THE CIRCUIT COURT OF APPEALS

FOR THE NINTH CIRCUIT

SYLLABUS

1. The Emergency Price Control Act applies to the sale by the Washington of timber growing on lands granted by Congress to the State "for the support of common schools," notwithstanding a provision in the Enabling Act providing that these lands shall "be disposed of only at public sale, and at a price not less than" $10 per acre and a provision of the state constitution that these lands shall not be sold except "at public auction to the highest bidder" at a price not less than the full market value found after appraisal or "the price prescribed in the grant" of these lands. P. 327 U. S. 98 .

2. The Emergency Price Control Act applies generally to sales of commodities by the States. P. 327 U. S. 98 .

(a) The definition in 302(h) making the Act applicable to the United States "or any other government, or any of its political subdivisions, or any agency of the foregoing," clearly is broad enough to include the States. P. 327 U. S. 98 .

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(b) It would frustrate the purposes of the Act for the courts to read exemptions into it which Congress did not see fit to put in the language, since excessive prices for rents or commodities charged by a State would produce exactly the same conditions as would be produced were these prices charged by others. P. 327 U. S. 99 .

3. A special exemption cannot be read into the Act in order to permit States holding land granted for school purposes to charge more than the ceiling price set for timber. P. 327 U. S. 100 .

While congressional grants of land to the States for school purposes transferred exclusive ownership and control over those lands to the States, no part of all the history concerning these grants indicates a purpose on the part of Congress to enter into a permanent agreement with the States under which they would be free

to use the lands in a manner which would conflict with valid legislation enacted by Congress in the national interest. P. 327 U. S. 100 .

4. As thus construed, the Act is constitutional. P. 327 U. S. 100 .

(a) While the State does have power to own and control the school lands here involved and to sell the lands or the timber growing on them, this power is subordinate to the power of Congress to fix maximum prices in order to carry on war. P. 327 U. S. 101 .

(b) To hold otherwise would impair the constitutional grant of power to make war, which was a prime purpose of the Federal Government's establishment. P. 327 U. S. 102 .

(c) The Tenth Amendment does not operate as a limitation upon the powers, express or implied, delegated to the National Government. P. 327 U. S. 102 .

5. Section 201(a) of the Emergency Price Control Act specifically empowers the Price Administrator to commence suits to enjoin violations of that Act and authorizes attorneys employed by him to represent him in such suits. Therefore, 28 U.S.C. 485, making it the duty of district attorneys to prosecute most civil actions to which the United States is a party, is not applicable to such proceedings. P. 327 U. S. 96 .

6. Where the complaint in a suit against a state officer to enjoin violations of the Emergency Price Control Act does not challenge the constitutionality of the state statute, but merely alleges that its enforcement would violate the Emergency Price Control Act, 266 of the Judicial Code does not require that the case be tried by a three-judge court. P. 327 U. S. 97 .

7. Neither Art. III, 2, cl. 2, of the Constitution, giving this Court original jurisdiction of all cases in which a State is a party, nor

233 of the Judicial Code, giving this Court exclusive jurisdiction to try cases between a State and the United States, prevents a district court from having jurisdiction to try suits to enjoin state officers from violating the Emergency Price Control Act. P. 327 U. S. 97 .

(a) Consistently with Art. III of the Constitution, Congress can give the district courts jurisdiction to try controversies between a State and the United States. P. 327 U. S. 97 .

(b) Section 205(c) of the Emergency Price Control Act specifically gives the district courts jurisdiction over all enforcement suits, and supersedes 233 of the Judicial Code to that extent. P. 327 U. S. 97 .

8. While the Emergency Price Control Act denies a defendant in an enforcement proceeding the right to challenge the validity of the regulation sought to be enforced (since exclusive initial jurisdiction to determine this question is vested in the Emergency Court of Appeals), it does not deny him the right to attack the Act itself on constitutional grounds. P. 327 U. S. 98 .

9. In reviewing a judgment in an enforcement proceeding, this Court ordinarily would not pass on the statutory authority of the Price Administrator to promulgate a regulation, since Congress has granted exclusive initial jurisdiction to determine that question to the Emergency Court of Appeals. P. 327 U. S. 98 .

10. It will do so, however, where the right of Congress to regulate certain prices is challenged on constitutional grounds, if it is not a device to attack the regulations indirectly. P. 327 U. S. 98 .

149 F.2d 777 affirmed.

After litigation instituted in a state court by the bidders for certain timber on school lands of the Washington had resulted in a holding by the state supreme court that the Emergency Price Control Act did not bar the sale of school land timber at a price above the ceiling fixed pursuant to that Act, *Soundview. Pulp Co. v. Taylor,* 21 Wash.2d 261, the Price Administrator instituted suit in a federal district court to

enjoin the State Commissioner of Public Lands and the successful bidder at a public auction from completing a sale of school land timber at a price above the ceiling fixed by Maximum Price Regulation No. 460, 8 Fed.Reg. 11850, as amended, 8 Fed.Reg. 13023. The district court denied the injunction and dismissed the complaint. The circuit court of

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appeals reversed. 149 F.2d 777. This Court granted certiorari. 326 U.S. 706. *Affirmed,* p. 327 U. S. 103 .

MR. JUSTICE BLACK delivered the opinion of the Court.

The Congressional Enabling Act providing for the Washington's admission to the Union granted certain lands to that State "for the support of common schools." Section 10, 25 Stat. 676, 679. Section 11 of the Enabling Act provided that these lands should "be disposed of only at public sale, and at a price not less than ten dollars per acre. . . ." The State Constitution, art. 16, 1, 2, provides that these lands shall not be sold except "at public auction to the highest bidder" at a price which may not be below both the full market value found after appraisal, and "the price prescribed in the grant" of these lands. In 1943, the State Commissioner of Public Lands held a public auction for the sale of timber on school lands. At that auction, the Soundview Pulp Company, one of the respondents, bid $86,335.39 for some of the timber. This amount exceeded by approximately $9,000.00 the ceiling price fixed by Maximum Price Regulation No. 460. [Footnote 1] The Price Administrator advised Soundview that consummation of the sale at the bid price would constitute a violation of the Regulation

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and of the Emergency Price Control Act. [Footnote 2] Thereafter, Soundview and the unsuccessful bidder, Coos Bay Pulp Corporation, commenced actions in the State Courts, seeking an adjudication as to the legality of Soundview's bid and of the proposed transfer of timber to Soundview. This resulted in a holding by the State Supreme Court that the Emergency Price Control Act did not bar the sale of

school land timber at prices above the ceiling. *Soundview Pulp Co. v. Taylor,* 21 Wash.2d 261, 150 P.2d 839. When, after this judgment was rendered, the parties were about to complete the sale, the Price Administrator commenced this action in the federal District Court to enjoin the State Commissioner of Public Lands and Soundview from completing the timber transaction at a price above the ceiling fixed by the Regulation. The District Court held that the Emergency Price Control Act did not grant the Price Administrator authority to set maximum prices for school land timber sold by the State. The Circuit Court of Appeals reversed. 149 F.2d 777. Because the Circuit Court's decision conflicted with that of the Supreme Court of Idaho in *Twin Falls County v. Hulbert,* 156 P.2d 319, we granted certiorari in both cases.

Before considering the principal questions raised by the State, we shall at the outset briefly dispose of certain procedural contentions. The State urges that the complaint should have been dismissed because it was signed by attorneys employed by the Price Administrator, and not by the District Attorney or members of the Department of Justice. True, 28 U.S.C. 485 makes it the duty of every district attorney to prosecute most civil actions to which the United States is a party. But this section does not prescribe the procedure under the Emergency Price Control Act, for that Act specifically empowers the Administrator to commence actions such as this one, and authorizes

attorneys employed by him to represent him in such actions. 201(a). The State contends further that this case should have been tried by a district court composed of three judges, because Section 266 of the Judicial Code requires such a proceeding whenever enforcement of a state statute is sought to be enjoined on the ground that the statute is unconstitutional. But here, the complaint did not challenge the constitutionality of the State statute, but alleged merely that its enforcement would violate the Emergency Price Control Act. Consequently a three-judge court is not required. *Ex parte Bransford,* 310 U. S. 354 , 310 U. S. 358 -359; *Query v. United States,* 316 U. S. 486 , 316 U. S. 488 -489. Another procedural point urged by the State is that, since this is in effect a controversy

between the United States and the Washington, the United States Supreme Court has exclusive jurisdiction under Article 3, Section 2, Clause 2, of the United States Constitution, and the District Court lacked power to try the case. But it is well settled that, despite Article 3, Congress can give the district courts jurisdiction to try controversies between a state and the United States. [Footnote 3] Congress has given the district court power to try cases such as this one. While Section 233 of the Judicial Code does give this Court exclusive jurisdiction to try cases between a state and the United States, section 205(c) of the Emergency Price Control Act specifically provides that the District Court shall have jurisdiction over all enforcement suits. To that extent, section 205(c) of the Price Control Act supersedes section 233 of the Judicial Code. *United States v. California,* 297 U. S. 175 , 297 U. S. 186 .

The State's principal contention is that sales by a state, such as the one here involved, are not and cannot be made subject to price control. Maximum Price Regulation No. 460, which the State's sale of timber allegedly violated,

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specifically provides that it is applicable to sales by states. The State makes the following contentions: (1) Insofar as the Regulation applies to state sales, it is unauthorized by the Emergency Price Control Act, since Congress did not intend that Act to apply to states. (2) Even if the Act was intended to apply to state sales, the Act should not be construed as authorizing the Price Administrator to fix a maximum price at which timber on school land grants can be sold by states. (3) If the Act is so construed, it violates the Fifth and Tenth Amendments to the Constitution.

We ordinarily would not pass on the statutory authority of the Administrator to promulgate the Regulation in a proceeding such as this one. For Congress has granted exclusive initial jurisdiction to determine this question to the Emergency Court of Appeals. *Lockerty v. Phillips,* 319 U. S. 182 . But, while the Act thus denies a defendant in an enforcement proceeding the right to challenge the validity of the Regulation, it does not deny him the right to attack the Emergency Price

Control Act itself on Constitutional grounds. *Yakus v. United States,* 321 U. S. 414 , 321 U. S. 430 . Of course, this right may not be utilized as a means of indirectly attacking the regulations themselves, instead of the statute. But here, petitioner's third contention that Congress lacks authority to regulate the prices of state school land timber extends beyond the implementing regulation and strikes at the Act itself. In order to reach this Constitutional question, we first have to decide whether the Act, properly interpreted, is applicable to sales by states, including sales of timber on school grant lands.

The Emergency Price Control Act grants to the Price Administrator broad powers to set maximum prices for commodities and rents, and makes it unlawful for "any person" to violate these maximum price regulations. Section 302(h) defines a "person" as including

"an individual,

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corporation, partnership, association, or any other organized group of persons, or legal successor or representative of any of the foregoing, and includes the United States or any agency thereof, or any other government, or any of its political subdivisions, or any agency of any of the foregoing."

This language on its face and given its ordinary meaning, would appear to be broad enough to include any person, natural or artificial, or any group or agency, public or private, which sells commodities [Footnote 4] or charges rents. The argument that the Act should not be construed so as to include a state within the enumerated list made subject to price regulation rests largely on the premise that Congress does not ordinarily attempt to regulate state activities, and that we should not infer such an intention in the absence of plain and unequivocal language. Petitioner presses this contention so far as to urge us to accept as a general principle that, unless Congress actually uses the word "state," courts should not construe regulatory enactments as applicable to the states. This Court has previously rejected similar arguments, [Footnote 5] and we cannot accept

such an argument now.

We think it too plain to call for extended discussion that Congress meant to include states and their political subdivisions when it expressly made the Act applicable to the United States "or any other government, or any of its political subdivisions, or any agency of any of the foregoing. . . ." Congress clearly intended to control all commodity prices and all rents, with certain specific exceptions which it declared. It would frustrate this purpose for

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courts to read exemptions into the Act which Congress did not see fit to put in the language. Excessive prices for rents or commodities charged by a state or its agencies would produce exactly the same conditions as would be produced were these prices charged by other persons. We therefore have no doubt that Congress intended the Act to apply generally to sales of commodities by states. [Footnote 6]

Nor can we accept the contention that a special exemption could be read into the Act in order to permit states holding land granted for school purposes to charge more than the ceiling price set for timber. In reaching this conclusion, we are not unaware of the difficulties which confronted the Commissioner of Public Lands of the Washington, nor of the importance of protecting the public interest in those school lands. Both the Act of Congress which granted the land to Washington and the Constitution of the State had provided for safeguards in connection with the disposition of school lands. We do not question the wisdom of these precautions. We are mindful also of the fact that this Court has declared that grants of land to the state, like those here involved, transferred exclusive ownership and control over those lands to the state. *Cooper v. Roberts,* 18 How. 173. No part of all the history concerning these grants, however, indicates a purpose on the part of Congress to enter into a permanent agreement with the states under which states would be free to use the lands in a manner which would conflict with valid legislation enacted by Congress in the national interest. Here again, the sale of school land timber at above-ceiling prices could be just as disturbing to the

national inflation control program as the charging of excess prices for timber located on any other lands.

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We now turn to petitioner's Constitutional contention. Though, as we have pointed out, petitioners have alleged that the Act applied to setting a maximum price for school land timber violates the Fifth and Tenth Amendments, the argument here seems to spring from implications of the Tenth Amendment only. The contention rests on the premise that there is a

"doctrine implied in the Federal Constitution that the two governments, national and state, are each to exercise its power so as not to interfere with the free and full exercise of the powers of the other."

It is not contended, and could not be under our prior decisions, that the ceiling price fixed by the Administrator is Constitutionally invalid as applied to privately owned timber. *Yakus v. United States,* 321 U. S. 414 ; *Bowles v. Willingham,* 321 U. S. 503 . Nor is it denied that the Administrator could have fixed ceiling prices if the state had engaged in a sales business "having the incidents of similar enterprises usually prosecuted for private gain." *Allen v. Regents,* 304 U. S. 439 , 304 U. S. 452 . But it is argued that the Act cannot be applied to this sale because it was "for the purpose of gaining revenue to carry out an essential governmental function -- the education of its citizens." Since the Emergency Price Control Act has been sustained as a Congressional exercise of the war power, the petitioners' argument is that the extent of that power as applied to state functions depends on whether these are "essential" to the state government. The use of the same criterion in measuring the Constitutional power of Congress to tax has proved to be unworkable, [Footnote 7] and we reject it as a guide in the field here involved. *Cf. United States v. California, supra,* 297 U.S. at 297 U. S. 183 - 185.

The State of Washington does have power to own and control the school lands here involved, and to sell the lands

or the timber growing on them, subject to the limitations set out in the Enabling Act. And our only question is whether the state's power to make the sales must be in subordination to the power of Congress to fix maximum prices in order to carry on war. For reasons to which we have already adverted, an absence of federal power to fix maximum prices for state sales or to control rents charged by a state might result in depriving Congress of ability effectively to prevent the evil of inflation at which the Act was aimed. The result would be that the Constitutional grant of the power to make war would be inadequate to accomplish its full purpose. And this result would impair a prime purpose of the federal government's establishment.

To construe the Constitution as preventing this would be to read it as a self-defeating charter. It has never been so interpreted. Since the decision in *McCulloch v. Maryland,* 4 Wheat. 316, 17 U. S. 420 , it has seldom if ever been doubted that Congress has power in order to attain a legitimate end -- that is, to accomplish the full purpose of a granted authority -- to use all appropriate means plainly adapted to that end, unless inconsistent with other parts of the Constitution. And we have said that the Tenth Amendment "does not operate as a limitation upon the powers, express or implied, delegated to the national government." [Footnote 8]

Where as here, Congress has enacted legislation authorized by its granted powers, and where, at the same time, a state has a conflicting law which, but for the Congressional Act, would be valid, the Constitution marks the course for courts to follow. Article VI provides that "This Constitution and the Laws of the United States . . .

made in Pursuance thereof . . . shall be the supreme Law of the Land. . . ." [Footnote 9]

Affirmed.

MR. JUSTICE DOUGLAS would reverse the judgment for the reasons act forth in his dissenting opinion in *Hulbert v. Twin Falls County,* 327 U. S. 103 .

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

[Footnote 1]

8 Fed.Reg. 11850, as amended.

[Footnote 2]

56 Stat. 23, 58 Stat. 640; c. 214, 59 Stat. 306.

[Footnote 3]

Ames v. Kansas, 111 U. S. 449 ; *United States v. Louisiana,* 123 U. S. 32 ; *United States v. California,* 297 U. S. 175 .

[Footnote 4]

Section 302(c) of the Act defines "commodity" as including

"services rendered otherwise than as an employee in connection with the processing, distribution, storage, installation, repair, or negotiation of purchases or sales of a commodity, or in connection with the operation of any service establishment for the servicing of a commodity."

[Footnote 5]

Ohio v. Helvering, 292 U. S. 360 , 292 U. S. 370 ; *United States v. California,* 297 U. S. 175 , 297 U. S. 186 ; *California v. United States,* 320 U. S. 577 , 320 U. S. 585 .

[Footnote 6]

The Emergency Court of Appeals recently considered the same question and reached the same conclusion. *Dallas v. Bowles,* 152 F.2d 464.

[Footnote 7]

See the several opinions in *Saratoga Springs Co. v. United States,* 326 U. S. 572 .

[Footnote 8]

Fernandez v. Wiener, 326 U. S. 340 ; *United States v. Darby,* 312 U. S. 100 , 312 U. S. 124 ; *California v. United States, supra; United States v. California, supra; Oklahoma v. Atkinson Co.,* 313 U. S. 508 , 313 U. S. 534 -535.

[Footnote 9]

For application of this principle *see Hines v. Davidowitz,* 312 U. S. 52 ; *Stewart & Co. v. Sadrakula,* 309 U. S. 94 , 309 U. S. 104 .

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