CONTROLLING LEGAL PRINCIPLES

Free Exercise Clause Decision – The "Contemplation of Justice"

Carter v. Carter Coal Co., 298 U.S. 238 (1936)

"The Constitution speaks for itself in terms so plain that to misunderstand their import is not rationally possible."

"The Constitution grants to Congress no general power to regulate for the promotion of the general welfare." P. 298 U. S. 289.

Whether the end sought to be attained by an Act of Congress is legitimate is wholly a matter of constitutional power, and not

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at all of legislative discretion. Beneficent aims, however great or well directed, can never serve in lieu of power. P. 298 U. S. 290.

To a constitutional end, many ways are open; but to an end not within the terms of the Constitution, all ways are closed. P. 298 U. S. 291.

Those who framed and those who adopted the Constitution meant to carve from the general mass of legislative powers then possessed by the States only such portions as it was thought wise to confer upon the federal government, and, in order that there should be no uncertainty as to what was taken and what was left, the national powers of legislation were not aggregated, but enumerated -- with the result that what was not embraced by the enumeration remained vested in the States without change or impairment. P. 298 U. S. 294.

Where irreparable injury from unconstitutional legislation is certain and imminent, suit for an injunction need not be deferred until injury has been actually inflicted. P. 298 U. S. 287.

The States, in respect of all powers reserved to them, are supreme. And since every addition to the national legislative power to some extent detracts from or invades the power of the States, it is of vital moment that, in order to preserve the fixed balance intended by the Constitution, the powers of the general government be not so extended as to embrace any not within the express terms of the several grants or the implications necessarily to be drawn therefrom. P. 298 U. S. 294.

9. The general government possesses no inherent power over the internal affairs of the States, and emphatically not with regard to legislation. P. 298 U. S. 295.

10. The determination of the Framers Convention and the ratifying conventions to preserve complete and unimpaired state self-government in all matters not committed to the national government is one of the plainest facts in the history of their deliberations. Adherence to that determination is incumbent equally upon the federal government and the States. State powers can neither be appropriated, on the one hand, nor abdicated, on the other. P. 298 U. S. 295.

11. If the federal government once begins taking over the powers of the States, the States may be so despoiled of their powers, or -- what may amount to the same thing -- be so relieved of the responsibilities

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which the possession of the powers necessarily enjoins, as to reduce them to little more than geographical divisions of the national domain. P. 298 U. S. 295.

12. The Constitution is a law -- the supreme law of the land. Judicial tribunals are required to apply the law to the facts in every case properly brought before them, and, in so doing, they are bound to give effect to this supreme law as against any mere statute conflicting with it. P. 298 U. S. 296.

13. In the discharge of that duty, the opinion of the lawmakers that a statute passed by them is valid must be given great weight; but their opinion, or the court's opinion, that the statute will prove greatly or generally beneficial is wholly irrelevant to the inquiry. P. 298 U. S. 297.

14. *As used in the commerce clause of the Constitution, the term "commerce" is the equivalent of intercourse for the purposes of trade, and includes transportation, purchase, sale and exchange of commodities between citizens of the different States. The power to regulate commerce embraces the instruments by which commerce is carried on.* P. 298 U. S. 297.

It is very clear that the "excise tax" is not imposed for revenue, but exacted as a penalty to compel compliance with the regulatory provisions of the act. The whole purpose of the exaction is to coerce what is called an agreement -- which, of course, it is not, for it lacks the essential element of consent. One who does a thing in order to avoid a monetary penalty does not agree; he yields to compulsion precisely the same as though he did so to avoid a term in jail.

The exaction here is a penalty, and not a tax, within the test laid down by this court in numerous cases. Child Labor Tax Case, 259 U. S. 20, 259 U. S. 37-39; United States v. La Franca, 282 U. S.

568, 282 U. S. 572; United States v. Constantine, 296 U. S. 287, 296 U. S. 293 et seq.; United States v. Butler, 297 U. S. 1, 297 U. S. 70. While the lawmaker is entirely free to ignore the ordinary meanings of words and make definitions of his own, Karnuth v. United States, 279 U. S. 231, 279 U. S. 242; Tyler v. United States, 281 U. S. 497, 281 U. S. 502, that device may not be employed so as to change the nature of the acts or things to which the words are applied. But it is not necessary to pursue the matter further. That the "tax" is, in fact, a penalty is not seriously in dispute. The position of the Government, as we understand it, is that the validity of the exaction does not rest upon the taxing power, but upon the power of Congress to regulate interstate commerce, and that, if the act in respect of the labor and price-fixing provisions be not upheld, the "tax" must fall with them. With that position we agree, and confine our consideration accordingly.

The ruling and firmly established principle is that the powers which the general government may exercise are only those specifically enumerated in the Constitution and such implied powers as are necessary and proper to carry into effect the enumerated powers. Whether the end sought to be attained by an act of Congress is legitimate is wholly a matter of constitutional power, and not at all of legislative discretion. Legislative congressional discretion begins with the choice of means, and ends with the adoption of methods and details to carry the delegated powers into effect. The distinction between these two things -- power and discretion -- is not only very plain, but very important. For while the powers are rigidly limited to the enumerations of the Constitution, the means which may be employed to carry the powers into effect are not restricted, save that they must be appropriate, plainly adapted to the end, and not prohibited by, but consistent with, the letter and spirit of the Constitution. McCulloch v. Maryland, 4 Wheat. 316, 17 U. S. 421. Thus, it may be said that, to a constitutional end, many ways are open, but to an end not within the terms of the Constitution, all ways are closed.

The proposition, often advanced and as often discredited, that the power of the federal government inherently extends to purposes affecting the nation as a whole with which the states severally cannot deal or cannot adequately deal, and the related notion that Congress, entirely apart from those powers delegated by the Constitution, may enact laws to promote the general welfare, have never been accepted, but always definitely rejected, by this court. Mr. Justice Story, as early as 1816,

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laid down the cardinal rule, which has ever since been followed -- that the general government

"can claim no powers which are not granted to it by the Constitution, and the powers actually granted, must be such as are expressly given, or given by necessary implication."

Martin v. Hunter's Lessee, 1 Wheat. 304, 14 U. S. 326. In the Framers Convention, the proposal to confer a general power akin to that just discussed was included in Mr. Randolph's resolutions, the sixth of which, among other things, declared that the National Legislature ought to enjoy the legislative rights vested in Congress by the Confederation, and,

"moreover, to legislate in all cases to which the separate States are incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual Legislation."

The convention, however, declined to confer upon Congress power in such general terms, instead of which it carefully limited the powers which it thought wise to entrust to Congress by specifying them, thereby denying all others not granted expressly or by necessary implication. It made no grant of authority to Congress to legislate substantively for the general welfare, United States v. Butler, supra, p. 297 U. S. 64, and no such authority exists, save as the general welfare may be promoted by the exercise of the powers which are granted. Compare Jacobson v. Massachusetts, 197 U. S. 11, 197 U. S. 22.

While the states are not sovereign in the true sense of that term, but only quasi-sovereign, yet, in respect of all powers reserved to them, they are supreme -- "as independent of the general government as that government, within its sphere, is independent of the States." Collector v. Day, 11 Wall. 113, 78 U. S. 124. And since every addition to the national legislative power to some extent detracts from or invades the power of the states, it is of vital moment that, in order to preserve the fixed balance intended by the Constitution, the powers of the general government

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be not so extended as to embrace any not within the express terms of the several grants or the implications necessarily to be drawn therefrom. It is no longer open to question that the general government, unlike the states, Hammer v. Dagenhart, 247 U. S. 251, 247 U. S. 275, possesses no inherent power in respect of the internal affairs of the states, and emphatically not with regard to legislation. The question in respect of the inherent power of that government as to the external affairs of the nation and in the field of international law is a wholly different matter, which it is not necessary now to consider. See, however, Jones v. United States, 137 U. S. 202, 137 U. S. 212; Nishimura Ekiu v. United States, 142 U. S. 651, 142 U. S. 659; Fong Yue Ting v. United States, 149 U. S. 698, 149 U. S. 705 et seq.; Burnet v. Brooks, 288 U. S. 378, 288 U. S. 396.

The determination of the Framers Convention and the ratifying conventions to preserve complete and unimpaired state self-government in all matters not committed to the general government is one of the plainest facts which emerge from the history of their deliberations. And adherence to that determination is incumbent equally upon the federal government and the states. State powers can neither be appropriated, on the one hand, nor abdicated, on the other. As this court said in Texas v. White, 7 Wall. 700, 74 U. S. 725 --

"the preservation of the States, and the maintenance of their governments, are as much within the design and care of the Constitution as the preservation of the Union and the maintenance of the National Government. The Constitution, in all its provisions, looks to an indestructible Union, composed of indestructible States."

Every journey to a forbidden end begins with the first step, and the danger of such a step by the federal government in the direction of taking over the powers of the states is that the end of the journey may find the states so despoiled of their powers, or -- what may amount to the same thing -- so

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relieved of the responsibilities which possession of the powers necessarily enjoins, as to reduce them to little more than geographical subdivisions of the national domain. It is safe to say that, if, when the Constitution was under consideration, it had been thought that any such danger lurked behind its plain words, it would never have been ratified.

And the Constitution itself is, in every real sense, a law -- the lawmakers being the people themselves, in whom, under our system, all political power and sovereignty primarily resides, and through whom such power and sovereignty primarily speaks. It is by that law, and not otherwise, that the legislative, executive, and judicial agencies which it created exercise such political authority as they have been permitted to possess. The Constitution speaks for itself in terms so plain that to misunderstand their import is not rationally possible. "We the people of the United States," it says, "do ordain and establish this Constitution . . ." Ordain and establish! These are definite words of enactment, and, without more, would stamp what follows with the dignity and character of law. The framers of the Constitution, however, were not content to let the matter rest here, but provided explicitly --

"This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; . . . shall be the supreme Law of the Land; . . ."

The supremacy of the Constitution as law is thus declared without qualification. That supremacy is absolute; the supremacy of a statute enacted by Congress is not absolute, but conditioned upon its being made in pursuance of the Constitution. And a judicial tribunal, clothed by that instrument with complete judicial power, and, therefore, by the very nature of the power, required to ascertain and apply the law to the facts in every case or proceeding properly brought for adjudication, must apply the supreme law and reject the inferior statute

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whenever the two conflict. In the discharge of that duty, the opinion of the lawmakers that a statute passed by them is valid must be given great weight, Adkins v. Children's Hospital, 261 U. S. 525, 261 U. S. 544; but their opinion, or the court's opinion, that the statute will prove greatly or generally beneficial is wholly irrelevant to the inquiry. Schechter v. United States, 295 U. S. 495, 295 U. S. 549-550.