Parker v. Brown, 317 U.S. 341 (1943)

California was the primary producer of raisins in the U.S. market, and nearly 95 percent of the raisins produced in California were sold out of state. During World War I, the price of raisins (along with many other foods) skyrocketed. After the war, the price crashed, even as the acreage dedicated to the production of raisin grapes increased. The California Agricultural Prorate Act of 1933 was an attempt to prop up farm prices in the state. Private farm cooperatives were encouraged by the state, but they were repeatedly undercut by independent farmers and shippers. The California statute barred the shipment of specified crops above a designated level by any farmer in a specified territory if two-thirds of the farmers in that territory had agreed to the cooperative plan. In essence, the state forced independent farmers to accept the sales quotas of farm cooperatives in order to keep prices at a fixed level.

Porter Brown, a Fresno County raisin grower, filed suit in federal district court seeking an injunction against William Parker, the state director of agriculture, preventing the enforcement of the state law. A three-judge district court panel granted the injunction. The state appealed directly to the U.S. Supreme Court, which unanimously reversed the lower court. Brown argued that the state scheme operated as a restraint of interstate trade, in violation of both federal statute and the U.S. Constitution. The Court held that neither the Sherman Antitrust Act nor the federal Agricultural Marketing Agreement Act was designed to specifically prohibit this sort of state program. The Court also concluded that the state regulation of local producers was designed to serve local interests and did not regulate goods that were within interstate commerce. The Court concluded that Parker did not participate in a private combination in restraint of trade but rather implemented the sovereign policies of the state government. This state action was immune from federal antitrust law.

Parker *was decided soon after* Wickard v. Filburn *(1942). Is* Parker*'s view of interstate commerce consistent with* Wickard*'s? Could Congress specifically choose to prohibit these state programs? What does* Parker *imply about state power in an era of expanded federal authority under the interstate commerce clause? Are states more or less powerful after* Wickard*? What are the limits of the* Parker *doctrine? Under what conditions can the states adopt policies that restrain trade?*

CHIEF JUSTICE STONE delivered the opinion of the Court.

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. . . . We may assume for present purposes that the California prorate program would violate the Sherman Act if it were organized and made effective solely by virtue of a contract, combination or conspiracy of private persons, individual or corporate. We may assume also, without deciding, that Congress could, in the exercise of its commerce power, prohibit a state from maintaining a stabilization program like the present because of its effect on interstate commerce. Occupation of a legislative "field" by Congress in the exercise of a granted power is a familiar example of its constitutional power to suspend state laws.

But it is plain that the prorate program here was never intended to operate by force of individual agreement or combination. It derived its authority and its efficacy from the legislative command of the state and was not intended to operate or become effective without that command. . . . In a dual system of

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government in which, under the Constitution, the states are sovereign, save only as Congress may constitutionally subtract from their authority, an unexpressed purpose to nullify a state's control over its officers and agents is not lightly to be attributed to Congress.

The Sherman Act makes no mention of the state as such, and gives no hint that it was intended to restrain state action or official action directed by a state. . . .

The state in adopting and enforcing the prorate program made no contract or agreement and entered into no conspiracy in restraint of trade or to establish monopoly but, as sovereign, imposed the restraint as an act of government which the Sherman Act did not undertake to prohibit.

. . . .

The declared objective of the California Act is to prevent excessive supplies of agricultural commodities from "adversely affecting" the market, and although the statute speaks in terms of "economic stability" and "agricultural waste" rather than of price, the evident purpose and effect of the regulation is to "conserve agricultural wealth of the state" by raising and maintaining prices, but "without permitting unreasonable profits to producers." The only possibility of conflict would seem to be if a state program were to raise prices beyond the parity price prescribed by the federal act [the Agricultural Marketing Agreement Act of 1937], a condition which has not occurred.

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The question is thus presented whether in the absence of Congressional legislation prohibiting or regulating the transactions affected by the state program, the restrictions which it imposes upon the sale within the state of a commodity by its producer to a processor who contemplates doing, and in fact does, work upon the commodity before packing and shipping it in interstate commerce, violate the Commerce Clause.

The governments of the states are sovereign within their territory save only as they are subject to the prohibitions of the Constitution or as their action in some measure conflicts with powers delegated to the National Government, or with Congressional legislation enacted in the exercise of those powers. This Court has repeatedly held that the grant of power to Congress by the Commerce Clause did not wholly withdraw from the states the authority to regulate the commerce with respect to matters of local concern, on which Congress has not spoken. . . . Whether we resort to the mechanical test sometimes applied by this Court in determining when interstate commerce begins with respect to a commodity grown or manufactured within a state and then sold and shipped out of it -- or whether we consider only the power of the state in the absence of Congressional action to regulate matters of local concern, even though the regulation affects or in some measure restricts the commerce -- we think the present regulation is within state power.

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All of [the existing precedents] proceed on the ground that the [state] taxation or regulation involved, however drastically it may affect interstate commerce, is nevertheless not prohibited by the Commerce Clause where the regulation is imposed before any operation of interstate commerce occurs. Applying that test, the regulation here controls the disposition, including the sale and purchase, of raisins before they are processed and packed preparatory to interstate sale and shipment. The regulation is thus applied to transactions wholly intrastate before the raisins are ready for shipment in interstate commerce.

. . . .

This distinction between local regulation of those who are not engaged in commerce, although the commodity which they produce and sell to local buyers is ultimately destined for interstate commerce, and the regulation of those who engage in the commerce by selling the product interstate, has in general served, and serves here, as a ready means of distinguishing those local activities which, under the Commerce Clause, are the appropriate subject of state regulation despite their effect on interstate commerce. But courts are not confined to so mechanical a test. When Congress has not exerted its power under the Commerce Clause, and state regulation of matters of local concern is so related to interstate commerce that it also operates as a regulation of that commerce, the reconciliation of the power thus

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granted with that reserved to the state is to be attained by the accommodation of the competing demands of the state and national interests involved.

Such regulations by the state are to be sustained, not because they are "indirect" rather than "direct," not because they control interstate activities in such a manner as only to affect the commerce rather than to command its operations. But they are to be upheld because upon a consideration of all the relevant facts and circumstances it appears that the matter is one which may appropriately be regulated in the interest of the safety, health and well-being of local communities, and which, because of its local character, and the practical difficulties involved, may never be adequately dealt with by Congress. . . .

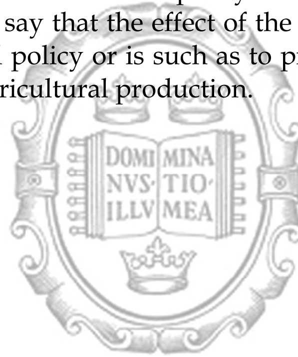
. . . .

[H]istory shows clearly enough that the adoption of legislative measures to prevent the demoralization of the industry by stabilizing the marketing of the raisin crop is a matter of state as well as national concern and, in the absence of inconsistent Congressional action, is a problem whose solution is peculiarly within the province of the state. In the exercise of its power the state has adopted a measure appropriate to the end sought. The program was not aimed at nor did it discriminate against interstate commerce, although it undoubtedly affected the commerce by increasing the interstate price of raisins and curtailing interstate shipments to some undetermined extent. . . .

It thus appears that whatever effect the operation of the California program may have on interstate commerce, it is one which it has been the policy of Congress to aid and encourage through federal agencies . . . . Hence we cannot say that the effect of the state program on interstate commerce is one which conflicts with Congressional policy or is such as to preclude the state from this exercise of its reserved power to regulate domestic agricultural production.

. . . .

Reversed.



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