Supplementary Material

Chapter 8: The New Deal and Great Society Era – Federalism

Rice v. Santa Fe Elevator Corp., 331 U.S. 218 (1947)

There is a long and contentious history of state regulation of warehouses, including grain elevators. Warehouses often operated as choke points in the stream of commerce, a necessary intermediary between producers (particularly farmers) and transportation to distant markets. Congress initially moved tentatively into this regulatory space, authorizing the Secretary of Agriculture to regulate warehouses affecting interstate commerce in 1916 but on the condition that federal authorities cooperated with state officials. By 1931, Congress had concluded that federal authorities were often hamstrung by conflicting state regulations and asserted its supremacy. The 1931 amendments to the Warehouse Act authorized the Secretary of Agriculture to offer federal licenses to warehouses that carried with them the "exclusive" regulatory authority of the Secretary of Agriculture.

Daniel F. Rice & Company was a shipper and dealer in grain in Illinois and a customer of warehouses in Chicago. Rice filed complaint with the Illinois Commerce Commission charging that two federally licensed warehouses in Chicago had violated the Illinois Grain Warehouse Act by using grain owned by Rice as collateral for commercial loans to the warehousemen and had violated the Illinois Public Utility Act by charging excessive and discriminatory rates. The warehousemen sought an injunction in federal district court to block the Illinois Commerce Commission on the grounds that the Commission lacked jurisdiction over warehouses operating under a federal license. The trial court dismissed the suit, but on appeal the federal circuit court reversed on the grounds that the federal statute superseded the state statutes for the federally licensed warehouses. Rice appealed to the U.S. Supreme Court, which in a 7–2 decision affirmed in part and reversed in part the circuit court.

The key issue for the Court was whether state laws were necessarily preempted by a federal law intervening in a field traditionally occupied by the states. Especially prior to any action by the Illinois Commerce Commission, there was no question of a direct conflict between the state and federal regulations. Instead, the question was whether the federal law occupied the whole field and precluded the application of any state regulations in this policy area. The majority found that Congress did intend to occupy the entire field on the specific topics that the Warehouse Act addressed but left nonconflicting state regulations in place on other topics involving the operation of these warehouses. The dissenters were not persuaded that Congress intended to preclude so much state regulatory authority and were concerned that such field preemption would necessarily leave warehouses underregulated since Congress did not and could not anticipate the myriad issues that the states had developed a complex body of law to address.

To what degree does the question of preemption turn on congressional intent? What evidence do the justices consider in order to determine legislative intent? Do the two opinions make different assumptions about how the federal system operates? What are the risks involved in field preemption? How much deference does the majority give to traditional state authority in this area?

JUSTICE DOUGLAS delivered the opinion of the Court.

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In 1931 Congress amended the [Warehouse] Act [of 1916]. Section 29 was amended to provide that although the Secretary of Agriculture "is authorized to cooperate with State officials charged with the enforcement of State laws relating to warehouses, warehousemen," and their personnel, "the power,

jurisdiction, and authority conferred upon the Secretary of Agriculture under this Act shall be exclusive with respect to all persons securing a license hereunder so long as said license remains in effect." Section 6 was amended to omit the requirement that the bond be conditioned on compliance with requirements of state law.

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As we have seen, Congress in 1931 made the "power, jurisdiction, and authority" of the Secretary of Agriculture conferred by the Act "exclusive with respect to all persons securing a license" under the Act, so long as the license remains in effect. It is argued by respondents that § 29 should be construed to mean that the subjects which the Secretary's authority touches may not be regulated in any way by any state agency, though the scope of federal regulation is not as broad as the regulatory scheme of the State and even though there is or may be no necessary conflict between what the state agency and the federal agency do. On the other hand, petitioners argue that since the area taken over by the Federal Government is limited, the rest may be occupied by the States; that state regulation should not give way unless there is a precise coincidence of regulation or an irreconcilable conflict between the two.

It is clear that since warehouses engaged in the storage of grain for interstate or foreign commerce are in the federal domain. . . . Congress may, if it chooses, take unto itself all regulatory authority over them . . . , share the task with the States, or adopt as federal policy the state scheme of regulation. . . . The question in each case is what the purpose of Congress was.

Congress legislated here in a field which the States have traditionally occupied. . . . So we start with the assumption that the historic police powers of the States were not to be superseded by the Federal Act unless that was the clear and manifest purpose of Congress. . . . Such a purpose may be evidenced in several ways. The scheme of federal regulation may be so pervasive as to make reasonable the inference that Congress left no room for the States to supplement it. . . . Or the Act of Congress may touch a field in which the federal interest is so dominant that the federal system will be assumed to preclude enforcement of state laws on the same subject. . . . Likewise, the object sought to be obtained by the federal law and the character of obligations imposed by it may reveal the same purpose. . . . Or the state policy may produce a result inconsistent with the objective of the federal statute. . . . It is often a perplexing question whether Congress has precluded state action or by the choice of selective regulatory measures has left the police power of the States undisturbed except as the state and federal regulations collide. . . .

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But the special and peculiar history of the Warehouse Act indicates to us that such a construction [allowing state regulations to supplement federal regulations] would thwart the federal policy which Congress adopted when it amended the Act in 1931. Prior to that time, as we have pointed out, the Federal Act by reason of its express terms had been subservient to state laws relating to warehouses and warehousemen. Congress in 1931 found that condition unfavorable and undertook to change it. If Congress had done no more than to eliminate from § 29 the language which resulted in the Act's subservience, there would be a strong case for holding that state regulatory systems were not to be affected unless they collided with the Act. . . . But Congress did not choose that simple expedient. It went further and added to § 29 the mandatory words "the power, jurisdiction, and authority" of the Secretary conferred under the Act "shall be exclusive with respect to all persons" licensed under the Act. And the original provisions of § 6 requiring a bond from licensees securing the faithful performance of their obligations as warehousemen under state law were deleted.

These actions were explained in the Committee Reports.

. . . . While a warehouseman need not operate under the Act, if he chose to be licensed under it, he would then "be authorized to operate without regard to State acts and be solely responsible to the Federal act." . . . Or, as stated by the House Committee, the purpose of the amendment to § 29 was to make the Act "independent of any State legislation on the subject." . . .

. . . . The amendments to § 6 and § 29, read in light of the Committee Reports, say to us in plain terms that a licensee under the Federal Act can do business "without regard to State acts"; that the

matters regulated by the Federal Act cannot be regulated by the States; that on those matters a federal licensee (so far as his interstate or foreign commerce activities are concerned) is subject to regulation by one agency and by one agency alone. [12] That is to say, Congress did more than make the Federal Act paramount over state law in the event of conflict. It remedied the difficulties which had been encountered in the Act's administration by terminating the dual system of regulation. . . .

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The test, therefore, is whether the matter on which the State asserts the right to act is in any way regulated by the Federal Act. If it is, the federal scheme prevails though it is a more modest, less pervasive regulatory plan than that of the State. . . . The provisions of Illinois law on those subjects must therefore give way by virtue of the Supremacy Clause.

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. . . . Congress has not foreclosed state action by adopting a policy of its own on these matters [relating to certain types of contracts between the warehouses and other businesses]. Into these fields it has not moved. By nothing that it has done has it preempted those areas. . . .

We accordingly affirm in part and reverse in part . . . .

JUSTICE FRANKFURTER, joined by JUSTICE RUTLEDGE, dissenting.

More than seventy years ago this Court upheld the regulation of grain warehousing rates by Illinois and did so despite the relation of the great grain elevators to interstate commerce. *Munn v. Illinois* (1877). State regulation of grain elevators had become so much part of our economic and political fabric, and so important was it deemed that the State laws remain in full force, that when Congress, in 1916, passed the first Warehouse Act, it made that Act subordinate to the requirements of State laws. The Court now holds that by the 1931 Amendment to that Act, Congress not only made the federal legislation independent of State law to the full scope of federal regulation, but also nullified the extensive network of State laws regulating warehouses, even though such laws, in their actual operation, in nowise conflict with the operation of the federal law. The Court thereby uproots a vast body of State enactments which in themselves do not collide with the licensing powers of the Secretary of Agriculture. . . .

The decision of the case turns on the "power, jurisdiction, and authority" that Congress has deposited with the Secretary of Agriculture to the exclusion of action by a State. . . . Today's decision, apparently, does not altogether free federally licensed warehouses from State warehouse regulation, nor yet subject them to State laws, even though these State laws may harmoniously function without impinging on the licensing powers of the Secretary. To my way of thinking, the justification for conceding an undefined area to the States equally justifies leaving to the States all that is not irreconcilable with the full exercise of the licensing authority given to the Secretary of Agriculture.

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. . . . Suffice it to say that due regard for our federalism, in its practical operation, favors survival of the reserved authority of a State over matters that are the intimate concern of the State unless Congress has clearly swept the boards of all State authority, or the State's claim is in unmistakable conflict with what Congress has ordered.

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By the United States Warehouse Act, Congress did not undertake a general, affirmative regulation of warehouses, even remotely comparable to its regulation of other public utilities. The Act was initiated as warehouse receipts legislation, written with the Uniform Warehouse Receipts Act in mind. Neither the language nor the history of the 1931 Amendment marks a departure from the basic design and policy of the legislation. Congress did not see fit to establish a compulsory, uniform, nation-wide system for the regulation of grain warehouses, essential links though they be in the chain of interstate commerce. Nor did Congress authorize the Secretary of Agriculture to formulate and enforce

such a system. Even in its limited aspect, the Act does not apply to all warehouses affecting interstate commerce. Indeed, Congress exercised no compulsion over any warehouse. Congress merely offered to those who desired it the privilege of being a federal licensee. Anyone who wished might continue to operate as a warehouseman without a federal license. As to these there is no question but that State law controls. And even those who obtain a federal license cannot be compelled to perform any positive duties. Except for certain penalties for fraud, the only sanction for disobedience of the few duties imposed is loss of the license.

Congress was content to allow two warehousemen in similar circumstances to operate under different rules if one chose to seek a federal license and the other did not. It offered perquisites incident to such a license to a warehouseman who wanted them. Such a scheme does not persuasively indicate a purpose to free such a federal licensee from regulations to which others are subject and which are not in practical conflict with the requirements of the federal law. For instance, has Congress really expressed with reasonable clarity its purpose to forbid to the States the fixing of warehouse rates and thus deprive the States of a long-standing regulatory power which the United States chose not to assume? Is it not more consistent with a proper regard for the interplay of State and national interests to assume that Congress was imposing a minimum of regulation for those who accepted federal licenses rather than to assume that by inferential sterilization of State laws Congress meant to make its optional and restricted requirements the maximum? . . .

. . . . An impressively large number of States fixed warehouse rates. The Court now finds in the legislative history of the 1931 Amendment a purpose to wipe out all these regulations as to the holders of federal licenses.

That Amendment eliminated the subservience of the federal Act to the laws of the States, for such subservience really nullified the practical purposes at which Congress aimed in 1916 by a voluntary federal licensing system. . . . By saving the authority which it had given to the Secretary of Agriculture from being rendered futile by State laws, Congress ought not to be held to have nullified State laws whose continuing force would not hamper the Secretary of Agriculture in exercising the powers that Congress gave him. Evidence is lacking that Congress felt that the correction of the inadequacy which had revealed itself regarding the 1916 Act required withdrawal of federal license holders from the requirements of non-conflicting State regulation. . . .

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. . . . But the effect of the interpretation now given to the 1931 Amendment is the establishment of uniformity of non-regulation, in that it introduces *laissez faire* outside the very narrow scope of the Secretary's powers. . . . The Court displaces settled and fruitful State authority though it cannot replace it with federal authority.