Supplementary Material

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

Southern Pacific Co. v. Arizona ex rel. Sullivan, 325 U.S. 761 (1945)

In 1912, the Arizona legislature passed and the voters approved the Train Limit Law, which capped the length of any train traveling within the state to no more than fourteen passenger cars or seventy freight cars. The limit on long trains was understood to be a safety measure, reducing the "slack action" between coupled cars that could injure or kill train workers. Although train employee organizations lobbied across the country for such regulations, neither Congress nor most states were willing to follow Arizona's lead. In 1942, the Interstate Commerce Commission temporarily suspended all such state laws as a war measure.

In 1940, the Arizona attorney general charged Southern Pacific Company with violating the Train Limit Law and filed suit in a state trial court to collect the associated fines. The company responded that regulation violated the interstate commerce clause and the due process clause of the Fourteenth Amendment. The trial court agreed and struck down the law. On appeal, the Arizona Supreme Court reversed the trial court, concluding that the law was an appropriate use of the state police powers, and directed a verdict against the railroad. The railroad appealed that ruling to the U.S. Supreme Court, which heard arguments on whether the Train Limit Law violated the interstate commerce clause given the absence of a conflicting congressional statute. In a 7–2 decision, the Court reversed the state supreme court and struck down the state law.

The case pitted the New Deal justices against each other. Chief Justice Harlan Stone had been placed in the center seat by President Franklin Roosevelt but had previously served as the attorney general for Republican President Calvin Coolidge before that president nominated him to be an associate justice. Stone wrote a detailed opinion for the Court balancing the marginal gains in safety against the costs in the efficiency of interstate commerce and emphasizing the importance of national uniformity in regulations that burden interstate rail traffic. Justices William O. Douglas and Hugo Black strenuously objected. The dissenters compared the majority's analysis under the interstate commerce clause with the repudiated judicial analysis of economic regulations under the due process clause prior to the New Deal. The dissenters emphasized that such balancing of costs and benefits should be undertaken by legislatures, not courts, and Black particularly highlighted the conflicts between railroad companies and railroad workers over long trains and the majority's apparent willingness to put corporate economic interests ahead of labor interests.

Can judicial analysis under the interstate commerce clause be distinguished from pre-New Deal judicial analysis under the due process clause? Is the application of balancing tests more appropriate in the commerce context? When does the need for national uniformity trump local police powers? Are railroads special in the need for national uniformity? What are the differences between Stone's standard that states should not unduly burden interstate commerce and Douglas's standard that states should not discriminate against interstate commerce? Does an anti-discrimination rule fully realize the requirements of the interstate commerce clause? Why should the courts ever invalidate state statutes that do not actually conflict with federal statutes?

CHIEF JUSTICE STONE delivered the opinion of the Court.

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Congress, in enacting legislation within its constitutional authority over interstate commerce, will not be deemed to have intended to strike down a state statute designed to protect the health and safety of

the public unless its purpose to do so is clearly manifested. . . or unless the state law, in terms or in its practical administration, conflicts with the Act of Congress, or plainly and palpably infringes its policy.

. . . . Congress, although asked to do so, has declined to pass legislation specifically limiting trains to seventy cars. We are therefore brought to appellant's principal contention, that the state statute contravenes the commerce clause of the Federal Constitution.

Although the commerce clause conferred on the national government power to regulate commerce, its possession of the power does not exclude all state power of regulation. . . . [I]n the absence of conflicting legislation by Congress, there is a residuum of power in the state to make laws governing matters of local concern which nevertheless in some measure affect interstate commerce or even, to some extent, regulate it. . . . Thus the states may regulate matters which, because of their number and diversity, may never be adequately dealt with by Congress. . . . When the regulation of matters of local concern is local in character and effect, and its impact on the national commerce does not seriously interfere with its operation, and the consequent incentive to deal with them nationally is slight, such regulation has been generally held to be within state authority. . . .

But ever since *Gibbons* v. *Ogden* (1819), the states have not been deemed to have authority to impede substantially the free flow of commerce from state to state, or to regulate those phases of the national commerce which, because of the need of national uniformity, demand that their regulation, if any, be prescribed by a single authority. . . . Whether or not this long-recognized distribution of power between the national and the state governments is predicated upon the implications of the commerce clause itself, . . . or upon the presumed intention of Congress, where Congress has not spoken, . . . the result is the same.

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For a hundred years it has been accepted constitutional doctrine that the commerce clause, without the aid of Congressional legislation, thus affords some protection from state legislation inimical to the national commerce, and that in such cases, where Congress has not acted, this Court, and not the state legislature, is under the commerce clause the final arbiter of the competing demands of state and national interests. *Cooley v. Board of Wardens* (1852). . . .

Congress has undoubted power to redefine the distribution of power over interstate commerce. It may either permit the states to regulate the commerce in a manner which would otherwise not be permissible, . . . or exclude state regulation even of matters of peculiarly local concern which nevertheless affect interstate commerce.

But in general Congress has left it to the courts to formulate the rules thus interpreting the commerce clause in its application, doubtless because it has appreciated the destructive consequences to the commerce of the nation if their protection were withdrawn, . . . and has been aware that in their application state laws will not be invalidated without the support of relevant factual material which will "afford a sure basis" for an informed judgment. . . . Congress has accommodated its legislation, as have the states, to these rules as an established feature of our constitutional system. There has thus been left to the states wide scope for the regulation of matters of local state concern, even though it in some measure affects the commerce, provided it does not materially restrict the free flow of commerce across state lines, or interfere with it in matters with respect to which uniformity of regulation is of predominant national concern.

Hence the matters for ultimate determination here are the nature and extent of the burden which the state regulation of interstate trains, adopted as a safety measure, imposes on interstate commerce, and whether the relative weights of the state and national interests involved are such as to make inapplicable the rule, generally observed, that the free flow of interstate commerce and its freedom from local restraints in matters requiring uniformity of regulation are interests safeguarded by the commerce clause from state interference.

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The findings show that the operation of long trains, that is trains of more than fourteen passenger and more than seventy freight cars, is standard practice over the main lines of the railroads of the United States, and that, if the length of trains is to be regulated at all, national uniformity in the regulation adopted, such as only Congress can prescribe, is practically indispensable to the operation of an efficient and economical national railway system. . . .

In Arizona, approximately 93% of the freight traffic and 95% of the passenger traffic is interstate. Because of the Train Limit Law appellant is required to haul over 30% more trains in Arizona than would otherwise have been necessary. The record shows a definite relationship between operating costs and the length of trains, the increase in length resulting in a reduction of operating costs per car. . . .

The unchallenged findings leave no doubt that the Arizona Train Limit Law imposes a serious burden on the interstate commerce conducted by appellant. It materially impedes the movement of appellant's interstate trains through that state and interposes a substantial obstruction to the national policy proclaimed by Congress, to promote adequate, economical and efficient railway transportation service. . . . Compliance with a state statute limiting train lengths requires interstate trains of a length lawful in other states to be broken up and reconstituted as they enter each state according as it may impose varying limitations upon train lengths. The alternative is for the carrier to conform to the lowest train limit restriction of any of the states through which its trains pass, whose laws thus control the carriers' operations both within and without the regulating state.

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If one state may regulate train lengths, so may all the others, and they need not prescribe the same maximum limitation. The practical effect of such regulation is to control train operations beyond the boundaries of the state exacting it because of the necessity of breaking up and reassembling long trains at the nearest terminal points before entering and after leaving the regulating state. The serious impediment to the free flow of commerce by the local regulation of train lengths and the practical necessity that such regulation, if any, must be prescribed by a single body having a nation-wide authority are apparent.

. . . . The decisive question is whether in the circumstances the total effect of the law as a safety measure in reducing accidents and casualties is so slight or problematical as not to outweigh the national interest in keeping interstate commerce free from interferences which seriously impede it and subject it to local regulation which does not have a uniform effect on the interstate train journey which it interrupts.

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We think, as the trial court found, that the Arizona Train Limit Law, viewed as a safety measure, affords at most slight and dubious advantage, if any, over unregulated train lengths, because it results in an increase in the number of trains and train operations and the consequent increase in train accidents . . . . In these respects the case differs from those where a state, by regulatory measures affecting the commerce, has removed or reduced safety hazards without substantial interference with the interstate movement of trains. . . .

The principle that, without controlling Congressional action, a state may not regulate interstate commerce so as substantially to affect its flow or deprive it of needed uniformity in its regulation is not to be avoided by "simply invoking the convenient apologetics of the police power." . . .

Here we conclude that the state does go too far. Its regulation of train lengths, admittedly obstructive to interstate train operation, and having a seriously adverse effect on transportation efficiency and economy, passes beyond what is plainly essential for safety since it does not appear that it will lessen rather than increase the danger of accident. Its attempted regulation of the operation of interstate trains cannot establish nation-wide control such as is essential to the maintenance of an efficient transportation system, which Congress alone can prescribe. The state interest cannot be preserved at the expense of the national interest by an enactment which regulates interstate train lengths without securing such control, which is a matter of national concern. To this the interest of the state here asserted is subordinate.

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South Carolina Highway Dept. v. *Barnwell Bros.* (1938) was concerned with the power of the state to regulate the weight and width of motor cars passing interstate over its highways, a legislative field over which the state has a far more extensive control than over interstate railroads. In that case, . . . we were at pains to point out that there are few subjects of state regulation affecting interstate commerce which are so peculiarly of local concern as is the use of the state's highways. Unlike the railroads local highways are built, owned and maintained by the state or its municipal subdivisions. The state is responsible for their safe and economical administration. Regulations affecting the safety of their use must be applied alike to intrastate and interstate traffic. The fact that they affect alike shippers in interstate and intrastate commerce in great numbers, within as well as without the state, is a safeguard against regulatory abuses. Their regulation is akin to quarantine measures, game laws, and like local regulations of rivers, harbors, piers, and docks, with respect to which the state has exceptional scope for the exercise of its regulatory power, and which, Congress not acting, have been sustained even though they materially interfere with interstate commerce.

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Reversed.

JUSTICE RUTLEDGE concurs in the result.

JUSTICE BLACK, dissenting.

In *Hennington* v. *Georgia* (1896), a case which involved the power of a state to regulate interstate traffic, this Court said, "The whole theory of our government, federal and state, is hostile to the idea that questions of legislative authority may depend . . . upon opinions of judges as to the wisdom or want of wisdom in the enactment of laws under powers clearly conferred upon the legislature." What the Court decides today is that it is unwise governmental policy to regulate the length of trains. I am therefore constrained to note my dissent.

. . . . The third safety statute which the Arizona legislature submitted to the electorate [upon becoming a state in 1912], and which was adopted by it, is the train limitation statute now under consideration. By its enactment the legislature and the people adopted the viewpoint that long trains were more dangerous than short trains, and limited the operation of train units to 14 cars for passenger and 70 cars for freight. This same question was considered in other states, and some of them, over the vigorous protests of railroads, adopted laws similar to the Arizona statute.

This controversy between the railroads and their employees [over the safety of long trains], which was nation-wide, was carried to Congress. . . . The Senate passed the bill, but the House Committee failed to report it out.

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. . . . [T]he issue which the [state] court "tried" was not whether the railroad was guilty of violating the law, but whether the law was unconstitutional either because the legislature had been guilty of misjudging the facts concerning the degree of the danger of long trains, or because the 1912 conditions of danger no longer existed.

. . . . In this respect, the Arizona County Court acted, and this Court today is acting, as a "super-legislature."

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Under those circumstances, the determination of whether it is in the interest of society for the length of trains to be governmentally regulated is a matter of public policy. Someone must fix that policy -- either the Congress, or the state, or the courts. A century and a half of constitutional history and government admonishes this Court to leave that choice to the elected legislative representatives of the

people themselves, where it properly belongs both on democratic principles and the requirements of efficient government.

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The Supreme Court of Arizona did not discuss the County Court's so-called findings of fact. It properly designated the Arizona statute as a safety measure, and finding that it bore a reasonable relation to its purpose declined to review the judgment of the legislature as to the necessity for the passage of the act. In so doing it was well fortified by a long line of decisions of this Court. Today's decision marks an abrupt departure from that line of cases.

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. . . . The history of congressional consideration of this problem leaves little if any room to doubt that the choice of Congress to leave the state free in this field was a deliberate choice, which was taken with a full knowledge of the complexities of the problems and the probable need for diverse regulations in different localities. I am therefore compelled to reach the conclusion that today's decision is the result of the belief of a majority of this Court that both the legislature of Arizona and the Congress made wrong policy decisions in permitting a law to stand which limits the length of railroad trains. I should at least give the Arizona statute the benefit of the same rule which this Court said should be applied in connection with state legislation under attack for violating the Fourteenth Amendment, that is, that legislative bodies have "a wide range of legislative discretion, . . . and their conclusions respecting the wisdom of their legislative acts are not reviewable by the courts." *Arizona Employers' Liability Cases* (1919).

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We are not left in doubt as to why, as against the potential peril of injuries to employees, the Court tips the scales on the side of "uniformity." For the evil it finds in a lack of uniformity is that it (1) delays interstate commerce, (2) increases its cost and (3) impairs its efficiency. All three of these boil down to the same thing, and that is that running shorter trains would increase the cost of railroad operations. The "burden" on commerce reduces itself to mere cost because there was no finding, and no evidence to support a finding, that by the expenditure of sufficient sums of money, the railroads could not enable themselves to carry goods and passengers just as quickly and efficiently with short trains as with long trains. Thus the conclusion that a requirement for long trains will "burden interstate commerce" is a mere euphemism for the statement that a requirement for long trains will increase the cost of railroad operations.

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JUSTICE DOUGLAS, dissenting.

. . . . My view has been that the courts should intervene only where the state legislation discriminated against interstate commerce or was out of harmony with laws which Congress had enacted. It seems to me particularly appropriate that that course be followed here. For Congress has given the Interstate Commerce Commission broad powers of regulation over interstate carriers. The Commission is the national agency which has been entrusted with the task of promoting a safe, adequate, efficient, and economical transportation service. It is the expert on this subject. It is in a position to police the field. And if its powers prove inadequate for the task, Congress, which has paramount authority in this field, can implement them.

. . . . Whether the question arises under the Commerce Clause or the Fourteenth Amendment, I think the legislation is entitled to a presumption of validity. . . . I am not persuaded that the evidence adduced by the railroads overcomes the presumption of validity to which this train-limit law is entitled. . . .