[This case has been edited for ease of reading to remove citations and analysis not directly relevant to the lesson plan]

107 S.Ct. 2793
Supreme Court of the United States

SOUTH DAKOTA, Petitioner,
v.
Elizabeth H. DOLE, Secretary, United States Department of Transportation.

No. 86–260.
|
Argued April 28, 1987.
|
Decided June 23, 1987.

Opinion

***205** Chief Justice REHNQUIST delivered the opinion of the Court.

Petitioner South Dakota permits persons 19 years of age or older to purchase beer containing up to 3.2% alcohol. In 1984 Congress enacted 23 U.S.C. § 158 (1982 ed., Supp. III), which directs the Secretary of Transportation to withhold a percentage of federal highway funds otherwise allocable from States "in which the purchase or public possession ... of any alcoholic beverage by a person who is less than twenty-one years of age is lawful." The State sued in United States District Court seeking a declaratory judgment that § 158 violates the constitutional limitations on congressional exercise of the spending power and violates the Twenty-first Amendment to the United States Constitution. The District Court rejected the State's claims, and the Court of Appeals for the Eighth Circuit affirmed. 791 F.2d 628 (1986).

The Constitution empowers Congress to "lay and collect Taxes, Duties, Imposts, and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States." Art. I, § 8, cl. 1. Incident to this power, Congress may attach conditions on the receipt of ****2796** federal funds, and has repeatedly employed the power "to further broad policy objectives by conditioning receipt of federal moneys upon compliance by the recipient with federal statutory and administrative directives." The breadth of this power was made clear in *United States v. Butler* (1936), where the Court, resolving a longstanding debate over the scope of the Spending Clause, determined that "the power of Congress to authorize expenditure of public moneys for public purposes is not limited by the direct grants of legislative power found in the Constitution." Thus, objectives not thought to be within Article I's "enumerated legislative fields," may nevertheless be attained through the use of the spending power and the conditional grant of federal funds.

The spending power is of course not unlimited, but is instead subject to several general restrictions articulated in our cases. The first of these limitations is derived from the language of the Constitution itself: the exercise of the spending power must be in pursuit of "the general welfare." In considering whether a particular expenditure is intended to serve general public purposes, courts should defer substantially to the judgment of Congress. Second, we have required that if Congress desires to condition the States' receipt of federal funds, it "must do so unambiguously ..., enabl[ing] the States to exercise their choice knowingly, cognizant of the consequences of their participation." Third, our cases have suggested (without significant elaboration) that conditions on federal grants might be illegitimate if they are unrelated "to the federal interest in particular national projects or programs." ***208** Finally, we have noted that other constitutional provisions may provide an independent bar to the conditional grant of federal funds.

South Dakota does not seriously claim that § 158 is inconsistent with any of the first three restrictions mentioned above. We can readily conclude that the provision is designed to serve the general welfare, especially in light of the fact that "the concept of welfare or the opposite is shaped by Congress...." Congress found that the differing drinking ****2797** ages in the States created particular incentives for young persons to combine their desire to drink with their ability to drive, and that this interstate problem required a national solution. The means it chose to address this dangerous situation were reasonably calculated to advance the general welfare. The conditions upon which States receive the funds, moreover, could not be more clearly stated by Congress. And the State itself, rather than challenging the germaneness of the condition to federal purposes, admits that it "has never contended that the congressional action was ... unrelated to a national concern in the absence of the Twenty-first Amendment." Indeed, the condition imposed by Congress is directly related to one of the main purposes for which highway funds are expended—safe interstate travel. ***209** This goal of the interstate highway system had been frustrated by varying drinking ages among the States. A Presidential commission appointed to study alcohol-related accidents and fatalities on the Nation's highways concluded that the lack of uniformity in the States' drinking ages created "an incentive to drink and drive" because "young persons commut[e] to border States where the drinking age is lower." By enacting § 158, Congress conditioned the receipt of federal funds in a way reasonably calculated to address this particular impediment to a purpose for which the funds are expended.

The remaining question about the validity of § 158—and the basic point of disagreement between the parties—is whether the Twenty-first Amendment constitutes an

"independent constitutional bar" to the conditional grant of federal funds. Petitioner, relying on its view that the Twenty-first Amendment prohibits *direct* regulation of drinking ages by Congress, asserts that "Congress may not use the spending power to regulate that which it is prohibited from regulating directly under the Twenty-first Amendment." But our cases show that this "independent constitutional bar" limitation on the spending power is not of the kind petitioner suggests. *United States v. Butler*, for example, established that the constitutional limitations on Congress when exercising its spending power are less exacting than those on its authority to regulate directly.

***210** We have also held that a perceived Tenth Amendment limitation on congressional regulation of state affairs did not concomitantly limit the range of conditions legitimately placed on federal grants. In *Oklahoma v. Civil Service Comm'n,* 330 U.S. 127, 67 S.Ct. 544, 91 L.Ed. 794 (1947), the Court considered the validity of the Hatch Act insofar as it was applied to political activities of state officials whose employment was financed in whole or in part with federal funds. The State contended that an order under this provision to withhold certain federal funds unless a state official was removed invaded its sovereignty in violation of the Tenth Amendment. Though finding that "the United States is not concerned with, and has no power to regulate, local political activities as such of state officials," the Court nevertheless held that the Federal Government "does have power to fix the terms upon ****2798** which its money allotments to states shall be disbursed The Court found no violation of the State's sovereignty because the State could, and did, adopt "the 'simple expedient' of not yielding to what she urges is federal coercion. The offer of benefits to a state by the United States dependent upon cooperation by the state with federal plans, assumedly for the general welfare, is not unusual."

These cases establish that the "independent constitutional bar" limitation on the spending power is not, as petitioner suggests, a prohibition on the indirect achievement of objectives which Congress is not empowered to achieve directly. Instead, we think that the language in our earlier opinions stands for the unexceptionable proposition that the power may not be used to induce the States to engage in activities that would themselves be unconstitutional. Thus, for example, a grant of federal funds conditioned on invidiously discriminatory state action or the infliction of cruel and unusual punishment would be an illegitimate exercise of the Congress' ***211** broad spending power. But no such claim can be or is made here. Were South Dakota to succumb to the blandishments offered by Congress and raise its drinking age to 21, the State's action in so doing would not violate the constitutional rights of anyone.

Our decisions have recognized that in some circumstances the financial inducement offered by Congress might be so coercive as to pass the point at which "pressure turns into compulsion." Here, however, Congress has directed only that a State desiring to establish a minimum drinking age lower than 21 lose a relatively small percentage of certain federal highway funds. Petitioner contends that the coercive nature of this program is evident from the degree of success it has achieved. We cannot conclude, however, that a conditional grant of federal money of this sort is unconstitutional simply by reason of its success in achieving the congressional objective.

When we consider, for a moment, that all South Dakota would lose if she adheres to her chosen course as to a suitable minimum drinking age is 5% of the funds otherwise obtainable under specified highway grant programs, the argument as to coercion is shown to be more rhetoric than fact. As we said a half century ago in *Steward Machine Co. v. Davis:*

> "[E]very rebate from a tax when conditioned upon conduct is in some measure a temptation. But to hold that motive or temptation is equivalent to coercion is to plunge the law in endless difficulties. The outcome of such a doctrine is the acceptance of a philosophical determinism by which choice becomes impossible. Till now the law has been guided by a robust common sense which assumes the freedom of the will as a working hypothesis in the solution of its problems."

Here Congress has offered relatively mild encouragement to the States to enact higher minimum drinking ages than they would otherwise choose. But the enactment of such laws remains the prerogative of the States not merely in theory ***212** but in fact. Even if Congress might lack the power to impose a national minimum drinking age directly, we conclude that encouragement to state action found in § 158 is a valid use of the spending power. Accordingly, the judgment of the Court of Appeals is

Affirmed.

Justice O'CONNOR, dissenting.

The Court today upholds the National Minimum Drinking Age Amendment, 23 U.S.C. § 158 (1982 ed., Supp. III), as a valid exercise of the spending power conferred by Article I, § 8. But § 158 is not a condition on spending reasonably related to the expenditure of federal funds and cannot be justified on that ground. Rather, it is an attempt to regulate the sale of liquor, an attempt that lies outside Congress' power to regulate commerce because it falls within the ambit of § 2 of the Twenty-first Amendment.

My disagreement with the Court is relatively narrow on the spending power issue: it is a disagreement about the application of a principle rather than a disagreement on the principle itself. I agree with the Court that Congress may attach conditions on the receipt of federal funds to further "the federal interest in particular national projects

or programs." I also subscribe to the established proposition ***213** that the reach of the spending power "is not limited by the direct grants of legislative power found in the Constitution." Finally, I agree that there are four separate types of limitations on the spending power: the expenditure must be for the general welfare, the conditions imposed must be unambiguous, they must be reasonably related to the purpose of the expenditure, and the legislation may not violate any independent constitutional prohibition, Insofar as two of those limitations are concerned, the Court is clearly correct that § 158 is wholly unobjectionable. Establishment of a national minimum drinking age certainly fits within the broad concept of the general welfare and the statute is entirely unambiguous. I am also willing to assume, *arguendo,* that the Twenty-first Amendment does not constitute an "independent constitutional bar" to a spending condition.

But the Court's application of the requirement that the condition imposed be reasonably related to the purpose for which the funds are expended is cursory and unconvincing. We have repeatedly said that Congress may condition grants under the spending power only in ways reasonably related to the purpose of the federal program. In my view, establishment of a minimum drinking ***214** age of 21 is not sufficiently related to interstate highway construction to justify ****2800** so conditioning funds appropriated for that purpose.

In support of its contrary conclusion, the Court relies on a supposed concession by counsel for South Dakota that the State "has never contended that the congressional action was ... unrelated to a national concern in the absence of the Twenty-first Amendment." In the absence of the Twenty-first Amendment, however, there is a strong argument that the Congress might regulate the conditions under which liquor is sold under the commerce power, just as it regulates the sale of many other commodities that are in or affect interstate commerce. The fact that the Twenty-first Amendment is crucial to the State's argument does not, therefore, amount to a concession that the condition imposed by § 158 is reasonably related to highway construction. The Court also relies on a portion of the argument transcript in support of its claim that South Dakota conceded the reasonable relationship point. But counsel's statements there are at best ambiguous. Counsel essentially said no more than that he was not prepared to argue the reasonable relationship question discussed at length in the Brief for the National Conference of State Legislatures.

Aside from these "concessions" by counsel, the Court asserts the reasonableness of the relationship between the supposed purpose of the expenditure—"safe interstate travel"—and the drinking age condition. The Court reasons that Congress wishes that the roads it builds may be used safely, that drunken drivers threaten highway safety, and that young people are more likely to drive while under the influence of alcohol under existing law than would be the case if there were a uniform national drinking age of 21. It hardly needs saying, however, that if the purpose of § 158 is to deter drunken driving, it is far too over and under-inclusive. It is over-inclusive because it stops teenagers from drinking even when they are not about to drive on interstate ***215** highways. It is under-inclusive because teenagers pose only a small part of the drunken driving problem in this Nation.

When Congress appropriates money to build a highway, it is entitled to insist that the highway be a safe one. But it is not entitled to insist as a condition of the use of highway funds that the State impose or change regulations in other areas of the State's social and economic life because of an attenuated or tangential relationship to highway use or safety. Indeed, if the rule were otherwise, the Congress could effectively regulate almost any area of a State's social, political, or economic life on the theory that use of the interstate transportation system is somehow enhanced. If, for example, the United States were to condition highway moneys upon moving the state capital, I suppose it might argue that interstate transportation is facilitated by locating local governments in places easily accessible to interstate highways—or, conversely, that highways might become overburdened if they had to carry traffic to and from the state capital. In my mind, such a relationship is hardly more attenuated than the one which the Court finds supports § 158.

There is a clear place at which the Court can draw the line between permissible and impermissible conditions on federal grants. It is the line identified in the Brief for the ****2801** National Conference of State Legislatures:

> ***216** "Congress has the power to *spend* for the general welfare, it has the power to *legislate* only for delegated purposes....
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> "The appropriate inquiry, then, is whether the spending requirement or prohibition is a condition on a grant or whether it is regulation. The difference turns on whether the requirement specifies in some way how the money should be spent, so that Congress' intent in making the grant will be effectuated. Congress has no power under the Spending Clause to impose requirements on a grant that go beyond specifying how the money should be spent. A requirement that is not such a specification is not a condition, but a regulation, which is valid only if it falls within one of Congress' delegated regulatory powers." *Id.,* at 19–20.

This approach harks back to *United States v. Butler* (1936), the last case in which this Court struck down an Act of Congress as beyond the authority granted by the Spending Clause. There the Court wrote that "[t]here is an obvious difference between a statute stating the conditions upon which moneys shall be expended and one effective only upon assumption of a contractual obligation

to submit to a regulation which otherwise could not be enforced." The *Butler* Court saw the Agricultural Adjustment Act for what it was—an exercise of regulatory, not spending, power. The error in *Butler* was not the Court's conclusion that the Act was essentially regulatory, but rather its crabbed view of the extent of Congress' regulatory power under the Commerce Clause. The Agricultural Adjustment Act was regulatory but it was regulation that today would likely be considered within Congress' commerce power.

While *Butler's* authority is questionable insofar as it assumes that Congress has no regulatory power over farm production, ***217** its discussion of the spending power and its description of both the power's breadth and its limitations remain sound. The Court's decision in *Butler* also properly recognizes the gravity of the task of appropriately limiting the spending power. If the spending power is to be limited only by Congress' notion of the general welfare, the reality, given the vast financial resources of the Federal Government, is that the Spending Clause gives "power to the Congress to tear down the barriers, to invade the states' jurisdiction, and to become a parliament of the whole people, subject to no restrictions save such as are self-imposed." This, of course, as *Butler* held, was not the Framers' plan and it is not the meaning of the Spending Clause.

***218** As discussed above, a condition that a State will raise its drinking age to 21 cannot fairly be said to be reasonably related to the expenditure of funds for highway construction. The only possible connection, highway safety, has nothing to do with how the funds Congress has appropriated are expended. Rather than a condition determining how federal highway money shall be expended, it is a regulation determining who shall be able to drink liquor. As such it is not justified by the spending power.

Of the other possible sources of congressional authority for regulating the sale of liquor only the commerce power comes to mind. But in my view, the regulation of the age of the purchasers of liquor, just as the regulation of the price at which liquor may be sold, falls squarely within the scope of those powers reserved to the States by the Twenty-first Amendment.

The immense size and power of the Government of the United States ought not obscure its fundamental character. It remains a Government of enumerated powers. Because 23 U.S.C. § 158 (1982 ed., Supp. III) cannot be justified as an exercise of any power delegated to the Congress, it is not authorized by the Constitution. The Court errs in holding it to be the law of the land, and I respectfully dissent.