

The Burger Court Opinion Writing Database

California v. Grace Brethren Church

457 U.S. 393 (1982)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University in St. Louis
Forrest Maltzman, George Washington University



Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

June 7, 1982

(81-31 -- California, et al. v. Grace Brethren Church
(
Re: (81-288 - U.S. v. Grace Brethren Church
(
(81-455 - Grace Brethren Church v. U.S.

Dear Sandra:

I join and I have no problems with Bill
Brennan's suggestion.

Regards,



Justice O'Connor

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

June 2, 1982

Nos. 81-31, 81-228, 81-455 California v. Grace Brethren

Dear Sandra:

I am generally in agreement with your circulation of June 1 in this case. However, as I noted at conference, this case clearly presented the question, long left undecided in our cases, whether the Tax Injunction Act itself bars federal district court actions for declaratory relief. As recently reaffirmed earlier this term in both the Court's opinion and the concurring opinion in FAIR Assessment, Great Lakes v. Huffman rested not on the view that declaratory relief was barred by the Tax Injunction Act itself, but on the view that such relief was barred by those principles of comity which were encapsulated in the TIA.

Here, declaratory relief was clearly sought in the district court; indeed, it appears to have been granted below. And the issue whether the Tax Injunction Act itself bars declaratory relief, or whether the bar is simply one of comity, is necessarily reached on the facts of this case. The TIA is jurisdictional; its bar cannot be waived. But if the bar to declaratory relief in federal court is purely one of comity, it of course can be waived by the State; indeed, as I read the record it was consciously waived here by the State which had very strong reasons for wishing to have the litigation proceed in federal court where the United States would be a party.

Of course, as I said at conference, I have little difficulty concluding that the Tax Injunction Act, reasonably construed, does in fact bar all forms of anticipatory equitable relief--including declaratory judgment suits. Do you think you might accomodate such a holding in your opinion for the Court?

Sincerely,

Bill
W.J.B., Jr.

Justice O'Connor

Copies to the ⁹⁵Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

June 9, 1982

RE: No. 81-31 California v. Grace Brethren Church

Dear Sandra:

I agree with your recirculation of June 8.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill".

Justice O'Connor

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 3, 1982

Re: 81-31, 81-228 & 81-455 - California v.
Grace Brethren Church

Dear Sandra,

Bill Brennan's point is well taken, I think. With that change, I would join your opinion.

Sincerely yours,



Justice O'Connor

Copies to the Conference

cpm

.85

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 15, 1982

Re: 81-31, 81-228 and 81-455 -
California v. Grace Brethren Church

Dear Sandra,

Please join me.

Sincerely yours,

Byron

Justice O'Connor

Copies to the Conference

cpm

.85 10 12 11 14

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 9, 1982

Re: No. 81-31-California v. Grace Brethren Church

Dear Sandra:

Please join me.

Sincerely,

T.M.
T.M.

Justice O'Connor

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 14, 1982

Re: No. 81-31 - California v. Grace Brethren Church
No. 81-228 - United States v. Grace Brethren Church
No. 81-455 - Grace Brethren Church v. United States

Dear John:

Would you please add my name to your dissenting opinion.

I notice that in your circulation, as well as in Sandra's, Nos. 81-228 and 81-455 are omitted from the heading. It looks like the composition room has slipped up again.

Sincerely,



Justice Stevens

cc: The Conference

85 JUN 14 1982

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

81-31, 81-228, 81-455 88

June 2, 1982

81-31, 81-228, 81-455 California v. Grace Brethren

Dear Sandra:

Please join me.

Sincerely,



Justice O'Connor

lfp/ss

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 3, 1982

81-31, 81-228, 81-455 California v. Grace Brethren

Dear Sandra:

I agree with Bill Brennan that it would be constructive to hold that the Tax Injunction Act also bars declaratory relief.

Sincerely,



Justice O'Connor

lfp/ss

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

81-31 86

June 8, 1982

81-31 California v. Grace Brethren Church

Dear Sandra:

I am still with you.

Sincerely,



Justice O'Connor

lfp/ss

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 9, 1982

Re: Nos. 81-31, 81-228, 81-455 California v.
Grace Bretheran Church

Dear Sandra:

Please join me.

Sincerely, *W. H. Rehnquist*

Justice O'Connor

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

June 2, 1982

Re: 81-31; 228; 455 - California v.
Grace Brethren Church

Dear Sandra:

As soon as I can get to it, I will be
circulating a dissent.

Respectfully,



Justice O'Connor

Copies to the Conference

To: The Chief Justice
 Justice Brennan
 Justice White
 Justice Marshall
 Justice Blackmun
 Justice Powell
 Justice Rehnquist
 Justice O'Connor

From: **Justice Stevens**

Circulated: JUN 7 '82

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-31

**CALIFORNIA, ET AL., APPELLANTS v. GRACE
 BRETHREN CHURCH ET AL.**

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
 THE CENTRAL DISTRICT OF CALIFORNIA

[June —, 1982]

JUSTICE STEVENS, dissenting.

Appellee Grace Brethren Church filed suit against the United States Secretary of Labor and other defendants in the United States District Court for the Central District of California claiming that the Federal Unemployment Tax Act violates the First Amendment to the Federal Constitution. The District Court held the Act unconstitutional. Pursuant to a federal statute providing for expedited review in cases of this kind,¹ the defendants appealed directly to this Court, bypassing the court of appeals precisely as Congress intended. Recognizing the need for prompt review of a constitutional question affecting the nationwide operation of a federal statute, the Court holds that this special jurisdiction was properly invoked. It then reaches the curious conclusion that, because some of the defendants are California taxing authorities that administer this cooperative federal-state program in that State, Congress intended that only *state* courts could

¹28 U. S. C. § 1252 provides:

"Any party may appeal to the Supreme Court from an interlocutory or final judgment, decree or order of any court of the United States . . . holding an Act of Congress unconstitutional in any civil action, suit, or proceeding to which the United States or any of its agencies, or any officer or employee thereof, as such officer or employee, is a party."

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice O'Connor

substantially rewritten

From: **Justice Stevens**

Circulated: _____

Recirculated: JUN 8 '82

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-31

CALIFORNIA, ET AL., APPELLANTS *v.* GRACE
BRETHREN CHURCH ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
THE CENTRAL DISTRICT OF CALIFORNIA

[June —, 1982]

JUSTICE STEVENS, dissenting.

Appellee Grace Brethren Church filed suit against the United States Secretary of Labor and other defendants in the United States District Court for the Central District of California claiming that the Federal Unemployment Tax Act violates the First Amendment to the Federal Constitution. The District Court held the Act unconstitutional. Pursuant to a federal statute providing for expedited review in cases of this kind,¹ the defendants appealed directly to this Court, bypassing the court of appeals precisely as Congress intended. Recognizing the need for prompt review of a constitutional question affecting the nationwide operation of a federal statute, the Court holds that this special jurisdiction was properly invoked. It then reaches the curious conclusion that, because some of the defendants are California taxing authorities that administer this cooperative federal-state program in that State, Congress intended that only *state* courts could

¹28 U. S. C. § 1252 provides:

"Any party may appeal to the Supreme Court from an interlocutory or final judgment, decree or order of any court of the United States . . . holding an Act of Congress unconstitutional in any civil action, suit, or proceeding to which the United States or any of its agencies, or any officer or employee thereof, as such officer or employee, is a party."

To: The Chief Justice
 Justice Brennan
 Justice White
 Justice Marshall
 Justice Blackmun
 Justice Powell
 Justice Rehnquist
 Justice O'Connor

From: **Justice Stevens**

Circulated: _____

Recirculated: JUN 15 '82

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-31

**CALIFORNIA, ET AL., APPELLANTS v. GRACE
 BRETHERN CHURCH ET AL.**

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
 THE CENTRAL DISTRICT OF CALIFORNIA**

[June —, 1982]

JUSTICE STEVENS, with whom JUSTICE BLACKMUN joins, dissenting.

Appellee Grace Brethren Church filed suit against the United States Secretary of Labor and other defendants in the United States District Court for the Central District of California claiming that the Federal Unemployment Tax Act violates the First Amendment to the Federal Constitution. The District Court held the Act unconstitutional. Pursuant to a federal statute providing for expedited review in cases of this kind,¹ the defendants appealed directly to this Court, bypassing the court of appeals precisely as Congress intended. Recognizing the need for prompt review of a constitutional question affecting the nationwide operation of a federal statute, the Court holds that this special jurisdiction was properly invoked. It then reaches the curious conclusion that, because some of the defendants are California taxing authorities that administer this cooperative federal-state program in

¹ 28 U. S. C. § 1252 provides:

"Any party may appeal to the Supreme Court from an interlocutory or final judgment, decree or order of any court of the United States . . . holding an Act of Congress unconstitutional in any civil action, suit, or proceeding to which the United States or any of its agencies, or any officer or employee thereof, as such officer or employee, is a party."

To: The Chief Justice
 Justice Brennan
 Justice White
 Justice Marshall
 Justice Blackmun
 Justice Powell
 Justice Rehnquist
 Justice Stevens

From: Justice O'Connor

Circulated: JUN 1 1987

ATEX Draft

Recirculated: _____

Nos. 81-31, 81-228 & 81-455 California v. Grace Brethren Church

JUSTICE O'CONNOR delivered the opinion of the Court.

The principal question presented by the parties to this appeal is whether certain state and federal statutes violate the Establishment and Free Exercise Clauses of the First Amendment¹ by requiring religious schools unaffiliated with any church to pay unemployment insurance taxes. We do not reach this substantive question, however, holding instead that the Tax Injunction Act, 28 U.S.C. §1341, deprived the District Court of jurisdiction to hear these challenges. Accordingly, we vacate the judgment below and dismiss the appeal.

I

Last Term, in St. Martin Evangelical Lutheran Church v. South Dakota, 451 U.S. 772 (1981), this Court considered statutory and constitutional challenges to provisions of the Federal Unemployment Tax Act (FUTA), 26 U.S.C. §§3301-

¹The First Amendment provides in pertinent part that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." The Free Exercise and Establishment Clauses apply to the States through the Due Process Clause of the Fourteenth Amendment. See Cantwell v. Connecticut, 310 U.S. 296, 303 (1940); Everson v. Board of Education, 330 U.S. 1, 15 (1947).

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

June 2, 1982

Re: Nos. 81-31, 81-228, 81-455 California v. Grace Brethren

Dear Bill,

I agree with you that declaratory relief was sought in the district court and was granted below. I have no objection to addressing directly the issue of whether the Tax Injunction Act itself bars declaratory relief or whether the bar is one of comity, provided that there is no objection by the majority who voted at Conference to vacate and remand. My notes do not reflect that others expressed a view on this point at Conference.

Sincerely,



Justice Brennan

Copies to the Conference

85 67-5 ERM

Footnotes Renumbered

PP. 6, 8, 9, 12-20, 22, 23

SD

N

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens

From: Justice O'Connor

Circulated: _____

Recirculated: JUN 8 1982

154

2nd PRINTED DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-31

CALIFORNIA, ET AL., APPELLANTS *v.* GRACE
BRETHREN CHURCH ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
THE CENTRAL DISTRICT OF CALIFORNIA

[June —, 1982]

JUSTICE O'CONNOR delivered the opinion of the Court.

The principal question presented by the parties to this appeal is whether certain state and federal statutes violate the Establishment and Free Exercise Clauses of the First Amendment¹ by requiring religious schools unaffiliated with any church to pay unemployment insurance taxes. We do not reach this substantive question, however, holding instead that the Tax Injunction Act, 28 U. S. C. § 1341,² deprived the District Court of jurisdiction to hear these challenges. Accordingly, we vacate the judgment below and dismiss the appeal.

I

Last Term, in *St. Martin Evangelical Lutheran Church v. South Dakota*, 451 U. S. 772 (1981), this Court considered

¹The First Amendment provides in pertinent part that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." The Free Exercise and Establishment Clauses apply to the States through the Due Process Clause of the Fourteenth Amendment. See *Cantwell v. Connecticut*, 310 U. S. 296, 303 (1940); *Everson v. Board of Education*, 330 U. S. 1, 15 (1947).

²The Act provides:

"The district courts shall not enjoin, suspend or restrain the assessment, levy or collection of any tax under State law where a plain, speedy and efficient remedy may be had in the courts of such State."

To: The Chief Justice

Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens

DP 4, 13-17, 19, 23
new footnote 35
remember notes 36-40

From: Justice O'Connor

Circulated: _____

Recirculated: JUN 17 1982

2nd PRINTED DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 81-31, 81-228 AND 81-455

81-31 CALIFORNIA, ET AL., APPELLANTS
v.
GRACE BRETHREN CHURCH ET AL.

81-228 UNITED STATES, ET AL., APPELLANTS
v.
GRACE BRETHREN CHURCH ET AL.

81-455 GRACE BRETHREN CHURCH, ET AL., APPELLANTS
v.
UNITED STATES ET AL.

ON APPEALS FROM THE UNITED STATES DISTRICT COURT FOR
THE CENTRAL DISTRICT OF CALIFORNIA

[June 18, 1982]

JUSTICE O'CONNOR delivered the opinion of the Court.

The principal question presented by the parties to this appeal is whether certain state and federal statutes violate the Establishment and Free Exercise Clauses of the First Amendment¹ by requiring religious schools unaffiliated with any church to pay unemployment insurance taxes. We do

¹The First Amendment provides in pertinent part that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." The Free Exercise and Establishment Clauses apply to the States through the Due Process Clause of the Fourteenth Amendment. See *Cantwell v. Connecticut*, 310 U. S. 296, 303 (1940); *Everson v. Board of Education*, 330 U. S. 1, 15 (1947).