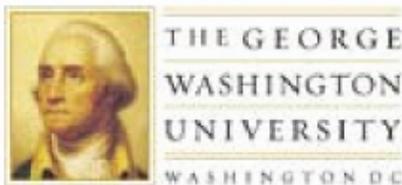


The Burger Court Opinion Writing Database

Jackson Transit Authority v. Transit Union
457 U.S. 15 (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

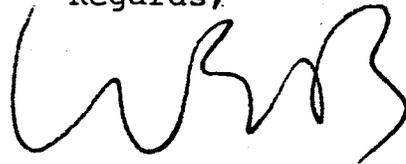
June 2, 1982

RE: 81-411 - Jackson Transit Authority v. Local
Division 1285, Amalgamated Transit Union

Dear Harry:

I join.

Regards,



Justice Blackmun

85 10-5 5552
Copies to the Conference

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

June 1, 1982

RE: No. 81-411 Jackson Transit Authority v. Local
Division 1285, etc.

Dear Harry:

I agree.

Sincerely,

Bill

Justice Blackmun

cc: The Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

May 28, 1982

Re: 81-411 - Jackson Transit Authority
v. Local Division 1285, Amalgamated
Transit Union, AFL-CIO-CLC

Dear Harry,

Please join me.

Sincerely yours,



Justice Blackmun

Copies to the Conference

cpm

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

May 28, 1982

Re: 81-411 - Jackson Transit Authority
v. Local Division 1285, Amalgamated
Transit Union, AFL-CIO-CLC

Dear Harry,

Please join me.

Sincerely yours,

Byron

*Harry -
I'll leave the matter of fr. 6 to your discretion.
B.*

Justice Blackmun

Copies to the Conference

cpm

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 2, 1982

Re: No. 81-411 - Jackson Transit Authority v. Local
Division 1285, Amalgamated Transit
Union

Dear Harry:

Please join me.

Sincerely,



T.M.

Justice Blackmun

cc: The Conference

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

From: **Justice Blackmun**

Circulated: MAY 26 1982

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-411

JACKSON TRANSIT AUTHORITY, ET AL., PETITIONERS
v. LOCAL DIVISION 1285, AMALGAMATED
TRANSIT UNION, AFL-CIO-CLC

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE SIXTH CIRCUIT

[May —, 1982]

JUSTICE BLACKMUN delivered the opinion of the Court.

Under § 13(c) of the Urban Mass Transportation Act of 1964 (Act or UMTA), 78 Stat. 307, as amended, 49 U. S. C. § 1609(c),¹ a state or local government must make arrangements to preserve transit workers' existing collective bargaining rights before that government may receive federal financial assistance for the acquisition of a privately-owned transit company. This case presents the issue whether § 13(c) permits a union to sue in federal court for alleged violations of an arrangement of this kind or of the collective bargaining agreement between the union and the local government transit authority.

I

A

When the Act was under consideration in the Congress, that body was aware of the increasingly precarious financial condition of a number of private transportation companies across the country, and it feared that communities might be

¹ Originally, § 13(c) was § 10(c). In 1966, the Act was amended, and the section received its present designation. Pub. L. 89-562, § 2(b)(1), 80 Stat. 716. Throughout this opinion, it is referred to as § 13(c).

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 1, 1982

Re: No. 81-411 - Jackson Transit Authority v. Local 1285

Dear Bill:

I am glad to delete the sentence to which you refer in footnote 12 on page 14. This omission will be made in the next rerun.

Sincerely,



Justice Rehnquist

cc: The Conference

85 81-411

STYLISTIC CHANGES
pp. 1, 12, 14

~~AB~~
MB

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

From: **Justice Blackmun**

Circulated: _____

Recirculated: JUN 2 1982

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-411

JACKSON TRANSIT AUTHORITY, ET AL., PETITIONERS v. LOCAL DIVISION 1285, AMALGAMATED TRANSIT UNION, AFL-CIO-CLC

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

[June —, 1982]

JUSTICE BLACKMUN delivered the opinion of the Court.

Under § 13(c) of the Urban Mass Transportation Act of 1964 (Act or UMTA), 78 Stat. 307, as amended, 49 U. S. C. § 1609(c),¹ a state or local government must make arrangements to preserve transit workers' existing collective bargaining rights before that government may receive federal financial assistance for the acquisition of a privately-owned transit company. This case presents the issue whether § 13(c) by itself permits a union to sue in federal court for alleged violations of an arrangement of this kind or of the collective bargaining agreement between the union and the local government transit authority.

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

From: **Justice Blackmun**

Circulated: _____

Recirculated: JUN 3 1982

STYLISTIC CHANGES
+ p. 6

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-411

JACKSON TRANSIT AUTHORITY, ET AL., PETITION-
ERS *v.* LOCAL DIVISION 1285, AMALGAMATED
TRANSIT UNION, AFL-CIO-CLC

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE SIXTH CIRCUIT

[May —, 1982]

JUSTICE BLACKMUN delivered the opinion of the Court.

Under § 13(c) of the Urban Mass Transportation Act of 1964 (Act or UMTA), 78 Stat. 307, as amended, 49 U. S. C. § 1609(c),¹ a state or local government must make arrangements to preserve transit workers' existing collective bargaining rights before that government may receive federal financial assistance for the acquisition of a privately-owned transit company. This case presents the issue whether § 13(c) by itself permits a union to sue in federal court for alleged violations of an arrangement of this kind or of the collective bargaining agreement between the union and the local government transit authority.

I

A

When the Act was under consideration in the Congress, that body was aware of the increasingly precarious financial condition of a number of private transportation companies across the country, and it feared that communities might be

¹ Originally, § 13(c) was § 10(c). In 1966, the Act was amended, and the section received its present designation. Pub. L. 89-562, § 2(b)(1), 80 Stat. 716. Throughout this opinion, it is referred to as § 13(c).

file

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 7, 1982

MEMORANDUM TO THE CONFERENCE

Re: Cases Held for No. 81-411, Jackson Transit Authority
v. Local Division 1285

1. No. 81-804, Louisville & Jefferson County Transit Authority v. Division 1447. Relying upon its Jackson Transit opinion, the Sixth Circuit permitted the union to sue in federal court to compel arbitration in accordance with a §13(c) agreement. Since we have reversed the Sixth Circuit in Jackson Transit, I recommend that we grant, vacate, and remand this case for reconsideration in the light of Jackson Transit. I shall so vote.

2. No. 81-1817, Local 589 v. Massachusetts. Some years after the negotiation of a §13(c) agreement, the state changed its public employee arbitration laws in a way that made them inconsistent with the §13(c) agreement it had signed with the union. The union filed suit, claiming that the terms of the §13(c) agreement prevailed over state law and that the changes in state law violated the Contract Clause. The First Circuit held that the terms of a §13(c) agreement do not override subsequently-enacted state laws and that the changes in state law did not violate the Contract Clause.

The Supremacy Clause question decided by the First Circuit is somewhat different from the cause of action question we decided in Jackson Transit. But the First Circuit rested its decision on the legislative history that formed the basis of the Jackson Transit opinion, and its resolution of the issue is consistent with our decision. In the absence of a conflict, the Contract Clause issue does not seem worth plenary review.

Consequently, I recommend that we deny and I shall so vote.

Harry

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 1, 1982

81-411 Jackson Transit Authority v. Local Union

Dear Harry:

Please join me in your opinion for the Court.

I also will circulate a brief concurring statement.

Sincerely,



Justice Blackmun

Copies to the Conference

LFP/vde

.85 001-1 51 85

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

From: Justice Powell

JUN 1 1982

Circulated: _____

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-411

JACKSON TRANSIT AUTHORITY, ET AL., PETITIONERS
v. LOCAL DIVISION 1285, AMALGAMATED
TRANSIT UNION, AFL-CIO

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE SIXTH CIRCUIT

[June —, 1982]

JUSTICE POWELL, concurring.

As the Court notes, this case “does not fit comfortably in . . . the mold” of our implied right of action cases. *Ante*, at 5. Congress here provided for the making of contracts that it must have intended to be enforced. The Court thus identifies the question correctly as whether Congress intended those contracts to be enforced in federal court. *Ante*, at 6.

Despite the analytical differences cited by the Court, this of course is precisely the question on which implied-rights-of-action cases properly are decided. See, *e. g.*, *Middlesex County Sewerage Auth. v. National Sea Clammers Assn.*, 453 U. S. 1, 13 (1981); *Texas Industries, Inc. v. Ratcliff Materials, Inc.*, 451 U. S. 630, 639 (1981). There are other parallels as well. Most significantly to me, both kinds of case involve the same fundamental issues of congressional and judicial power. By enforcing contract rights not within the jurisdictional grant conferred by Congress, as much as by improperly “inferring” a right of action, “a court of limited jurisdiction necessarily extends its authority to embrace a dispute Congress has not assigned it to resolve. . . . This runs contrary to the established principle that [t]he jurisdiction of federal courts is carefully guarded against expansion by judicial interpretation . . . ,’ *American Fire & Casualty*

P. 1

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

From: Justice Powell

Circulated: _____

Recirculated: JUN 3 1982

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-411

JACKSON TRANSIT AUTHORITY, ET AL., PETITIONERS
v. LOCAL DIVISION 1285, AMALGAMATED
TRANSIT UNION, AFL-CIO

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE SIXTH CIRCUIT

[June —, 1982]

JUSTICE POWELL, concurring.

As the Court notes, this case "does not fit comfortably in . . . the mold" of our implied right of action cases. *Ante*, at 5. Congress here provided for the making of contracts that it must have intended to be enforced. The Court thus identifies the question correctly as whether Congress intended those contracts to be enforced in federal court. *Ante*, at 6. This of course is precisely the question on which implied rights of action cases properly are decided. See, e. g., *Middlesex County Sewerage Auth. v. National Sea Clammers Assn.*, 453 U. S. 1, 13 (1981); *Texas Industries, Inc. v. Ratcliff Materials, Inc.*, 451 U. S. 630, 639 (1981).

omission

There are other parallels between this case and those in the more familiar implied right of action "mold." Most significantly to me, both kinds of case involve the same fundamental issues of congressional and judicial power. By enforcing contract rights not within the jurisdictional grant conferred by Congress, as much as by improperly "inferring" a right of action, "a court of limited jurisdiction necessarily extends its authority to embrace a dispute Congress has not assigned it to resolve. . . . This runs contrary to the established principle that [t]he jurisdiction of federal courts is carefully guarded against expansion by judicial interpreta-

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

2089 1-41. 28'

June 1, 1982

Re: No. 81-411 Jackson Transit Authority v. Local
Division 1285

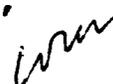
Dear Harry:

My sole difficulty with your otherwise persuasive opinion is found in the second sentence of the second paragraph of footnote 12 on page 14. That sentence now reads: "If Congress had intended breaches of § 13(c) agreements in collective bargaining agreements to constitute violations of the Act, § 1983 would permit the union to sue petitioners."

To me the strong implication of this sentence is that a violation of federal law is all that is necessary to enable the victim to sue under § 1983. But Sea Clammers, which you cite at the end of the paragraph, says that in addition to the naked question of a violation of federal law, a court must determine whether Congress has foreclosed private enforcement and whether the statute at issue is the kind that creates enforceable "rights" under § 1983. See 453 U.S. 1, 19.

Could you see your way clear to deleting the second sentence of the second paragraph of the footnote, or substantially revising it to conform with Sea Clammers, in exchange for my join?

Sincerely,



Justice Blackmun

Copies to the Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 2, 1982

Re: No. 81-411 Jackson Transit Authority v. Local 1285

Dear Harry:

Please join me.

Sincerely,

WRW

Justice Blackmun

Copies to the Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

May 28, 1982

Re: No. 81-411 - Jackson Transit Authority
v. Local Division 1285

Dear Harry:

Please join me.

Respectfully,



Justice Blackmun

Copies to the Conference

85 JUN 24 1982

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

May 27, 1982

No. 81-411 Jackson Transit Authority v.
Local Division 1285, Amalgamated
Transit Union, AFL-CIO-CLC

Dear Harry,

Please join me.

Sincerely,



Justice Blackmun

Copies to the Conference

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

81-411 8-101 SE

June 3, 1982

No. 81-411 Jackson Transit Authority v.
Local Division 1285, AFL-CIO

Dear Lewis,

Please join me in your concurring opinion.

Sincerely,

Sandra

Justice Powell

Copies to the Conference