

Handout C: Youngstown Ruling and Separation of Powers

Directions: Read the documents below and answer the questions that follow.

Background: In June of 1950, when the North Korean army invaded South Korea, the United States led a United Nations effort to support the South Korean military in repelling the invasion. The United States was involved in what was called a “police action” in Korea from 1950 – 1953. One result of the Korean conflict on the U.S. economy was to increase demand for steel production; steel was a necessary component of almost all weapons and other war materials. In 1951, collective bargaining talks broke down between the United Steelworkers of America and steel companies. The steelworkers union gave notice that its members would go on strike when the previous contract expired. In spite of efforts by such government agencies as the Federal Mediation and Conciliation Service and the Federal Wage Stabilization Board, labor and management could not come to agreement regarding terms and conditions of a new contract. President Harry Truman, in order to assure the continued production of vital steel supplies, issued Executive Order 10340 on April 8, 1952, directing the Secretary of Commerce to take possession of most of the nation’s steel mills and keep them running. The president’s action was not based on any statute. The next day he sent a message to Congress reporting his action, citing immediate peril to the national defense while American troops were fighting in Korea if steel production were to be interrupted by the strike. He also stated his intention to abide by any action Congress may take to address the emergency.

The steel companies challenged the validity of the president’s order, stating that it was not authorized by any act of Congress or by any provision of the Constitution. The District Court issued an injunction against the government’s seizure and operation of the steel plants, and the United States Supreme Court agreed to hear the case, *Youngstown Sheet and Tube v. Sawyer* (1952).

Excerpts from the Majority Opinion, Justice Hugo Black (6-3)

We are asked to decide whether the President was acting within his constitutional power when he issued an order directing the Secretary of Commerce to take possession of and operate most of the Nation’s steel mills. The mill owners argue that the President’s order amounts to lawmaking, a legislative function which the Constitution has expressly confided to the Congress, and not to the President. The Government’s position is that the order was made on findings of the President that his action was necessary to avert a national catastrophe

which would inevitably result from a stoppage of steel production, and that, in meeting this grave emergency, the President was acting within the aggregate of his constitutional powers as the Nation’s Chief Executive and the Commander in Chief of the Armed Forces of the United States...

The President’s power, if any, to issue the order must stem either from an act of Congress or from the Constitution itself. There is no statute that expressly authorizes the President to take possession of property as he did here. Nor is

Handout C: Page 2

there any act of Congress to which our attention has been directed from which such a power can fairly be implied...

Moreover, the use of the seizure technique to solve labor disputes in order to prevent work stoppages was not only unauthorized by any congressional enactment; prior to this controversy, Congress had refused to adopt that method of settling labor disputes...

It is clear that, if the President had authority to issue the order he did, it must be found in some provision of the Constitution. And it is not claimed that express constitutional language grants this power to the President. The contention is that presidential power should be implied from the aggregate of his powers under the Constitution. Particular reliance is placed on provisions in Article II which say that "The executive Power shall be vested in a President . . ."; that "he shall take Care that the Laws be faithfully executed", and that he "shall be Commander in Chief of the Army and Navy of the United States."

The order cannot properly be sustained as an exercise of the President's military power as Commander in Chief of the Armed Forces...

[W]e cannot with faithfulness to our constitutional system hold that the Commander in Chief of the Armed Forces has the ultimate power as such to take possession of private property in order to keep labor disputes from stopping production. This is a job for the Nation's lawmakers, not for its military authorities...

Nor can the seizure order be sustained because of the several constitutional provisions that grant executive power to the President. In the framework of our Constitution, the President's power to see that the laws are faithfully executed refutes the idea that he is to be a lawmaker. The Constitution limits his functions in the lawmaking process to the recommending of laws he thinks wise and the vetoing of laws he thinks bad. And the Constitution is neither silent nor equivocal about who shall make laws which the President is to execute. The first section of the first article says that "All legislative Powers herein granted shall be vested in a Congress of the United States. . . ."

The Founders of this Nation entrusted the lawmaking power to the Congress alone in both good and bad times... our holding [is] that this seizure order cannot stand.

Excerpts from the Dissent, Chief Justice Fred Vinson

In passing upon the question of Presidential powers in this case, we must first consider the context in which those powers were exercised.

Those who suggest that this is a case involving extraordinary powers should be mindful that these are extraordinary times. A world not yet recovered from the devastation of World War II has been forced to face the threat of another and more terrifying global conflict...

A review of executive action demonstrates that

our Presidents have on many occasions exhibited the leadership contemplated by the Framers when they made the President Commander in Chief, and imposed upon him the trust to "take Care that the Laws be faithfully executed." With or without explicit statutory authorization, Presidents have at such times dealt with national emergencies by acting promptly and resolutely to enforce legislative programs, at least to save those programs until Congress could act. Congress and the courts have responded to such executive

Handout C: Page 3

initiative with consistent approval... (Vinson provides a long list of presidential actions.)

In an action furnishing a most apt precedent for this case, President Lincoln, without statutory authority, directed the seizure of rail and telegraph lines leading to Washington. Many months later, Congress recognized and confirmed the power of the President to seize railroads and telegraph lines and provided criminal penalties for interference with Government operation. This Act did not confer on the President any additional powers of seizure. Congress plainly rejected the view that the President's acts had been without legal sanction until ratified by the legislature. Sponsors of the bill declared that its purpose was only to confirm the power which the President already possessed. Opponents insisted a statute authorizing seizure was unnecessary, and might even be construed as limiting existing Presidential

powers...

History bears out the genius of the Founding Fathers, who created a Government subject to law but not left subject to inertia when vigor and initiative are required...

There is no statute prohibiting seizure as a method of enforcing legislative programs...

The broad executive power granted by Article II to an officer on duty 365 days a year cannot, it is said, be invoked to avert disaster. Instead, the President must confine himself to sending a message to Congress recommending action. Under this messenger-boy concept of the Office, the President cannot even act to preserve legislative programs from destruction so that Congress will have something left to act upon.

Critical Thinking Questions

1. What was the main argument that President Truman advanced to support Executive Order 10340?
2. What was the main argument that the steel mill owners used against the executive order?
3. What are the main arguments advanced by Justice Black in denying the president's authority to seize the steel mills?
4. What are the main arguments advanced by Chief Justice Vinson in his dissent?
5. If you had been in the Supreme Court, how would you have decided this case? Why? How does the principle of separation of powers help inform your decision?