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SUPREME COURT OF THE UNITED STATES

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CENTRAL VIRGINIA COMMUNITY COLLEGE ET AL.
v. KATZ, LIQUIDATING SUPERVISOR FOR
WALLACE'S BOOKSTORES, INC.

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

No. 04–885. Argued October 31, 2005—Decided January 23, 2006

The Bankruptcy Clause, Art. I, §8, cl. 4, empowers Congress to establish “uniform Laws on the subject of Bankruptcies throughout the United States.” In *Tennessee Student Assistance Corporation v. Hood*, 541 U. S. 440, this Court, without reaching the question whether the Clause gives Congress the authority to abrogate States’ immunity from private suits, see *id.*, at 443, upheld the application of the Bankruptcy Code, 11 U. S. C. §101 *et seq.*, to proceedings initiated by a debtor against a state agency to determine the dischargeability of a student loan debt, see 541 U. S., at 451. In this case, a proceeding commenced by respondent Bankruptcy Trustee under §§547(b) and 550(a) to avoid and recover alleged preferential transfers by the debtor to petitioner state agencies, the agencies claim that the proceeding is barred by sovereign immunity. The Bankruptcy Court denied petitioners’ motions to dismiss on that ground, and the District Court and the Sixth Circuit affirmed based on the Circuit’s prior determination that Congress has abrogated the States’ sovereign immunity in bankruptcy proceedings.

Held: A bankruptcy trustee’s proceeding to set aside the debtor’s preferential transfers to state agencies is not barred by sovereign immunity. Pp. 3–22.

(a) The Bankruptcy Clause’s history, the reasons it was adopted, and the legislation proposed and enacted under it immediately following ratification demonstrate that it was intended not just as a grant of legislative authority to Congress, but also to authorize limited subordination of state sovereign immunity in the bankruptcy

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arena. Although statements in *Seminole Tribe of Fla. v. Florida*, 517 U. S. 44, reflect an assumption that that case's holding would apply to the Clause, careful study and reflection convince this Court that that assumption was erroneous. The Court is not bound to follow its dicta in a prior case in which the point at issue was not fully debated. *Cohens v. Virginia*, 6 Wheat. 264, 399–400. Pp. 4–5.

(b) States, whether or not they choose to participate, are bound by a bankruptcy court's order discharging the debtor no less than are other creditors. *Hood*, 541 U. S., at 448. Petitioners here, like the state agency parties in *Hood*, have conceded as much. See *id.*, at 449. The history of discharges in bankruptcy proceedings demonstrates that these concessions, and *Hood's* holding, are correct. The Framers' primary goal in adopting the Clause was to prevent competing sovereigns' interference with discharge: The patchwork of wildly divergent and uncoordinated insolvency and bankruptcy laws that existed in the American Colonies resulted in one jurisdiction's imprisoning debtors discharged (from prison and of their debts) in and by another jurisdiction. The absence of extensive debate at the Convention over the Clause's text or its insertion into the Constitution indicates that there was general agreement on the importance of authorizing a uniform federal response to the problems and injustice that system created. Pp. 5–11.

(c) Bankruptcy jurisdiction, as understood today and at the framing, is principally *in rem*. See, e.g., *Hood*, 541 U. S., at 447. It thus does not implicate States' sovereignty to nearly the same degree as other kinds of jurisdiction. See *id.*, at 450–451. The Framers would have understood the Bankruptcy Clause's grant of power to enact laws on the entire "subject of Bankruptcies" to include laws providing, in certain limited respects, for more than simple adjudications of rights in the res. Courts adjudicating disputes concerning bankrupts' estates historically have had the power to issue ancillary orders enforcing their *in rem* adjudications. See, e.g., *id.*, at 455–456. The interplay between *in rem* adjudications and orders ancillary thereto is also evident in this case. Whether or not actions such as this are properly characterized as *in rem*, those who crafted the Bankruptcy Clause would have understood it to give Congress the power to authorize courts to avoid preferential transfers and to recover the transferred property. Pp. 12–15.

(d) Insofar as orders ancillary to the bankruptcy courts' *in rem* jurisdiction, like orders directing turnover of preferential transfers, implicate States' sovereign immunity from suit, the States agreed in the plan of the Constitutional Convention not to assert that immunity. That is evidenced not only by the Bankruptcy Clause's history, but also by legislation considered and enacted in the immediate wake of

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the Constitution's ratification. For example, the Bankruptcy Act of 1800 specifically granted federal courts habeas authority to release debtors from state prisons at a time when state sovereign immunity was preeminent among the Nation's concerns, yet there appears to be no record of any objection to that grant based on an infringement of sovereign immunity. This history demonstrates that the power to enact bankruptcy legislation was understood to carry with it the power to subordinate state sovereignty, albeit within a limited sphere. Pp. 15–21.

(e) The Court need not consider the question *Hood* left open: whether Congress' attempt to "abrogat[e]" state sovereign immunity in 11 U. S. C. §106(a) is valid. The relevant question is not abrogation, but whether Congress' determination that States should be amenable to preferential transfer proceedings is within the scope of its power to enact "Laws on the subject of Bankruptcies." Beyond peradventure, it is. Congress' power, at its option, either to treat States in the same way as other creditors or exempt them from the operation of bankruptcy laws arises from the Clause itself; the relevant "abrogation" is the one effected in the plan of the Convention, not by statute. Pp. 21–22.

106 Fed. Appx. 341, affirmed.

STEVENS, J., delivered the opinion of the Court, in which O'CONNOR, SOUTER, GINSBURG, and BREYER, JJ., joined. THOMAS, J., filed a dissenting opinion, in which ROBERTS, C. J., and SCALIA and KENNEDY, JJ., joined.