suant to a delegated power.[142] The culmination of this series had been thought to be *Maryland v. Wirtz*,[143] in which the Court upheld the constitutionality of applying the federal wage and hour law to nonprofessional employees of state-operated schools and hospitals. In an opinion by Justice Harlan, the Court saw a clear connection between working conditions in these institutions and interstate commerce. Labor conditions in schools and hospitals affect commerce; strikes and work stoppages involving such employees interrupt and burden the flow across state lines of goods purchased by state agencies, and the wages paid have a substantial effect. The Commerce Clause being thus applicable, the Justice wrote, Congress was not constitutionally required to "yield to state sovereignty in the performance of governmental functions. This argument simply is not tenable. There is no general doctrine implied in the Federal Constitution that the two governments, national and state, are each to exercise its powers so as not to interfere with the free and full exercise of the powers of the other. . . . [I]t is clear that the Federal Government, when acting within a delegated power, may override countervailing state interests whether these be described as 'governmental' or 'proprietary' in character. . . . [V]alid general regulations of commerce do not cease to be regulations of commerce because a State is involved. If a State is engaging in economic activities that are validly regulated by the Federal Government when engaged in by private persons, the State too may be forced to conform its activities to federal regulation." [144]

Wirtz was specifically reaffirmed in *Fry v. United States*,[145] in which the Court upheld the constitutionality of presidentially imposed wage and salary controls, pursuant to congressional statute, on all state governmental employees. In dissent, however, Justice Rehnquist propounded a doctrine that was to obtain majority approval in *League of Cities*,[146] in which he wrote for the Court: "[T]here

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[142] California v. United States, 320 U.S. 577 (1944) (federal regulation of shipping terminal facilities owned by state); California v. Taylor, 353 U.S. 553 (1957) (Railway Labor Act applies on state-owned railroad); Case v. Bowles, 327 U.S. 92 (1946); Hubler v. Twin Falls County, 327 U.S. 103 (1946) (federal wartime price regulations applied to state transactions; Congress's power effectively to wage war); Board of Trustees v. United States, 289 U.S. 48 (1933) (state university required to pay federal customs duties on imported educational equipment); Oklahoma ex rel. Phillips v. Atkinson Co., 313 U.S. 508 (1941) (federal condemnation of state lands for flood control project); Sanitary Dist. v. United States, 206 U.S. 405 (1925) (prohibition of state from diverting water from Great Lakes).

[143] 392 U.S. 183 (1968). Justices Douglas and Stewart dissented. Id. at 201.

[144] 392 U.S. at 195–97 (internal quotation marks omitted).

[145] 421 U.S. 542 (1975).

[146] 421 U.S. at 549. Essentially, the Justice was required to establish an affirmative constitutional barrier to congressional action. Id. at 552–53. That is, if one asserts only the absence of congressional authority, one's chances of success are dim