

Carpenter Vs. Pennsylvania

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Decided On : 1854

Appeal No. : 58 U.S. 456

Appellant : Carpenter

Respondent : Pennsylvania

Judgement :

Carpenter v. Pennsylvania - 58 U.S. 456 (1854)

U.S. Supreme Court Carpenter v. Pennsylvania, 58 U.S. 17 How. 456 456 (1854)

Carpenter v. Pennsylvania

58 U.S. (17 How.) 456

ERROR TO THE SUPREME

OF PENNSYLVANIA

SYLLABUS

The State of Pennsylvania, in 1826, passed a law by which all inheritances being within that commonwealth which, by the intestacy or the will of any decedent, should devolve upon any other than the father, mother, wife, children, or lineal

descendants of such person should be subject to a tax.

In 1850, an explanatory act was passed declaring that the words "being within this commonwealth" should be so construed as to relate to all persons who have been at the time of their decease or now may be, domiciled within this commonwealth, as well as to estates.

In 1849, a citizen of Pennsylvania died, whose will was proven by a resident executor in December, 1849. The executor represented that a portion of the estate, consisting of securities, stocks, loans, and evidences of debt and property, was not within the commonwealth.

The Supreme Court of Pennsylvania decided that this portion was subject to the tax, and this Court has no authority to revise that decision.

The explanatory law is not within the prohibitions of the Constitution of the United States.

It is true that in some respects the rights of donees under a will become vested by the death of a testator, but until the period of distribution arrives, the law of the decedent's domicile attaches to the property.

The explanatory act is not an *ex post facto* law within the 10th section of the 1st article of the Constitution of the United States. This phrase was used in a restricted sense, relating to criminal cases only.

The case is stated in the opinion of the Court.

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MR. JUSTICE CAMPBELL delivered the opinion of the Court.

The Legislature of Pennsylvania, in 1826, adopted a law by which all inheritances, "being within this commonwealth," which, by the intestacy or the will of any decedent, should devolve "upon any other than the father, mother, wife, children, or lineal descendants" of such person, should be subject to the payment of a tax,

now fixed at five percent Purd.Dig. 138, 1.

The assessments under this act were confined to the property which might be within the commonwealth. *Commonwealth v. Smith*, 5 Barr. 142.

In March, 1850, by an explanatory act it was declared that the words

"'being within this commonwealth' shall be so construed as to relate to all persons who have been at the time of their decease, or now may be, domiciled within this commonwealth, as well as to estates, and this is declared to be the true intent and meaning of this act."

William Short, a citizen of Pennsylvania, died within the state a few months previously to the passage of this act, leaving his property to friends and collateral relations, the principal of whom, the residuary legatees, reside beyond the limits of the state. The will was proven by a resident executor in December, 1849, before the Register's Court in Philadelphia, and a settlement was made with that court in June of the following year. In that settlement, the executor represented that a portion of the estate, consisting of securities, stocks, loans, and evidences of debt and property, was not within the commonwealth, and offered to pay the tax for the property within under the act of 1826, and denied the validity of the assessment under the act of 1850. The tax was assessed upon the entire personal estate, without reference to its locality, by the court, and its judgment upon this subject was affirmed by the supreme court, to which it was removed by certiorari. That

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court said:

"More pointed words to make the act of 1850 retrospective could not be chosen, and it will scarce be said the legislature had not power to make it so, at least while the assets remain in the hands of the executor as administrator. No clause of the Constitution forbids it to extend a tax already laid, or to tax assets not taxed before, and in establishing its peculiar interpretation, it has only done indirectly what it was competent to do directly."

The supreme court thus interprets the act of 1850 as if it read:

"That assets in the hands of an executor, for distribution among the collateral relations of or strangers to the decedent, shall be subject to a tax of five percent."

This Court has no authority to revise the act of Pennsylvania, upon any grounds of justice, policy, or consistency to its own Constitution. These are concluded by the decision of the public authorities of the state. The only inquiry for this Court is does the act violate the Constitution of the United States, or the treaties and laws made under it?

The validity of the act, as affecting successions to open after its enactment, is not contested, nor is the authority of the state to levy taxes upon personal property belonging to its citizens, but situated beyond its limits, denied. But the complaint is that the application of the act of 1826, by that of 1850, to a succession already in the course of settlement, and which had been appropriated by the last will of the decedent, involved an arbitrary change of the existing laws of inheritance to the extent of this tax, in the sequestration of that amount for the uses of the state. That the rights of the residuary legatees were vested at the death of the testator, and from that time those persons were nonresidents, and the property taxed was also beyond the state; and that the state has employed its power over the executor and the property within its borders, to accomplish a measure of wrong and injustice. That the act contains the imposition of a forfeiture or penalty, and is *ex post facto*. It is, in some sense true that the rights of donees under a will are vested at the death of the testator, and that the acts of administration which follow are conservatory means, directed by the state to ascertain those rights, and to accomplish an effective translation of the dominion of the decedent to the objects of his bounty, and the legislation adopted with any other aim than this would justify criticism and perhaps censure. But until the period for distribution arrives, the law of the decedent's domicile attaches to the property, and all other jurisdictions refer to the place of the domicile, as that where the distribution should be made. The will of the testator is proven there, and his executor receives his authority to collect

the property, by the recognition of the legal tribunals of that place. The personal estate, so far as it has a determinate owner, belongs to the executor thus constituted. The rights of the donee are subordinate to the conditions, formalities, and administrative control prescribed by the state in the interests of its public order, and are only irrevocably established upon its abdication of this control at the period of distribution. If the state, during this period of administration and control by its tribunals and their appointees, thinks fit to impose a tax upon the property, there is no obstacle in the Constitution and laws of the United States to prevent it. [Ennis v. Smith](#), 14 How. 400; *In re Ewin*, 1 Cr. & Jer. 151; 1 Barb.Ch. 180; 6 W.H. & G.Cy. 217; 21 Conn. 577.

The act of 1850, in enlarging the operation of the act of 1826, and by extending the language of that act beyond its legal import, is retrospective in its form; but its practical agency is to subject to assessment property liable to taxation, to answer an existing exigency of the state, and to be collected in the course of future administration; and the language retrospective is of no importance, except to describe the property to be included in the assessment. And, as the supreme court has well said, "in establishing its peculiar interpretation, it the legislature has only done indirectly what it was competent to do directly."

But if the act of 1850 involved a change in the law of succession, and could be regarded as a civil regulation for the division of the estates of unmarried persons having no lineal heirs, and not as a fiscal imposition, this Court could not pronounce it to be an *ex post facto* law within the 10th section of the 1st Article of the Constitution. The debates in the federal convention upon the Constitution show that the terms "*ex post facto* laws" were understood in a restricted sense, relating to criminal cases only, and that the description of Blackstone of such laws was referred to for their meaning. 3 Mad.Pap. 1399, 1450, 1579.

This signification was adopted in this Court shortly after its organization in opinions carefully prepared, and has been repeatedly announced since that time. [Calder v. Bull](#), 3 Dall. 386; [Fletcher v. Peck](#), 6 Cranch 87; [33 U. S. 8](#) Pet. 88; [36 U. S. 11](#) Pet. 421.

The same words are used in the Constitutions of many of the states and in the opinions of their courts and by writers upon public law, and are uniformly understood in this restricted sense. 3 N.H. 375; 5 Mon. 133; 9 Mass. 363; 6 Binn. 271; 4 Ga. 208.

The plaintiff's argument concedes that his case is not within the scope of this clause of the Constitution unless its limits are

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enlarged to embrace civil as well as criminal cases, and he insists that the Court should depart from the adjudications heretofore made upon this subject. But this cannot be done. There is no error in the record, and the judgment of the supreme court is

Affirmed.

ORDER

This cause came on to be heard on the transcript of the record from the Supreme Court of Pennsylvania and was argued by counsel. On consideration whereof it is now here ordered, adjudged, and decreed by this Court that the decree of the said supreme court in this cause be and the same is hereby affirmed with costs.

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