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Mcguire Vs. the Commonwealth

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Court : US Supreme Court

Decided On : 1865

Appeal No. : 70 U.S. 387

Appellant : Mcguire

Respondent : The Commonwealth

Judgement :

McGuire v. The Commonwealth - 70 U.S. 387 (1865)
U.S. Supreme Court McGuire v. The Commonwealth, 70 U.S. 3 Wall. 387 387 (1865)

McGuire v. The Commonwealth

70 U.S. (3 Wall.) 387

ERROR TO THE SUPERIOR

COURT OF MASSACHUSETTS

SYLLABUS

1. A license granted by the United States under the internal Revenue Act of July 1, 1862, to carry on the business of the wholesale liquor dealer in a particular state

named, does not, although it have been granted in

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consideration for a fee paid give the licensee power to carry on the business in violation of the state laws forbidding such business to be carried on within its limits.

2. The preceding case affirmed as to the point of jurisdiction; point No. 1 of the syllabus.

A statute of Massachusetts [Footnote 1] enacts, that "all buildings, places, or tenements, used for the illegal keeping or sale of intoxicating liquors, shall be deemed common nuisances," and makes the keeping of such nuisance an offense punishable with fine and imprisonment. McGuire kept and maintained such a tenement at No. 6 Derby Square, Salem, Essex County, Massachusetts, and was indicted, in one of the courts of Massachusetts, accordingly.

His defense was a license granted to him under the Internal Revenue Act of the United States, approved July 1, 1862. [Footnote 2] That act provides that no person shall be engaged in, prosecute, or carry on the business of a wholesale dealer in liquor, "until he shall have obtained a license," and that such wholesale dealer shall for his license pay $100. A proviso to its 67th section, declares that

" *No such license shall be construed to authorize* the commencement or continuation of any trade, business, occupation or employment therein mentioned, within any state or territory of the United States, in which it is or shall be *specially prohibited by the laws thereof, or in violation of the laws of any state or territory.* "

Mr. McGuire's license thus ran:

"TO ALL WHOM IT MAY CONCERN:"

"This license is granted to McGuire & Co., of the City of Salem, in the County of Essex and State of Massachusetts, to carry on the business or occupation of wholesale dealer in liquors, at No. 6, Derby Square, in the aforementioned city,

county, and state, *having paid the tax of one hundred dollars therefor,* conformably to the provisions of an act entitled 'An act to provide internal revenue to support the government, and to pay interest on the public debt,' approved July 1, 1862. "

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"This license to be in force until the first day of September, 1863, provided the said McGuire shall conform to the requirements of said act, and of such other act or acts as are now or may hereafter be in this behalf enacted."

"Given under my hand and seal, at Salem, this first day of September, A.D. 1862."

"[SEAL] VINCENT BROWNE"

"Collector, Fifth Collection District, State of Massachusetts"

McGuire was found and adjudged guilty, and the case having been taken to the superior court of the State of Massachusetts, and the judgment below affirmed, the case was now here under the well known 25th section of the Judiciary Act, authorizing reexamination of a final judgment in the highest court of a state, in which is drawn in question the validity of an authority exercised under the United States, the decision being against the validity.

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MR. JUSTICE NELSON delivered the opinion of the court.

The court below decided that the license received under the act of Congress gave to the defendant no right to keep or sell intoxicating liquors in violation of the state law.

Whatever might be the effect of this license as to the rights under it, in the absence of other provisions of the act of Congress -- a question not involved in the case, and, therefore, not material to be noticed -- it is quite clear that it conferred no right or authority on the defendant below, and hence furnished no defense to

the indictment under the law of the state.

The 67th section of the act of Congress enacts

"That no license hereinbefore provided for, if granted, shall be construed to authorize the commencement or continuation of any trade, business, occupation, or employment therein mentioned, within any state or territory of the United States in which it is or shall be specially prohibited by the laws thereof, or in violation of the laws of any state or territory."

In view of this provision, it is in vain to attempt to give force or effect to the license against the state law, and hence the authority derived from it, upon which the defendant relied for his defense in the court below, fails.

The decision was against an authority set up under an act of Congress, and the case is therefore rightfully here under

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the 25th section of the Judiciary Act. But as we are of opinion the decision of the court below was right, the judgment must be affirmed.

Judgment affirmed.

[See the preceding case -- REP.]

[Footnote 1]

General Statutes, ch. 87.

[Footnote 2]

12 Stat. at Large 459.

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