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Appeal No. : 130 U.S. 662

Appellant : Lake County

Respondent : Rollins

Judgement :

Lake County v. Rollins - 130 U.S. 662 (1889)
U.S. Supreme Court Lake County v. Rollins, 130 U.S. 662 (1889)

Lake County v. Rollins

No. 1347

Submitted January 2, 1889

Decided May 13, 1889

130 U.S. 662

ERROR TO THE CIRCUIT COURT OF THE UNITED

STATES FOR THE DISTRICT OF COLORADO

SYLLABUS

The Constitution of Colorado of 1876 provided that no county should contract any debt by loan in any form except for certain purposes therein named; that such indebtedness contracted in any one year should not exceed the rate therein named, and that "the aggregate amount of indebtedness of any county for all purposes . . . shall not at any time exceed twice the amount above herein limited," etc. *Held* that this limitation was an absolute limitation upon the power of the county to contract any and all indebtedness not only for the purposes named in the act, but for every other purpose whatever, including county warrants issued for ordinary county expenses, such as witnesses' and jurors' fees, election costs, charges for board of prisoners, county treasurer's commissions, etc.

The case, as stated by the court, was as follows:

This action was instituted in the Circuit Court of the United States for the District of Colorado. It is a suit against the County of Lake in that state, and is based on a large number of county warrants, issued for the ordinary county expenses, such as witnesses' and jurors' fees, election costs, charges for the board of prisoners, county treasurer's commissions, etc.

The county has offered several defenses. but the view we take of the case renders it unnecessary to notice any save one.

The fifth defense offered is that of want of authority on the part of the county commissioners to issue the warrants in question, or any of them. It is claimed that section six, article eleven, of the state constitution of 1876 fixes a maximum limit, beyond which no county can contract any indebtedness, and that the warrants sued on were all issued after that limit had been reached and even exceeded, and that they are all for that reason void.

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The constitutional provision in question is as follows:

"No county shall contract any debt by loan in any form, except for the purpose of erecting necessary public buildings, making or repairing public roads and bridges, and such indebtedness contracted in any one year shall not exceed the rates upon the taxable property in such county following, towit: counties in which the assessed valuation of taxable property shall exceed five millions of dollars, one dollar and fifty cents on each thousand dollars thereof; counties in which such valuation shall be less than five millions of dollars, three dollars on each thousand dollars thereof; and the aggregate amount of indebtedness of any county, for all purposes, exclusive of debts contracted before the adoption of this constitution, shall not at any time exceed twice the amount above herein limited, unless when, in manner provided by law, the question of incurring such debt shall, at a general election, be submitted to such of the qualified electors of such county as in the year last preceding such election shall have paid a tax upon property assessed to them in such county, and a majority of those voting thereon shall vote in favor of incurring the debt; but the bonds, if any be issued therefor, shall not run less than ten years, and the aggregate amount of debt so contracted shall not at any time exceed twice the rate upon the valuation last herein mentioned. *provided* that this section shall not apply to counties having a valuation of less than one million of dollars."

To this defense the plaintiff below responded to the effect that the provision quoted was not applicable to the warrants in question, that it is properly applicable only to debts created by loan, for the purpose of erecting necessary public buildings, or making or repairing public roads and bridges, and that as to debts so created by loan for the purposes designated, and as to them alone, a limitation of amount is fixed, first as to the sum that may be incurred in any one year, and secondly as to the aggregate sum that may be incurred by the accumulating debts of more than one year, and that these objects and restrictions exhaust the scope of the provision.

The cause was tried below on an agreed state of facts before

the court, on the written waiver of a jury. In the agreement is found the following stipulation:

"It is further stipulated and agreed that if section six (6) of article eleven (11) of the Constitution of the state of Colorado be construed to be a limitation upon the power of defendant county to contract any and all indebtedness, including all such as that sued upon in this action, then it is admitted that the claimed indebtedness sued on herein was incurred after the limitation prescribed by said constitution had been reached and exceeded by the said defendant, the County of Lake, and in the event of such a construction by this court, or the Supreme Court of the United States, then and in that case, and for the purposes of this action, it is hereby also admitted that all the allegations of the fifth separate defense to this action of the answer of the defendant are true and correct, and the defendant entitled to judgment thereon."

The court below held, 34 F. 845, first that the said section six, in all of its sentences, does not refer exclusively to debts contracted by loan, but there are two independent declarations in it, the second declaration beginning with the words, "and the aggregate amount of indebtedness of any county, for all purposes, etc.;" secondly, that in determining whether the limit of county indebtedness fixed by the second declaration had been reached, it is immaterial how any particular portion of the indebtedness arose, but that thirdly, when such limit had been reached, while the power of the county to incur further debt by contract was suspended, the liability for further amounts in the shape of fees and salaries, and the other "compulsory obligations" imposed by the will of the legislature remained and was enforceable. Proceeding on this idea, the circuit court rendered judgment in favor of the plaintiff below; whereupon the county brought the case here by writ of error.

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MR. JUSTICE LAMAR delivered the opinion of the Court.

We are unable to assent either to the conclusions of the court below or to the positions of defendant in error. The language of the sixth section seems to be neither complicated nor doubtful, and we think it plain that what is meant is exactly what is said -- no more and no less. It deals with the subject of county debts, and, to begin with, assumes a unit of measurement which is one and onehalf dollars in the thousand of assessed values -- that is, one and onehalf mills on the dollar. This is about equal to the average amount of taxes levied for county purposes per annum, under normal conditions. The provision then proceeds as follows:

First. It provides that no county shall borrow money in any way.

Secondly. Exception is then made in favor of the erection of necessary public buildings and the making or repairing of public roads and bridges, and

Thirdly. The loans allowed by the foregoing exception to be taken in any one year are limited to the amount of one and onehalf mills on assessed values in one class of counties, and three mills in another class.

Here the matter of indebtedness by loan is completed, and the section passes to a broader subject. Manifestly the purpose of the collocation of the two passages in one section is not that, by a wrested reading, the latter may yet further limit and complicate the power of borrowing, but that the meaning of the latter passage may be more sharply and clearly defined and emphasized by an antithesis. It is an example not of inadvertence, but of good rhetoric, as if special attention had been by discussion and care given to the wording of the section.

The next provisions are:

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Fourthly. That the aggregate debt of any county for all purposes (exclusive of debts contracted before the adoption of the constitution) shall not at any time exceed the sum of three mills (or six, as the class might be) on assessed values unless the taxpayers vote in favor of such excess at some general election, and

Fifthly. That even when an election has been held, the aggregate debt so contracted shall not exceed, at any one time, the sum of six mills (or twelve, as the case might be) on the assessed values.

We are unable to adopt the constructive interpolations ingeniously offered by counsel for defendant in error. Why not assume that the framers of the constitution, and the people who voted it into existence, meant exactly what it says? At the first glance, its reading produces no impression of doubt as to the meaning. It seems all sufficiently plain, and in such case there is a well settled rule which we must observe. The object of construction, applied to a constitution, is to give effect to the intent of its framers and of the people in adopting it. This intent is to be found in the instrument itself, and when the text of a constitutional provision is not ambiguous, the courts, in giving construction thereto, are not at liberty to search for its meaning beyond the instrument.

To get at the thought or meaning expressed in a statute, a contract, or a constitution, the first resort in all cases is to the natural signification of the words in the order of grammatical arrangement in which the framers of the instrument have placed them. If the words convey a definite meaning which involves no absurdity nor any contradiction of other parts of the instrument, then that meaning, apparent on the face of the instrument, must be accepted, and neither the courts nor the legislature have the right to add to it or take from it. *Newell v. People,* 7 N.Y. 97; *Hills v. Chicago,* 60 Ill. 86; *Denn v. Reid,* 10 Pet. 524; *Leonard v. Wiseman,* 31 Md. 204; *People v. Potter,* 47 N.Y. 375; Cooley, Const.Lim. 57; 1 Story on Const. 400; *Beardstown v. Virginia,* 76 Ill. 34. So also, where a law is expressed in plain and unambiguous terms, whether those terms are general or limited,

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the legislature should be intended to mean what they have plainly expressed, and consequently no room is left for construction. *United States v. Fisher,* 2 Cranch 358, 6 U. S. 399 ; *Doggett v. Railroad Co.,* 99 U. S. 72 .

There is even stronger reason for adhering to this rule in the case of a constitution than in that of a statute, since the latter is passed by a deliberative body of small numbers, a large proportion of whose members are more or less conversant with the niceties of construction and discrimination, and fuller opportunity exists for attention and revision of such a character, while constitutions, although framed by conventions, are yet created by the votes of the entire body of electors in a state, the most of whom are little disposed, even if they were able, to engage in such refinements. The simplest and most obvious interpretation of a constitution, if in itself sensible, is the most likely to be that meant by the people in its adoption.

Such considerations give weight to that line of remark of which *People v. Purdy,* 2 Hill 35, affords an example. There, Bronson, J., commenting upon the danger of departing from the import and meaning of the language used to express the intent and hunting after probable meanings not clearly embraced in that language, says:

"In this way, the constitution is made to mean one thing by one man and something else by another, until in the end it is in danger of being rendered a mere dead letter, and that too where the language is so plain and explicit that it is impossible to mean more than one thing, unless we lose sight of the instrument itself and roam at large in the fields of speculation."

Words are the common signs that mankind make use of to declare their intention to one another, and when the words of a man express his meaning plainly, distinctly, and perfectly, we have no occasion to have recourse to any other means of interpretation.

Defendant in error insists that the interpretation contended for by the county leads to certain absurd consequences -- *viz.,* that it is senseless to limit the power of a county to incur

debt generally, since its exercise of such a power may, by sudden exigencies, become imperatively necessary to the discharge of its functions; that it would be to require the county to provide in advance, by taxation or otherwise, for the payment

of expenses which, from their nature, can only be guessed at; that it would be to enable any county in two years, by a vote and a loan, to exhaust the whole possible indebtedness in the way of buildings, roads, and bridges, leaving no margin for other necessities; that it would be to destroy the county governments, since the county officials and others will not work for nothing, and the margin of possible debt is, in nearly all the counties, already reached; and that it would be to avoid nearly all the tax payments heretofore made in warrants. All of these objections could well be answered from the facts, as disclosed by the bill of exceptions, but it is not necessary.

We cannot say as a matter of law that it was absurd for the framers of the constitution for this new state to plan for the establishment of its financial system on a basis that should closely approximate the basis of cash. It was a scheme favored by some of the ablest of the earlier American statesmen. Nor can the fact disclosed in the bill of exceptions that after the adoption of the state constitution the county officials, and many of the people, designedly or undesignedly, disregarded the constitutional rule, render the plan absurd. If it was a mistaken scheme, if its operation has proved, or shall prove, to be more inconvenient than beneficial, the remedy is with the people, not with the courts.

In *Wisconsin Central Railroad v. Taylor,* 52 Wis. 37, the court says:

"We have been urged with great ability to give the section such construction as to forever prevent unjust discrimination by the legislature, and grave consequences have been assumed as the result of a different construction. On the other hand, we have been urged with equal ability that such a decision would unseat many titles, stop revenue, necessitate an immediate revision of the laws of taxation, and possibly the calling of a constitutional convention. The answer to all this is obvious. It is no part of the duty of the court to make or unmake, but simply to construe, this provision of the

constitution. All questions of policy, all questions of restriction and unjust discrimination, all questions of flexibility and adjustability to meet the varied wants and necessities of the people must be regarded as having been fully considered and conclusively determined by the adoption of the constitution. The oath of all is to support it as it is, and not as it might have been. To do so may, in some cases, lead to individual hardships, but to do otherwise would be most portentous of evil."

In *Law v. People,* 87 Ill. 395, the court said:

"ut, should it work hardship to individuals, that by no means warrants the violation of a plain and emphatic provision of the constitution. The liberty of the citizen and his security in all his rights in a large degree depend upon a rigid adherence to the provisions of the constitution and the laws and their faithful performance. If courts, to avoid hardships, may disregard and refuse to enforce their provisions, then the security of the citizen is imperiled. Then the will, it may be the unbridled will, of the judge would usurp the place of the constitution and the laws, and the violation of one provision is liable to speedily become a precedent for another, perhaps more flagrant, until all constitutional and legal barriers are destroyed, and none are secure in their rights. Nor are we justified in resorting to strained construction or astute interpretation, to avoid the intention of the framers of the constitution or the statutes adopted under it, even to relieve against individual or local hardships. If unwise or hard in their operation, the power that adopted can repeal or amend, and remove the inconvenience. The power to do so has been wisely withheld from the courts, their functions only being to enforce the laws as they find them enacted."

In the light of these principles expressed in the authorities quoted and in many others, we must decline to read the expression in section six, "and the aggregate amount of indebtedness of any county, for all purposes," etc., as if it were written "and the aggregate amount of such indebtedness," etc. This the defendant in error concedes to be necessary to his case. We see no admissible reason for the

introduction of this restrictive word "such" except to alter radically the plain meaning of the sentence.

Neither can we assent to the position of the court below that there is, as to this case, a difference between indebtedness incurred by contracts of the county and that form of debt denominated "compulsory obligations." The compulsion was imposed by the legislature of the state, even if it can be said correctly that the compulsion was to incur debt, and the legislature could no more impose it than the county could voluntarily assume it as against the disability of a constitutional prohibition. Nor does the fact that the constitution provided for certain county officers, and authorized the legislature to fix their compensation and that of other officials, affect the question. There is no necessary inability to give both of the provisions their exact and literal fulfillment.

In short, we conclude that section six aforesaid is "a limitation upon the power of the county to contract any and all indebtedness, including all such as that sued upon in this action," and therefore under the stipulation already set forth, the county is entitled to judgment.

Wherefore the judgment of the court below is reversed, and the case is remanded to that court, with a direction to enter judgment for the defendant.