

Missouri Vs. Dockery

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Court : US Supreme Court

Decided On : Nov-16-1903

Appeal No. : 191 U.S. 165

Appellant : Missouri

Respondent : Dockery

Judgement :

Missouri v. Dockery - 191 U.S. 165 (1903)

U.S. Supreme Court Missouri v. Dockery, 191 U.S. 165 (1903)

Missouri v. Dockery

No. 180

Argued October 27, 1903

Decided November 16, 1903

191 U.S. 165

ERROR TO THE SUPREME COURT

OF THE STATE OF MISSOURI

SYLLABUS

The rights of an individual under the Fourteenth Amendment turn on the power of the state. A state does not infringe his rights under that amendment by exempting a corporation from a tax either wholly or in part, whether such exemption results from the plain language of a statute or from the conduct of a state official under it.

The facts appear in the opinion of the court.

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MR. JUSTICE HOLMES delivered the opinion of the Court.

This is a writ of error to the Supreme Court of Missouri upon a judgment quashing an alternative writ of mandamus to the state board of equalization. The petition alleges that the board, instead of assessing the total actual cash value of the taxable property of certain railroad, bridge, telephone, telegraph, and express companies, made pretended, fraudulent, inadequate, and not uniform assessments upon such property at valuations varying from about a quarter to forty-eight

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percent of the actual value, except that of the express companies, which they did not assess at all. It alleges that, in this way, the petitioner will be deprived of his property without due process of law and will be denied the equal protection of the laws, contrary to the Fourteenth Amendment of the Constitution of the United States. The motion to quash denied the jurisdiction of the Supreme Court of Missouri to issue the writ, and also the sufficiency of the grounds on which the writ was allowed. The court sustained the motion without an opinion or statement of reasons.

For all that appears, the court may have quashed the writ on grounds of local practice. But, if this consideration be laid on one side, it is impossible to say that the board of equalization has not acted with regard to those companies which it

has assessed. It has laid a substantial tax upon them. Its judgment is final under the Missouri Constitution and statutes. Mo.Const.Art. X, 18; Rev.Stat. 9344, 9356, c. 149, Art. 8, March 9, 1901, p. 232. If nevertheless we assume that mandamus would lie upon a clear case of fraud adequately alleged and proved, *State Board of Equalization v. People*, 191 Ill. 528, 539, it would be a strong thing to revise the judgment of the board on the strength of allegations of undervaluations, and the single adjective "fraudulent" without more specific allegations of fact. *State v. Western Union Telegraph Co.*, 165 Mo. 502, 516-517; *State v. Talty*, 166 Mo. 529, 560; *Manchester v. Furnald*, 71 N.H. 153, 158; *Knight v. Thomas*, 93 Me. 494; *Maish v. Arizona*, [164 U. S. 599](#) , [164 U. S. 611](#) ; *Pittsburgh, Cincinnati, Chicago & St. Louis Ry. Co. v. Backus*, [154 U. S. 421](#) , [154 U. S. 434](#) , [154 U. S. 438](#) . See *Fogg v. Blair*, [139 U. S. 118](#) , [139 U. S. 127](#) .

However this may be, the petitioner admitted at the argument that his own tax was correct, and that he would have had no case under the Fourteenth Amendment if the companies had been exempted altogether. *Magoun v. Illinois Trust & Savings Bank*, [170 U. S. 283](#) , [170 U. S. 293](#) -295; *Connolly v. Union Sewer Pipe Co.*, [184 U. S. 540](#) . But his rights

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under that amendment turn on the power of the state, no matter by what organ it acts. *Virginia v. Rives*, [100 U. S. 313](#) , [100 U. S. 318](#) . Therefore, if the supreme court of the state construed the statutes as exempting express companies from this tax and substituting another, as it is argued on behalf of the defendants in error that the statutes do, the petitioner cannot complain here. For the legislature could exempt them, and the question whether it has done so or not is for the state courts to decide in their construction of its acts. Furthermore, if the state could grant a total exemption, it could grant a partial exemption, and if it has done so *de facto* through its officers, the petitioner cannot come here on an allegation that the officers acted as they did without the authority of the state. That, again is for the state court to decide. The petitioner has no case under the Constitution of the United States, and nothing else is open. This is a writ of error to a state court, so that questions under the state constitution and laws cannot be

considered as they might be on error to a subordinate court of the United States.

Judgment affirmed.

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