Smiley Vs. Kansas

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Appeal No. : 196 U.S. 447

Appellant : Smiley

Respondent : Kansas

Judgement :

Smiley v. Kansas - 196 U.S. 447 (1905)
U.S. Supreme Court Smiley v. Kansas, 196 U.S. 447 (1905)

Smiley v. Kansas

No. 13

Argued October 20-21, 1904

Decided February 20, 1905

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ERROR TO THE SUPREME COURT

OF THE STATE OF KANSAS

SYLLABUS

This Court will not inquire whether the finding of the jury in the state court is against the evidence; it will take the facts as found and consider only whether the state statute involved is violative of the federal Constitution.

The power in the state court to determine the meaning of a state statute carries with it the power to prescribe its extent and limitations, as well as the method by which they shall be determined.

Where the highest court of a state has held that the acts of a person convicted of violating a state statute defining and prohibiting trusts were clearly within both the statute and the police power of the state, and that the statute can be sustained as a prohibition of those acts irrespective of the question whether its language was broad enough to include acts beyond legislative control, this Court will accept such construction, although the state court may have ascertained the meaning, scope and validity of the statute by pursuing a rule of construction different from that recognized by this Court.

While there is a certain freedom of contract which the states cannot destroy by legislative enactment, in pursuance whereof parties may seek to further their business interests, the police power of the states extends to, and may prohibit a secret arrangement by which, under penalties, and without any merging of interests through partnership or incorporation, an apparently existing competition among all the dealers in a community in one of the necessaries of life is substantially destroyed.

The Act of the Legislature of Kansas of March 8, 1897, defining and prohibiting trusts, is not in conflict with the Fourteenth Amendment to the federal Constitution as to a person convicted thereunder of combining with others to pool and fix the price, divide the net earnings, and prevent competition in the purchase and sale of grain.

On March 8, 1897, the Legislature of Kansas passed an act, the first section of which is as follows:

"SEC. 1. A trust is a combination of capital, skill, or acts by two or more persons, firms, corporations, or associations of persons, or either two or more of them, for either any or all of the following purposes: First. -- To create or carry out restrictions in trade or commerce or aids to commerce, or to

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carry out restrictions in the full and free pursuit of any business authorized or permitted by the laws of this state. Second. -- To increase or reduce the price of merchandise, produce, or commodities, or to control the cost or rates of insurance. Third. -- To prevent competition in the manufacture, making, transportation, sale, or purchase of merchandise, produce, or commodities, or to prevent competition in aids to commerce. Fourth. -- To fix any standard or figure whereby its price to the public shall be in any manner controlled or established, any article or commodity of merchandise, produce, or commerce intended for sale, use, or consumption in this state. Fifth. -- To make or enter into, or execute or carry out, any contract, obligation, or agreement of any kind or description by which they shall bind or have to bind themselves not to sell, manufacture, dispose of, or transport any article or commodity, or article of trade, use, merchandise, commerce, or consumption below a common standard figure, or by which they shall agree in any manner to keep the price of such article, commodity, or transportation at a fixed or graded figure, or by which they shall in any manner establish or settle the price of any article or commodity or transportation between them or themselves and others, to preclude a free and unrestricted competition among themselves or others in transportation, sale, or manufacture of any such article or commodity, or by which they shall agree to pool, combine, or unite any interest they may have in connection with the manufacture, sale, or transportation of any such article or commodity, that its price may in any manner be affected. And any such combinations are hereby declared to be against public policy, unlawful, and void."

Laws of Kansas, 1897, p. 481.

Subsequent sections prescribe penalties, and provide procedure for enforcing the act. On September 27, 1901, the county attorney filed in the District Court of Rush

county, Kansas, an information charging that the defendant did, on November 20, 1900,

"then and there unlawfully enter into an agreement, contract, and combination, in the County of Rush

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and the State of Kansas, with divers and sundry persons, partnerships, companies, and corporations of grain dealers and grain buyers in the Town of Bison, in the said county and state aforesaid, to-wit, Humburg & Ahrens, the La Crosse Lumber & Grain Company, the Bison Milling Company, and George Weicken, who were at the said time and place competitive grain dealers and buyers, to pool and fix the price the said grain dealers and buyers should pay for grain at the said place, and to divide between them the net earnings of the said grain dealers and buyers, and to prevent competition in the purchase and sale of grain among the said dealers and buyers."

A trial was had, the defendant was found guilty, and sentenced to pay a fine of $500, and to imprisonment in the county jail for three months. On appeal to the supreme court of the state, the judgment was affirmed. 65 Kan. 240. Whereupon this writ of error was sued out.

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MR. JUSTICE BREWER delivered the opinion of the Court.

The verdict of the jury settles all questions of fact.

In *Missouri, Kansas &c.; Ry. Co. v. Haber,* 169 U. S. 613 , 169 U. S. 639 , it is said:

"Much was said at the bar about the finding of

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the jury's being against the evidence. We cannot enter upon such an inquiry. The facts must be taken as found by the jury, and this Court can only consider whether the statute, as interpreted to the jury, was in violation of the federal Constitution. *Chicago, Burlington & Quincy Railroad v. Chicago,* 166 U. S. 226 , 166 U. S. 242 , 166 U. S. 246 ."

We pass, therefore, to a consideration of the questions of law. It is contended that the act of 1897 is in conflict with the Fourteenth Amendment to the federal Constitution in that it unduly infringes the freedom of contract; that it is too broad, and not sufficiently definite, and that, while some things are denounced which may be within the police power of the state, yet its language reaches to and includes matters clearly beyond the limits of that power, and that there is no such separation or distinction between those within and those beyond as will enable the courts to declare one part valid and another part void. We quote from the brief of counsel for plaintiff in error:

"Section one goes entirely too far, and is an unwarranted attempt upon the part of the legislature to limit the rights of the individual in the matter of contracting and dealing with his fellow men. The liberty to contract is as much protected by the constitutional provisions above referred to as is the liberty of person, and any attempt to abridge or limit that right will be held void unless such abridgment or limitation is necessary to preserve the peace and order of the community, or the life, liberty, and morals of individuals, in which cases it is held to be the proper exercise of the police power of the state."

It may be conceded, for the purposes of this case, that the language of the first section is broad enough to include acts beyond the police power of the state, and the punishment of which would unduly infringe upon the freedom of contract. At any rate, we shall not attempt to enter into any consideration of that question. The supreme court of the state held that the acts charged and proved against the defendant were

clearly within the terms of the statute, as well as within the police power of the state, and that the statute could be sustained as a prohibition of those acts irrespective of the question whether its language was broad enough to include acts and conduct which the legislature could not rightfully restrain.

It is well settled that, in cases of this kind, the interpretation placed by the highest court of the state upon its statutes is conclusive here. We accept the construction given to a state statute by that court. *St. Louis, I.M. & St.P. Ry. Co. v. Paul,* 173 U. S. 404 , 173 U. S. 408 ; *M., K. & T. Ry. Co. v. McCann,* 174 U. S. 580 , 174 U. S. 586 ; *Tullis v. Lake Erie & W. R. Co.,* 175 U. S. 348 . Nor is it material that the state court ascertains the meaning and scope of the statute as well as its validity by pursuing a different rule of construction from that we recognize. It may be that the views of the Kansas court in respect to this matter are not in harmony with those expressed by us in *United States v. Reese,* 92 U. S. 214 ; *Trade-Mark Cases,* 100 U. S. 82 ; *United States v. Harris,* 106 U. S. 629 , and *Baldwin v. Franks,* 120 U. S. 678 . We shall not stop to consider that question, nor the reconciliation of the supposed conflicting views suggested by the chief justice of the state. The power to determine the meaning of a statute carries with it the power to prescribe its extent and limitations, as well as the method by which they shall be determined.

The transaction, as shown by the testimony, was practically this: there were four dealers in wheat in Bison, a small village in Rush County, situated on the Missouri Pacific Railroad. Three of them owned elevators and one a mill. They were competitors in the purchase of grain. The defendant was secretary of the state Grain Dealers' Association. He was not himself in the grain business, nor interested in that of either of the four dealers. He came to Bison for the purpose of investigating some claims of Bison firms against the Missouri Pacific Railroad. While there, he induced these dealers to enter into an arrangement by which, if one bought and shipped more grain than the others, that excess purchaser would pay

them a certain percent. As security for such agreement, the parties deposited their checks for $100 each with the defendant. They made to him weekly reports of the amount of grain purchased. If one had purchased more than his share, he paid the defendant three cents a bushel for the excess, and that amount was then divided among the other dealers. Upon these facts, under appropriate instructions, the jury found the defendant guilty.

That the transaction was within the letter of the statute, in that it tended to prevent competition in the purchase of merchandise, is not open to doubt. It is also within the spirit of the statute. It imposed an unreasonable restraint upon competition. It is stated by counsel for plaintiff in error in his brief that, not far from Bison, were a number of other small towns at which the principal commercial business was the buying and selling of wheat. But where there were four buyers, as in Bison, apparently competing, farmers nearer to Bison than to other villages, if not farmers more remote, would naturally seek that place in order to benefit by the competition. They would find an apparent competition, and yet each buyer was restrained by this contract from seeking to purchase more than his fourth of the wheat coming to the market, or, if he purchased more, must necessarily, in order to make his profit, buy his wheat, pay at least three cents a bushel less than what he might otherwise pay, that being the penalty for an excess purchase. It was not an open agreement in respect to price, nor one that enabled sellers to know in advance exactly what they could get for their wheat.

Undoubtedly there is a certain freedom of contract which cannot be destroyed by legislative enactment. In pursuance of that freedom, parties may seek to further their business interests, and it may not be always easy to draw the line between those contracts which are beyond the reach of the police power and those which are subject to prohibition or restraint. But a secret arrangement, by which, under penalties, an apparently existing competition among all the dealers

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in a community in one of the necessaries of life is substantially destroyed, without any merging of interests through partnership or incorporation, is one to which the

police power extends. That is as far as we need to go in sustaining the judgment in this case. That is as far as the supreme court of the state went. If other transactions are presented in which there is an absolute freedom of contract beyond the power of the legislature to restrain, which come within the letter of any of the clauses of this statute, the courts will undoubtedly exclude them from its operation. As said by the supreme court of the state concerning the defendant's criticism of the breadth of this statute (p. 247):

"He cannot be heard to object to the statute merely because it operates oppressively upon others. The hurt must be to himself. The case, under appellant's contention as to this point, is not a case of favoritism in the law. It is not a case of exclusion of classes who ought to have been included, the leaving out of which constitutes a denial of the equal protection of the law, but it is the opposite of that. It is a case of the inclusion of those who ought to have been excluded. Hence, unless appellant can show that he himself has been wrongfully included in the terms of the law, he can have no just ground of complaint. This is fundamental and decisively settled. *City of Kansas City v. Railway Co.,* 59 Kan. 427, affirmed under the title *Clark v. Kansas City,* 176 U. S. 114 ; *Albany County v. Stanley,* 105 U. S. 305 , 105 U. S. 311 ; *Pittsburgh &c.; R. Co. v. Montgomery,* 152 Ind. 1."

We see no error in the judgment of the Supreme Court of Kansas, and it is

Affirmed.