Chicago Vs. Sturges

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Appeal No. : 222 U.S. 313

Appellant : Chicago

Respondent : Sturges

Judgement :

Chicago v. Sturges - 222 U.S. 313 (1911)
U.S. Supreme Court Chicago v. Sturges, 222 U.S. 313 (1911)

Chicago v. Sturges

No. 39

Argued November 6, 1911

Decided December 18, 1911

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ERROR TO THE SUPREME COURT

OF THE STATE OF ILLINOIS

SYLLABUS

The question of validity of a state statute under the state constitution is foreclosed in this Court by the decision of the highest court of the state.

The general principles of law that there is no individual liability for an act which ordinary human care and foresight could not guard against and that loss for causes purely accidental must rest where it falls, are subject to the legislative power, which, in the absence of organic restraint, may, for the general welfare, impose obligations and responsibilities otherwise nonexistent.

Primarily government exists for the maintenance of social order, and is under the obligation to protect life, liberty, and property against the careless and evil-minded.

Legislation reasonably adapted to the maintenance of social order, affording hearing before judgment, and not affirmatively forbidden by any constitutional provision does not deny due process of law.

It is a familiar rule of the common law that the state which creates subordinate municipal governments and vests in them police powers essential to preservation of law and order may impose upon them the duty of protecting property from mob violence and hold them liable for loss caused by such violence.

Liability of the municipality for property destroyed by mob violence rests upon reasonable grounds of public policy and operates to deter the lawless destruction of property.

It is not unreasonable for a state to make a county liable for damages sustained by sufferers whose property is not within any incorporated city.

Equal protection of the law is not denied where the classification is not so unreasonable and extravagant as to be merely an arbitrary mandate. A classification between cities and unincorporated subdivisions of a county is a reasonable one within the equal protection clause of the Fourteenth Amendment.

The act of Illinois of 1887 indemnifying owners of property for damages by mobs and riots is not unconstitutional as depriving cities of

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their property without due process of law because liability imposed irrespective of the power of the city to have prevented the violence, nor is it unconstitutional as denying equal protection of the law because it discriminates between cities and unincorporated subdivisions of a county.

237 Ill. 46 affirmed.

The facts, which involve the constitutionality under the Fourteenth Amendment of the mob and riot indemnity law of Illinois, are stated in the opinion.

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MR. JUSTICE LURTON delivered the opinion of the Court.

The only question under this writ of error is as to the validity of a statute of the State of Illinois entitled, "An Act to Indemnify the Owner of Property for Damages by Mobs and Riots." Laws of 1887, p. 237.

The defendant in error recovered a judgment against the city under that statute which was affirmed in the supreme court of the state. 237 Ill. 46. The validity of the law under the Illinois Constitution was thus affirmed, and that question is thereby foreclosed. But it was urged in the Illinois courts that the act violated the guaranty of due process of law and the equal protection of the law, as provided by the Fourteenth Amendment of the Constitution of the United States.

By the provisions of the statute referred to, a city is made liable for three-fourths of the damage resulting to property situated therein, caused by the violence of any mob or riotous assemblage of more than twelve persons, not abetted or permitted by the negligent or wrongful act of the owner, etc. If the damage be to property not within the city, then the county in which it is located is in like manner made

responsible. The act saves to the owner his action against the rioters, and gives the city or county, as the case may be, a lien upon any judgment against such participants for reimbursement, or a remedy to the city or county directly against the individuals causing the damage, to the amount of any judgment it may have paid the sufferer.

It is said that the act denies to the city due process of law, since it imposes liability irrespective of any question of the power of the city to have prevented the violence, or of negligence in the use of its power. This was the interpretation

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placed upon the act by the Supreme Court of Illinois. Does the law as thus interpreted deny due process of law? That the law provides for a judicial hearing and a remedy over against those primarily liable narrows the objection to the single question of legislative power to impose liability regardless of fault.

It is a general principle of our law that there is no individual liability for an act which ordinary human care and foresight could not guard against. It is also a general principle of the same law that a loss from any cause purely accidental must rest where it chances to fall. But behind and above these general principles, which the law recognizes as ordinarily prevailing, there lies the legislative power which, in the absence of organic restraint, may, for the general welfare of society, impose obligations and responsibilities otherwise nonexistent.

Primarily, governments exist for the maintenance of social order. Hence it is that the obligation of the government to protect life, liberty, and property against the conduct of the indifferent, the careless, and the evil-minded may be regarded as lying at the very foundation of the social compact. A recognition of this supreme obligation is found in those exertions of the legislative power which have as an end the preservation of social order and the protection of the welfare of the public and of the individual. If such legislation be reasonably adapted to the end in view, affords a hearing before judgment, and is not forbidden by some other affirmative provision of constitutional law, it is not to be regarded as denying due process of

law under the provisions of the Fourteenth Amendment.

The law in question is a valid exercise of the police power of the State of Illinois. It rests upon the duty of the state to protect its citizens in the enjoyment and possession of their acquisitions, and is but a recognition of the obligation of the state to preserve social order and the property of the citizen against the violence of a riot or a mob.

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The state is the creator of subordinate municipal governments. It vests in them the police powers essential to the preservation of law and order. It imposes upon them the duty of protecting property situated within their limits from the violence of such public breaches of the peace as are mobs and riots. This duty and obligation thus entrusted to the local subordinate government is by this enactment emphasized and enforced by imposing upon the local community absolute liability for property losses resulting from the violence of such public tumults.

The policy of imposing liability upon a civil subdivision of government exercising delegated police power is familiar to every student of the common law. We find it recognized in the beginning of the police system of Anglo-Saxon people. Thus, "The Hundred," a very early form of civil subdivision, was held answerable for robberies committed within the division. By a series of statutes, beginning possibly in 1285, in the statutes of Westminster, coming on down to the 27th Elizabeth, the Riot Act of George I (1 Geo. I, St. 2) and Act of George II, c. 16, we may find a continuous recognition of the principle that a civil subdivision entrusted with the duty of protecting property in its midst, and with police power to discharge the function, may be made answerable not only for negligence affirmatively shown, but absolutely as not having afforded a protection adequate to the obligation. Statutes of a similar character have been enacted by several of the states and held valid exertions of the police power. *Darlington v. New York,* 31 N.Y. 164; *Fauvia v. New Orleans,* 20 La.Ann. 410; *Allegheny County v. Gibson,* 90 Pa. 397. The imposition of absolute liability upon the community when property is destroyed

through the violence of a mob is not therefore an unusual police regulation. Neither is it arbitrary, as not resting upon reasonable grounds of policy. Such a regulation has a tendency to deter the

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lawless, since the sufferer must be compensated by a tax burden which will fall upon all property, including that of the evil doers as members of the community. It is likewise calculated to stimulate the exertions of the indifferent and the law-abiding to avoid the falling of a burden which they must share with the lawless. In that it directly operates on and affects public opinion, it tends strongly to the upholding of the empire of the law.

There remains the contention that the act discriminates between cities and villages or other incorporated towns.

The liability is imposed upon the city if the property be within the limits of a city; if not, then upon the county. The classification is not an unreasonable one. A city is presumptively the more populous and better organized community. As such, it may well be singled out and made exclusively responsible for the consequence of riots and mobs to property therein.

The county, which includes the city and other incorporated subdivisions, is, not unreasonably, made liable to all sufferers whose property is not within the limits of a city.

The power of the state to impose liability for damage and injury to property from riots and mobs includes the power to make a classification of the subordinate municipalities upon which the responsibility may be imposed. It is a matter for the exercise of legislative discretion, and the equal protection of the law is not denied where the classification is not so unreasonable and extravagant as to be a mere arbitrary mandate.

The cases upon this subject are so numerous as to need no further elucidation.

Among the later cases are *Williams v. Arkansas,* 217 U. S. 79 ; *Watson v. Maryland,* 218 U. S. 173 ; *Chicago, B. & Q. R. Co. v. McGuire,* 219 U. S. 549 ; *House v. Mayes,* 219 U. S. 270 .

Judgment affirmed.