Light Vs. United States

Light Vs. United States

SooperKanoon Citation : sooperkanoon.com/91089

Court : US Supreme Court

Decided On : May-01-1911

Appeal No. : 220 U.S. 523

Appellant : Light

Respondent : United States

Judgement :

Light v. United States - 220 U.S. 523 (1911)
U.S. Supreme Court Light v. United States, 220 U.S. 523 (1911)

Light v. United States

No. 360

Argued February 27, 28, 1911

Decided May 1, 1911

220 U.S. 523

APPEAL FROM THE CIRCUIT COURT OF THE

UNITED STATES FOR THE DISTRICT OF COLORADO

SYLLABUS

United States v. Grimaud, ante, p. 220 U. S. 506 , followed to effect that Congress may authorize an executive officer to make rules and regulations as to the use, occupancy and preservation of forests and that such authority so granted is not unconstitutional as a delegation of legislative power.

At common law, the owner was responsible for damage done by his livestock on land of third parties, but the United States has tacitly suffered its public domain to be used for cattle so long as such tacit consent was not cancelled, but no vested rights have been conferred on any person, nor has the United States been deprived of the power of recalling such implied license.

While the full scope of 3, Art. IV, of the Constitution has never been definitely settled, it is primarily a grant of power to the United States of control over its property, *Kansas v. Colorado,* 206 U. S. 89 ; this control is exercised by Congress to the same extent that an individual can control his property.

Page 220 U. S. 524

It is for Congress and not for the courts to determine how the public lands shall be administered.

Congress has power to set apart portions of the public domain and establish them as forest reserves and to prohibit the grazing of cattle thereon or to permit it subject to rules and regulations.

Fence laws may condone trespasses by straying cattle where the laws have not been complied with, but they do not authorize wanton or willful trespass, nor do they afford immunity to those willfully turning cattle loose under circumstances showing that they were intended to graze upon the lands of another.

Where cattle are turned loose under circumstances showing that the owner expects and intends that they shall go upon a reserve to graze thereon, for which he has no permit and he declines to apply for one, and threatens to resist efforts to

have the cattle removed and contends that he has a right to have his cattle go on the reservation, equity has jurisdiction, and such owner can be enjoined at the instance of the government, whether the land has been fenced or not.

Quaere, and not decided, whether the United States is required to fence property under laws of the state in which the property is located.

This Court will, so far as it can, decide cases before it without reference to questions arising under the federal Constitution. *Siler v. Louisville & Nashville R. Co.,* 213 U. S. 175 .

The Holy Cross Forest Reserve was established under the provisions of the Act of March 3, 1891. By that and subsequent statutes, the Secretary of Agriculture was authorized to make provisions for the protection against destruction by fire and depredations of the public forest and forest reservations, and to

"make such rules and regulations and establish such service as will insure the objects of such reservations -- namely, to regulate their occupancy and use and to preserve the forests thereon from destruction."

26 Stat. 1103, c. 561; 30 Stat. 35, c. 2; Act of Congress February 1, 1905, 33 Stat. 628, c. 288; 7 Fed.Stat.Ann. 310, 312, and Fed.Stat. Ann.Supp. 1909, p. 663. In pursuance of these statutes, regulations were adopted establishing grazing districts on which only a limited number of cattle were allowed. The regulations provided that a few head of cattle of prospectors, campers, and not more than ten

Page 220 U. S. 525

belonging to a settler residing near the forest might be admitted without permit, but, saving these exceptions, the general rule was that "all persons must secure permits before grazing any stock in a national forest."

On April 7, 1908, the United States, through the district attorney, filed a bill in the Circuit Court for the District of Colorado reciting the matters above outlined, and alleging that the defendant, Fred Light, owned a herd of about 500 cattle and a ranch of 540 acres, located two and a half miles to the east, and five miles to the

north, of the reservation. This herd was turned out to range during the spring and summer, and the ranch then used as a place on which to raise hay for their sustenance.

That between the ranch and the reservation was other public and unoccupied land of the United States, but, owing to the fact that only a limited number of cattle were allowed on the reservation, the grazing there was better than on this public land. For this reason, and because of the superior water facilities and the tendency of the cattle to follow the trails and stream leading from the ranch to the reservation, they naturally went direct to the reservation. T he bill charged that the defendant, when turning them loose, knew and expected that they would go upon the reservation, and took no action to prevent them from trespassing. That, by thus knowingly and wrongfully permitting them to enter on the reservation, he intentionally caused his cattle to make a trespass, in breach of the United States property and administrative rights, and has openly and privately stated his purpose to disregard the regulations, and without permit to allow, and, in the manner stated, to cause, his cattle to enter, feed, and graze thereon.

The bill prayed for an injunction. The defendant's general demurrer was overruled.

His answer denied that the topography of the country around his ranch or the water and grazing conditions were

Page 220 U. S. 526

such as to cause his cattle to go on the reservation; he denied that many of them did go thereon, though admitting that some had grazed on the reservation. He admitted that he had liberated his cattle without having secured or intending to apply for a permit, but denied that he willfully or intentionally caused them to go on the reservation, submitting that he was not required to obtain any such permit. He admits that it is his intention hereafter, as heretofore, to turn his cattle out on the unreserved public land of the United States adjoining his ranch to the northeast thereof, without securing or applying for any permit for the cattle to graze upon the so-called Holy Cross Reserve; denies that any damage will be done if they do go

upon the reserve, and contends that if, because of their straying proclivities, they shall go on the reserve, the complainant is without remedy against the defendant at law or in equity, so long as complainant fails to fence the reserve, as required by the laws of Colorado. He claims the benefit of the Colorado statute requiring the owner of land to erect and maintain a fence of given height and strength, in default of which the owner is not entitled to recover for damage occasioned by cattle or other animals going thereon.

Evidence was taken, and, after hearing, the circuit court found for the government and entered a decree enjoining the defendant from in any manner causing, or permitting, his stock to go, stray upon, or remain within the said forest or any portion thereof.

The defendant appealed and assigned that the decree against him was erroneous; that the public lands are held in trust for the people of the several states, and the proclamation creating the reserve without the consent of the State of Colorado is contrary to and in violation of said trust; that the decree is void because it, in effect, holds that the United States is exempt from the municipal laws of the State of Colorado, relating to fences; that the statute

Page 220 U. S. 527

conferring upon the said Secretary of Agriculture the power to make rules and regulations was an unconstitutional delegation of authority to him, and the rules and regulations therefore void, and that the rules mentioned in the bill are unreasonable, do not tend to insure the object of forest reservation, and constitute an unconstitutional interference by the government of the United States with fence and other statutes of the State of Colorado, enacted through the exercise of the police power of the state.

Page 220 U. S. 534

MR. JUSTICE LAMAR, after making the foregoing statement, delivered the opinion of the Court.

The defendant was enjoined from pasturing his cattle on the Holy Cross Forest Reserve because he had refused to comply with the regulations adopted by the Secretary of Agriculture, under the authority conferred by the Act of June 4, 1897 (30 Stat. 35, c. 2), to make rules and regulations as to the use, occupancy, and preservation of forests. The validity of the rule is attacked on the ground that Congress could not delegate to the Secretary legislative power. We need not discuss that question, in view of the opinion in *United States v. Grimaud, ante,* p. 220 U. S. 506 .

Page 220 U. S. 535

The bill alleged, and there was evidence to support the finding, that the defendant, with the expectation and intention that they would do so, turned his cattle out at a time and place which made it certain that they would leave the open public lands and go at once to the reserve, where there was good water and fine pasturage. When notified to remove the cattle, he declined to do so, and threatened to resist if they should be driven off by a forest officer. He justified this position on the ground that the statute of Colorado provided that a landowner could not recover damages for trespass by animals unless the property was enclosed with a fence of designated size and material. Regardless of any conflict in the testimony, the defendant claims that, unless the government put a fence around the reserve, it had no remedy, either at law or in equity, nor could he be required to prevent his cattle straying upon the reserve from the open public land on which he had a right to turn them loose.

At common law, the owner was required to confine his livestock, or else was held liable for any damage done by them upon the land of third persons. That law was not adapted to the situation of those states where there were great plains and vast tracts of unenclosed land, suitable for pasture. And so, without passing a statute, or taking any affirmative action on the subject, the United States suffered its public domain to be used for such purposes. There thus grew up a sort of implied license that these lands, thus left open, might be used so long as the government did not cancel its tacit consent. *Buford v. Hout,* 133 U. S. 326 . Its failure to object,

however, did not confer any vested right on the complainant, nor did it deprive the United States of the power of recalling any implied license under which the land had been used for private purposes. *Steele v. United States,* 113 U. S. 130 ; *Wilcox v. Jackson,* 13 Pet. 513.

It is contended, however, that Congress cannot constitutionally

Page 220 U. S. 536

withdraw large bodies of land from settlement without the consent of the state where it is located, and it is then argued that the Act of 1891, providing for the establishment of reservations, was void, so that what is nominally a reserve is, in law, to be treated as open and unenclosed land, as to which there still exists the implied license that it may be used for grazing purposes. But

"the nation is an owner, and has made Congress the principal agent to dispose of its property. . . . Congress is the body to which is given the power to determine the conditions upon which the public lands shall be disposed of."

Butte City Water Co. v. Baker, 196 U. S. 126 .

"The government has, with respect to its own lands, the rights of an ordinary proprietor to maintain its possession and to prosecute trespassers. It may deal with such lands precisely as a private individual may deal with his farming property. It may sell or withhold them from sale."

Canfield v. United States, 167 U. S. 524 . And if it may withhold from sale and settlement, it may also, as an owner, object to its property being used for grazing purposes, for

"the government is charged with the duty and clothed with the power to protect the public domain from trespass and unlawful appropriation."

United States v. Beebe, 127 U. S. 342 .

The United States can prohibit absolutely or fix the terms on which its property may be used. As it can withhold or reserve the land, it can do so indefinitely. *Stearns v. Minnesota,* 179 U. S. 243 . It is true that the "United States do not and cannot hold property as a monarch may, for private or personal purposes." *Van Brocklin v. Anderson,* 117 U. S. 158 . But that does not lead to the conclusion that it is without the rights incident to ownership, for the Constitution declares, 3, Art. IV, that

"Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or the property belonging to the United States."

"The full scope of this

Page 220 U. S. 537

paragraph has never been definitely settled. Primarily at least, it is a grant of power to the United States of control over its property."

Kansas v. Colorado, 206 U. S. 89 .

"All the public lands of the nation are held in trust for the people of the whole country." *United States v. Trinidad Coal Co.,* 137 U. S. 160 . And it is not for the courts to say how that trust shall be administered. That is for Congress to determine. The courts cannot compel it to set aside the lands for settlement, or to suffer them to be used for agricultural or grazing purposes, nor interfere when, in the exercise of its discretion, Congress establishes a forest reserve for what it decides to be national and public purposes. In the same way and in the exercise of the same trust, it may disestablish a reserve, and devote the property to some other national and public purpose. These are rights incident to proprietorship, to say nothing of the power of the United States as a sovereign over the property belonging to it. Even a private owner would be entitled to protection against willful trespasses, and statutes providing that damage done by animals cannot be recovered unless the land had been enclosed with a fence of the size and material required do not give permission to the owner of cattle to use his neighbor's land as a pasture. They are intended to condone trespasses by straying cattle; they have

no application to cases where they are driven upon unfenced land in order that they may feed there. *Lazarus v. Phelps,* 152 U. S. 81 ; *Monroe v. Cannon,* 24 Mont. 324; *St. Louis Cattle Co. v. Vaught,* 1 Tex.Civ.App. 388; *The Union Pacific v. Rollins,* 5 Kan. 176.

Fence laws do not authorize wanton and willful trespass, nor do they afford immunity to those who, in disregard of property rights, turn loose their cattle under circumstances showing that they were intended to graze upon the lands of another.

This the defendant did, under circumstances equivalent to driving his cattle upon the forest reserve. He could

Page 220 U. S. 538

have obtained a permit for reasonable pasturage. He not only declined to apply for such license, but there is evidence that he threatened to resist efforts to have his cattle removed from the reserve, and in his answer he declares that he will continue to turn out his cattle, and contends that, if they go upon the reserve the, government has no remedy at law or in equity. This claim answers itself.

It appears that the defendant turned out his cattle under circumstances which showed that he expected and intended that they would go upon the reserve to graze thereon. Under the facts, the court properly granted an injunction. The judgment was right on the merits, wholly regardless of the question as to whether the government had enclosed its property.

This makes it unnecessary to consider how far the United States is required to fence its property, or the other constitutional questions involved. For, as said in *Siler v. Louisville & Nashville R. Co.,* 213 U. S. 193 ,

"where a case in this Court can be decided without reference to questions arising under the federal Constitution, that course is usually pursued, and is not departed from without important reasons."

The decree is therefore

Affirmed.