Gray Vs. Taylor

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Appeal No. : 227 U.S. 51

Appellant : Gray

Respondent : Taylor

Judgement :

Gray v. Taylor - 227 U.S. 51 (1913)
U.S. Supreme Court Gray v. Taylor, 227 U.S. 51 (1913)

Gray v. Taylor

Nos. 322, 483

Submitted January 6, 1913

Decided January 20, 1913

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APPEALS FROM THE SUPREME COURT

OF THE TERRITORY OF NEW MEXICO

SYLLABUS

In determining whether a statute is a local act of the nature prohibited by the Constitution, the legislature will not be supposed to be less faithful to its obligations than the court.

A local law means one that in fact, even if not in form, is directed only to a specific spot.

A law is not necessarily a local law because it happens to affect a particular spot.

The law of New Mexico Territory requiring that changes of county seats shall not be made under certain conditions is not violative of the Act of 1886 prohibiting the Territory from passing local laws because those conditions happen to apply to certain localities.

In determining questions from the territories not based on federal law, this Court inclines towards following the local courts, *Treat v. Grand Canyon Ry. Co.,* 222 U. S. 448 , and so *held* as to questions relating to the passage of an act of the legislature of the territory.

Following the supreme court of the territory, *held* that the act of the legislature was properly passed, and the petition for change of county seat, and the ballots were not irregular.

A statute requiring the appointment for certain elections of a registration board sixty days before election does not apply to a special election ordered by a subsequent act to take place within sixty days after presentation of a petition.

15 N.M 742 and 16 N.M. 467 affirmed.

The facts are stated in the opinion.

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MR. JUSTICE HOLMES delivered the opinion of the Court.

The first of these suits is a bill in equity brought by taxpayers to restrain the County Commissioners of Lincoln County from erecting a courthouse and jail in the Town of Carrizozo, the board assuming that the county seat has been changed from Lincoln to that town. The second is a *quo warranto* at the relation of a taxpayer against the same board to stop the same and other proceedings taken by the board on the same ground. The supreme court of the territory affirmed a decree dismissing the bill, and also a judgment denying the *quo warranto.* 15 N.M. 742, 16 N.M. 467. Both cases raised the question whether the attempted change of the county seat was void, and turn on the same facts, which may be stated in connection with the several objections that the appellants take.

In the first place, it is said that the statute under which the attempted change took place is void because it is a local law, and the Act of Congress of July 30, 1886, c. 818, 1, 24 Stat. 170, provides that the legislature of the territory shall not pass local or special laws in the matter, among others, of changing county seats. The statute, being c. 80 of the Laws of New Mexico of 1909, is thought to be local because, by 2, it enacts that the place to which it is proposed to remove the county seat "shall be at least twenty miles distant from the then county seat of said county," and that no proposition to remove a county seat from a place situated on a railroad to one not so situated shall be entertained. It is argued at great length, and is obvious, that, at any given time, this enactment does not bear in the same way on every part of the territory.

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In its present form, the statute may be specially favorable to the change from Lincoln to Carrizozo if, as is said, the latter town is on a railroad and Lincoln is not. It may be admitted that a local act could be disguised in general terms if a legislature would condescend to evading its duties under a constitution or organic act. It may be assumed that general words are not necessarily enough to disguise such an intent. But it is not lightly to be supposed that a legislature is less faithful to its obligations than a court. General words indicate and affirm a general intent, and if the fact that different sections are differently affected is enough to make a law local, the field of legislation would be narrowed beyond anything that Congress

could have dreamed. It cannot have been intended, for instance, that no laws should be passed concerning cities or towns, yet such laws would be local in their application. The phrase "local law" means, primarily at least, a law that in fact, if not in form, is directed only to a specific spot. If it has a wider meaning, it involves questions of degree that cannot be decided by putting cases other than the one before us. We know nothing that would warrant us in declaring that this law was not intended, according to its purport, to regulate generally the change of county seats. *Ritchie v. Franklin County,* 22 Wall. 67.

The full discussion in *Codlin v. Kohlhausen,* 9 N.M. 565, has lost but little of its force and applicability, notwithstanding the later amendment of the statute. The law is shown not to be a local law, and with regard to the twenty-mile limit, it is said to be only reasonable to believe that the legislature intended, in fixing it,

"to prevent cities and towns situated within a few miles of each other from engaging in those injurious contests for the supremacy for the location of the county seat, based upon population only. The wisdom of these conditions is apparent, and it is within the power of the legislature to make them."

However it may be as to the foregoing question, which

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arises under an act of Congress, the other objections are of a kind as to which we often have intimated our strong leaning toward following the local courts, and therefore will not be discussed at length. *Fox v. Haarstick,* 156 U. S. 674 , 156 U. S. 679 ; *Treat v. Grand Canyon Ry. Co.,* 222 U. S. 448 , 222 U. S. 452 . In the first place, it is said that the statute was not approved by the governor, and does not appear to have reached him more than three days before the adjournment of the legislature, so as to have become a law by Rev.Stat. 1842. Also it is said that the bill was not signed by the president of the council or the speaker of the house of representatives, as required by the respective rules of those bodies. But the act appears in the official copy of the Laws of 1909, it passed the two houses in fact and in ample time to be submitted to the governor.

The governor returned the bill to the council with the statement that he had allowed it to become a law by limitation. We agree with the court below that the governor's message is as good evidence as a note of the date on the bill that the bill had been received long enough before the return to make his statement correct. *Gardner v. Collector,* 6 Wall. 499, 73 U. S. 508 -509. The journals of the two houses showed the passage of the bill, and we certainly should not reverse the local decision that the evidence, if necessary, was admissible and sufficient in aid of the act.

The next objection is to the form of the petition by which the proceedings for the change were begun. The statute provides that the board of county commissioners shall order a vote whenever citizens of a county equal in number to at least one half of the legal votes cast at the last preceding general election in the county shall present a petition asking for the removal of the county seat to some other designated place. The petition asked the board "to call an election and submit to a vote . . . the proposition to remove the county seat of said Lincoln county to Carrizozo," etc. It is said that this did not ask

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for the removal, and, if read with extreme technicality, it did not, in so many words. But the petition very well might be held to imply that the proposition to remove emanated from those who signed -- the only persons from whom it could emanate under the law that the petitioners had in mind.

Again, it is said that the ballot was in an unintelligible and misleading form. The board, following the statute, Compiled Laws 1897, 631, ordered that

"the tickets voted shall contain 'For County Seat,' with the name of the place for which the voter desires to cast his ballot, either written or printed thereon."

If the court was of opinion that the voters would understand that those in favor of Carrizozo would write that word on the ticket, and those opposed to a change would write "Lincoln," we could not say that they overrated the intelligence of their fellow citizens. There was no evidence that the voters were deceived. But it is

enough that the statute was followed. There is no ground on which the law could be declared void.

It is objected that there was no registration of voters, as required in general terms by 1709 of the Compiled Laws. But that required the county commissioners to appoint a board of registration sixty days before any election, and, as the statute concerning the change of county seats in case of a special election required it to be called "at any time within two months of the date of presenting said petition," it naturally was held that the case was taken out of 1709 by the latter act.

It is objected that various allegations of the bill were admitted because not denied. If any such matter is open, the allegations not denied were mainly, if not wholly, erroneous conclusions of law from the facts proved at the trial. *Equitable Life Assurance Society v. Brown,* 213 U. S. 25 , 213 U. S. 43 . But it is not open. The argument seems to us to need no further or more elaborate reply.

Decree affirmed.

Judgment affirmed.