Lawlor Vs. Loewe

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Court : US Supreme Court

Decided On : Jan-05-1915

Appeal No. : 235 U.S. 522

Appellant : Lawlor

Respondent : Loewe

Judgement :

Lawlor v. Loewe - 235 U.S. 522 (1915)
U.S. Supreme Court Lawlor v. Loewe, 235 U.S. 522 (1915)

Lawlor v. Loewe

No. 358

Argued December 10, 11, 1914

Decided January 5, 1915

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ERROR TO THE CIRCUIT COURT OF APPEALS

FOR THE SECOND CIRCUIT

SYLLABUS

Irrespective of compulsion or even agreement to observe its intimation, the circulation of a "we don't patronize" or "unfair" list manifestly intended to put the ban upon those whose names appear therein, among an important body of possible customers, combined with a view to joint action and in anticipation of such reports, is within the prohibition of the Anti-Trust Act of July 2, 1890, if it is intended to restrain and does restrain commerce among the states. *Eastern States Retail Lumber Dealers Association v. United States,* 234 U. S. 600 .

This Court agrees with the courts below that the action of the unions and associations to which defendants belonged in regard to the use and circulation of "we don't patronize" and "unfair dealer" lists, boycotts, union labels, and strikes, amounted to a combination and conspiracy forbidden by the Anti-Trust Act of July 2, 1890.

In this case, *held* that the trial court properly instructed the jury to the effect that defendants, members of labor unions who paid their dues and continued to delegate authority to their officers to unlawfully interfere with the interstate commerce of other parties, are jointly liable with such officers for the damages sustained by their acts.

Members of unions and associations are bound to know the constitutions of their societies, and, on the evidence in this case, the jury might well find that the defendants who were members of labor

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union knew how the words of the constitutions of such unions had been construed in the act.

The use in this case of the word "proof" by the trial judge in its popular way for "evidence" *held,* in view of the caution by the judge, not to have prejudiced the defendants.

A verdict for damages resulting from an illegal combination in restraint of interstate trade under the Anti-Trust Act of 1890 may include damages accruing after commencement of the suit but as the consequence of acts done before and constituting part of the cause of action declared on.

In this case, introduction of newspapers was not improper to show publicity in places and directions to bring notice home to defendants and to prove intended and detrimental consequences of the acts complained of.

Letters from customers of a boycotted manufacturer, giving the boycott as reason for ceasing to deal with him, *held* admissible in this case.

209 F. 721 affirmed.

The facts in this case, which is known as the *"Danbury Hatters'"* case, involving the validity of a verdict for damages resulting from a combination and conspiracy in restraint of trade under 7 of the Anti-Trust Act, are stated in the opinion.

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MR. JUSTICE HOLMES delivered the opinion of the Court.

This is an action under the Act of July 2, 1890, c. 647, 7, 26 Stat. 209, 210, for a combination and conspiracy in restraint of commerce among the states, specifically directed against the plaintiffs (defendants in error), among others, and effectively carried out with the infliction of great damage. The declaration was held good on demurrer in 208 U. S. 208 U.S. 274, where it will be found set forth at length. The substance of the charge is that the plaintiffs were hat manufacturers who employed nonunion labor; that the defendants were members of the United Hatters of North America and also of the American Federation of Labor; that, in pursuance of a general scheme to unionize the labor employed by manufacturers of fur hats (a purpose previously made effective against all but a few manufacturers), the defendants and other members of the United Hatters caused the American Federation of Labor to declare a boycott against the plaintiffs and against all hats sold by the plaintiffs to dealers in other states, and against dealers

who should deal in them, and that they carried out their plan with such success that they have restrained or destroyed the plaintiff's commerce with other states. The case now has been tried,

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the plaintiffs have got a verdict, and the judgment of the district court has been affirmed by the circuit court of appeals. 209 F. 721.

The grounds for discussion under the statute that were not cut away by the decision upon the demurrer have been narrowed still further since the trial by the case of *Eastern States Retail Lumber Dealers' Association v. United States,* 234 U. S. 600 . Whatever may be the law otherwise, that case establishes that, irrespective of compulsion or even agreement to observe its intimation, the circulation of a list of "unfair dealers," manifestly intended to put the ban upon those whose names appear therein among an important body of possible customers, combined with a view to joint action and in anticipation of such reports, is within the prohibitions of the Sherman act if it is intended to restrain and restrains commerce among the states.

It requires more than the blindness of justice not to see that many branches of the United Hatters and the Federation of Labor, to both of which the defendants belonged, in pursuance of a plan emanating from headquarters, made use of such lists and of the primary and secondary boycott in their effort to subdue the plaintiffs to their demands. The union label was used, and a strike of the plaintiffs' employees was ordered and carried out to the same end, and the purpose to break up the plaintiffs' commerce affected the quality of the acts. *Loewe v.Lawlor,* 208 U. S. 274 , 208 U. S. 299 . We agree with the circuit court of appeals that a combination and conspiracy forbidden by the statute were proved, and that the question is narrowed to the responsibility of the defendants for what was done by the sanction and procurement of the societies above named.

The court in substance instructed the jury that, if these members paid their dues and continued to delegate authority to their officers unlawfully to interfere with the

plaintiffs' interstate commerce in such circumstances that they knew or ought to have known, and such officers were warranted in the belief that they were acting in the matters within their delegated authority, then such members were jointly liable, and no others. It seems to us that this instruction sufficiently guarded the defendants' rights, and that the defendants got all that they were entitled to ask in not being held chargeable with knowledge as matter of law. It is a tax on credulity to ask anyone to believe that members of labor unions at that time did not know that the primary and secondary boycott and the use of the "We don't patronize" or "Unfair" list were means expected to be employed in the effort to unionize shops. Very possibly, they were thought to be lawful. *See Gompers v. United States,* 233 U. S. 604 . By the Constitution of the United Hatters, the directors are to use "all the means in their power" to bring shops "not under our jurisdiction" "into the trade." The bylaws provide a separate fund to be kept for strikes, lockouts, and agitation for the union label. Members are forbidden to sell nonunion hats. The Federation of Labor, with which the Hatters were affiliated, had organization of labor for one of its objects, helped affiliated unions in trade disputes, and, to that end, before the present trouble, had provided in its constitution for prosecuting and had prosecuted many what it called legal boycotts. Their conduct in this and former cases was made public, especially among the members, in every possible way. If the words of the documents, on their face and without explanation, did not authorize what was done, the evidence of what was done publicly and habitually showed their meaning and how they were interpreted. The jury could not but find that, by the usage of the unions, the acts complained of were authorized, and authorized without regard to their interference with commerce among the states. We think it unnecessary to repeat the evidence of the publicity of this particular

struggle in the common newspapers and union prints, evidence that made it almost inconceivable that the defendants, all living in the neighborhood of the plaintiffs, did not know what was done in the specific case. If they did not know that, they were bound to know the constitution of their societies, and at least well

might be found to have known how the words of those constitutions had been construed in act.

It is suggested that injustice was done by the judge's speaking of "proof" that, in carrying out the object of the associations, unlawful means had been used with their approval. The judge cautioned the jury with special care not to take their view of what had been proved from him, going even farther than he need have gone. *Graham v. United States,* 231 U. S. 474 , 231 U. S. 480 . But the context showed plainly that proof was used here in a popular way for evidence, and must have been understood in that sense.

Damages accruing since the action began were allowed, but only such as were the consequence of acts done before and constituting part of the cause of action declared on. This was correct. *New York, Lake Erie & Western R. Co. v. Estill,* 147 U. S. 591 , 147 U. S. 615 -616. We shall not discuss the objections to evidence separately and in detail, as we find no error requiring it. The introduction of newspapers, etc., was proper in large part to show publicity in places and directions where the facts were likely to be brought home to the defendants, and also to prove an intended and detrimental consequence of the principal acts, not to speak of other grounds. The reasons given by customers for ceasing to deal with sellers of the Loewe hats, including letters from dealers to Loewe & Co., were admissible. 3 Wigmore, Evidence 1729(2). We need not repeat or add to what was said by the circuit court of appeals with regard to evidence of the payment of dues after this suit was begun. And, in short, neither the argument

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nor the perusal of the voluminous brief for the plaintiffs in error shows that they suffered any injustice, or that there was any error requiring the judgment to be reversed.

Judgment affirmed.