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Kane Vs. New Jersey

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Court : US Supreme Court

Decided On : Dec-04-1916

Appeal No. : 242 U.S. 160

Appellant : Kane

Respondent : New Jersey

Judgement :

Kane v. New Jersey - 242 U.S. 160 (1916)
U.S. Supreme Court Kane v. New Jersey, 242 U.S. 160 (1916)

Kane v. New Jersey

No. 51

Argued October 31, 1916

Decided December 4, 1916

242 U.S. 160

ERROR TO THE COURT OF ERRORS AND APPEALS

OF THE STATE OF NEW JERSEY

SYLLABUS

In regulating the use of motor vehicles upon its highways (*Hendrick v. Maryland,* 235 U. S. 610), a state may require nonresident owners to appoint a state official as agent upon whom process may be served in legal proceedings brought against them, and resulting from the operation of their motor vehicles, within the state.

A registration fee, not unreasonable in amount, which is exacted by a state from residents and nonresidents alike as a condition to the use of its highways by motor vehicles, is not a discrimination against the citizens of other states either (a) because the amount of the fee is fixed for each calendar year without reference to the extent

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to which the highway are used, or (b) because the liability of nonresidents to pay is not tempered by the allowance of any period of free use in reciprocation for like privileges allowed by the states in which they reside.

It is clearly within the discretion of the state to determine whether the compensation for the use of highways by automobiles shall be determined by way of a fee, payable annually or semi-annually, or by a toll based on mileage or otherwise.

The power of the state, in the absence of national legislation upon the subject, to regulate the use of its highways by motor vehicles moving in interstate commerce applies as well to such as are moving through the state as to such as are moving into it only.

As applied to vehicles of nonresidents moving in interstate commerce as well as to vehicles of residents, the amount of the registration fee may properly be based not only on the cost of inspection and regulation, but also on the cost of maintaining improved roads. *Hendrick v. Maryland, supra,* explained and followed.

81 N.J.L. 594 affirmed.

The case is stated in the opinion.

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MR. JUSTICE BRANDEIS delivered the opinion of the Court.

The New Jersey Automobile Law of 1906, as amended in 1908 (P.L. 1908, p. 613), provides in substance that no person, whether a resident or nonresident of the state, shall drive an automobile upon a public highway unless he shall have been licensed so to do and the automobile shall have been registered under the statute, and also that a nonresident owner shall appoint the Secretary of State his attorney upon whom process may be served "in any action or legal proceeding caused by the operation of his registered motor vehicle within this state against such owner." The statute fixes the driver's license fee for cars of less than thirty horsepower at $2, and more than thirty horsepower at $4. It fixes the registration fee at $3 for cars of not more than ten horsepower; $5 for those from eleven to twenty-nine horsepower, and $10 for those of thirty or greater horsepower. Both license fees and registration fees, whensoever issued, expire at the close of the calendar year. The moneys received from license and registration fees in excess of the amount required for the maintenance of the motor vehicle department are to be applied to the maintenance of the improved highways. Penalties are prescribed for using the public highways

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without complying with the requirements of the act. The material portions of the statute are copied in the margin. *

Kane, a resident of New York, was arrested while driving his automobile on the public highways of New Jersey,

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and tried in the Recorder's Court. The following facts were stipulated: Kane had been duly licensed as a driver under the laws of both New York and New Jersey.

He had registered his car in New York, but not in New Jersey. He had not filed with the Secretary of State of New Jersey the prescribed instrument appointing that official his attorney upon whom process might be served. When arrested, he was on his way from New York to Pennsylvania. The aggregate receipts from license and registration fees for the year exceeded the amount required to defray the expenses of the motor vehicle department, so that a large sum became available for maintenance of the improved roads of the state. Kane contended that the statute was invalid as to him, a nonresident, because it violated the Constitution and laws of the United States regulating interstate commerce, and also because it violated

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the Fourteenth Amendment. These contentions were overruled, and he was fined five dollars. The conviction was duly reviewed both in the Supreme Court and by the Court of Errors and Appeals. The contentions were repeated in both of those courts, and both courts affirmed the conviction. *Kane v. State,* 81 N.J.L. 594. The case was brought here by writ of error.

The power of a state to regulate the use of motor vehicles on its highways has been recently considered by this Court and broadly sustained. It extends to nonresidents as well as to residents. It includes the right to exact reasonable compensation for special facilities afforded as well as reasonable provisions to insure safety. And it is properly exercised in imposing a license fee graduated according to the horsepower of the engine. *Hendrick v. Maryland,* 235 U. S. 610 . Several reasons are urged why that case should not be deemed controlling:

1. The Maryland law did not require the nonresident to appoint an agent within the state upon whom process may be served. But it was recognized in discussing it that "the movement of motor vehicles over the highways is attended by constant and serious dangers to the public" (p. 235 U. S. 622). We know that ability to enforce criminal and civil penalties for transgression is an aid to securing observance of laws. And in view of the speed of the automobile and the habits of men, we cannot say that the Legislature of New Jersey was unreasonable in

believing that ability to establish, by legal proceedings within the state, any financial liability of nonresident owners was essential to public safety. There is nothing to show that the requirement is unduly burdensome in practice. It is not a discrimination against nonresidents, denying them equal protection of the law. On the contrary, it puts nonresident owners upon an equality with resident owners.

2. The Maryland law contained a reciprocal provision by which nonresidents whose cars are duly registered in

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their home state are given, for a limited period, free use of the highways in return for similar privileges granted to residents of Maryland. Such a provision promotes the convenience of owners, and prevents the relative hardship of having to pay the full registration fee for a brief use of the highways. It has become common in state legislation, and New Jersey has embodied it in her law since the trial of this case in the lower court. But it is not an essential of valid regulation. Absence of it does not involve discrimination against nonresidents, for any resident similarly situated would be subjected to the same imposition. A resident desiring to use the highways only a single day would also have to pay the full annual fee. The amount of the fee is not so large as to be unreasonable, and it is clearly within the discretion of the state to determine whether the compensation for the use of its highways by automobiles shall be determined by way of a fee, payable annually or semiannually, or by a toll based on mileage or otherwise. Our decision sustaining the Maryland law was not dependent upon the existence of the reciprocal provision. Indeed, the plaintiff in error there was not in a position to avail himself of the reciprocal clause, and it was referred to only because of the contention that the law discriminated between nonresidents -- that is, that Maryland extended to residents of other states privileges it denied to residents of the District.

3. In *Hendrick v. Maryland,* it appeared only that the nonresident drove his automobile into the state. In this case, it is admitted that he was driving through the state. The distinction is of no significance. As we there said (235 U. S. 622):

"In the absence of national legislation covering the subject, a state may rightfully prescribe uniform regulations necessary for public safety and order in respect to the operation upon its highways of all motor vehicles -- those moving in interstate commerce as well as others."

4. In the *Hendrick* case, it did not appear, as here, that

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the fees collected under the Motor Vehicle Law exceeded the amount required to defray the expense of maintaining the regulation and inspection department. But the Maryland statute, like that of New Jersey, contemplated that there would be such excess, and provided that it should be applied to the maintenance of improved roads. And it was expressly recognized that the purpose of the Maryland law

"was to secure some compensation for the use of facilities provided at great cost from the class for whose needs they are essential and whose operations over them are peculiarly injurious."

The judgment should be

Affirmed.

MR. JUSTICE PITNEY took no part in the consideration or decision of this case.

*

"Part IV -- THE OPERATION OF MOTOR VEHICLES."

" * * * *"

"16. -- (1) Every resident of this state and every nonresident, whose automobile shall be driven in this state, shall, before using such vehicle on the public highways, register the same, and no motor vehicle shall be driven unless so registered. Every registration shall expire and the certificate thereof become void on the 31st of December of each year; provided, it may be lawful for any

automobile duly registered, to operate under said registration certificate for a period not exceeding thirty-one days after the expiration of said registration certificate. . . . The applicant shall pay to the Commissioner of Motor Vehicles for each registration, a fee of three dollars for automobiles of the first class; five dollars for the second class, and ten dollars for the third class. Automobiles of ten horsepower or less shall be of the first class; from eleven to twenty-nine horsepower, inclusive, of the second class, and of thirty horsepower or more, of the third class. . . . Each owner having a residence outside of the state shall file with the Secretary of State a duly executed instrument, constituting the Secretary of State and his successors in office, the true and lawful attorney upon whom all original process in any action or legal proceeding caused by the operation of his registered motor vehicle, within the state, against such owner may be served, and therein shall agree that any original process against such owner shall be of the same force and effect as if served on such owner within this state; the service of such process shall be made by leaving a copy of the same in the office of the Secretary of State with a service fee of two dollars to be taxed on the plaintiff's costs of suit. Said Commissioner of Motor Vehicles shall forthwith notify such owner of such service by letter directed to him at the post-office address stated in his application. . . ."

"17. -- No person shall hereafter drive an automobile upon any public highway in this state, unless licensed to do so in accordance with the provisions of this act. No person under the age of sixteen years shall be licensed to drive automobiles, nor shall any person be licensed to drive automobiles until said person shall have passed a satisfactory examination as to his ability as an operator. . . . There shall be two classes of drivers' licenses. Those authorizing the licensee to drive cars of less than thirty horsepower shall be of the first class, and those authorizing the licensee to drive cars of thirty and greater horsepower shall be of the second class. The annual license fee to be charged shall be two dollars for drivers of the first class, and four dollars for drivers of the second class. . . ."

" * * * *"

"Part X. -- MISCELLANEOUS."

"37. -- Moneys received in accordance with the provisions of this act, whether from fines, penalties, registration fees, license fees, or otherwise, shall be accounted for and forwarded to the Commissioner of Motor Vehicles and by him paid over to the Treasurer of the State of New Jersey, to be appropriated annually to the Commissioner of Public Roads, to be used as a fund for the repair of the improved roads throughout the state, whether they had been originally built by state aid or not, and to be by the said Commissioner apportioned once each year among the several counties of this state according to the mileage of improved roads in each county, the share apportioned each county to be used for the repair of improved roads in that county under the direction of the Commissioner of Public Roads or his authorized representatives, and to be paid in the same manner as state funds are now paid for the improvement of public roads. The term 'improved roads' as used in this section shall not include streets paved with cobblestones, Belgium block, or asphalt."

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