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Decided On : Nov-14-1921

Appeal No. : 257 U.S. 129

Appellant : Crescent Cotton Oil Co.

Respondent : Mississippi

Judgement :

Crescent Cotton Oil Co. v. Mississippi - 257 U.S. 129 (1921)
U.S. Supreme Court Crescent Cotton Oil Co. v. Mississippi, 257 U.S. 129 (1921)

Crescent Cotton Oil Company v. Mississippi

No. 41

Argued October 17, 1921

Decided November 14, 1921

257 U.S. 129

ERROR TO THE SUPREME COURT

OF THE STATE OF MISSISSIPPI

SYLLABUS

Plaintiff in error, a Tennessee corporation, engaged in the manufacture of cotton seed oil in that state, finding it impracticable to carry on the business successfully when purchasing its supply of cotton seed from ginners or from brokers, acquired and operated cotton gins in Mississippi and other states where it ginned cotton for cotton growers, purchased from them the seed thus separated from the fiber, and then shipped it to its Tennessee factory. Mississippi passed a law forbidding corporations interested in the manufacture of cotton seed oil from owning or operating cotton gins, except of a prescribed capacity and in the city or town where their oil plants were located.

HELD

(1) That, since the ginning was merely manufacture, and the seeds were not in interstate commerce until purchased and committed

Page 257 U. S. 130

to a carrier, the gins were not instrumentalities of interstate commerce and the prohibition of their operation did not infringe the company's rights under the commerce clause. P. 257 U. S. 135 .

(2) That the prohibition did not deny to the company the equal protection of the laws in applying to corporations and not to individuals, because the inherent difference between corporations and natural persons sustained the classification and because it might be assumed, in the absence of any contrary showing, that only corporations were engaged in operating both oil mills and cotton gins when the act was passed. P. 257 U. S. 137 .

121 Miss. 615 affirmed.

Error to a decree of the Supreme Court of Mississippi in a suit by the state imposing a penalty on the plaintiff in error, forfeiting its right to do local business, enjoining it from operating its cotton gins, and requiring it to dispose of them within

a prescribed time.

Page 257 U. S. 132

MR. JUSTICE CLARKE delivered the opinion of the Court.

An act of the Legislature of Mississippi, approved March 28, 1914 (designated in the record the "Anti-Gin Act"), prohibits corporations, whether organized under the laws of that state or authorized under the laws thereof, to do any local business therein, among other things, from owning or operating any cotton gin, when such corporation is interested in the manufacture of cotton seed oil or cotton seed meal. A penalty is provided for violation of the act, but corporations are permitted to operate their gins for a reasonable time until they may be sold. A proviso

Page 257 U. S. 133

permits cotton seed oil companies to operate gins of a prescribed capacity, but only in the city or town where their oil plants are located. Laws Miss.1914, c. 162, 4752 *et seq.,* Hemingway's Code 1917.

The plaintiff in error, a corporation organized under Tennessee laws, prior to 1914 owned and operated a cotton seed oil mill at Memphis in that state, and two cotton gins in Mississippi. Disregarding the Anti-Gin Act, it continued to operate its two gins in Mississippi until October, 1915, when, for the purpose of enforcing the law, the state, on the relation of its Attorney General, instituted a suit in equity against the company in a county court of chancery, which, after various vicissitudes, resulted in a decree that the act was constitutional, and that the plaintiff in error was guilty of violating it. A penalty was imposed upon the company, its right to do intrastate or local business in Mississippi was declared forfeited, it was perpetually enjoined from operating cotton gins in the state, and it was ordered that, within 90 days, the company should dispose of the two cotton gins which it owned and operated in Mississippi. The company was also found guilty of violating the antitrust law of the state, and a penalty therefor was imposed.

This is a proceeding in error to review the decree of the Supreme Court of Mississippi affirming that decree of the county court as to the Anti-Gin Act. The holding that the antitrust laws were violated was reversed by the Supreme Court.

Without proof of it in the record, the case is argued upon the assumption that the statute assailed was enacted in aid of the antitrust laws of the state, under the conviction on the part of the legislature that it was the practice of corporations operating oil mills and cotton gins to depress the price of ginning, regardless of cost, until local competition was suppressed, or brought to terms, and then to charge excessive prices for ginning and to pay

Page 257 U. S. 134

unfairly low prices for seed. There is evidence in the record tending to show resort to such methods by the plaintiff in error.

It clearly appears that, in practice, it is an advantage to the purchaser of cotton seed to operate gins not only for the profit that may be made from them directly, but because the grower of cotton often prefers to sell his seed to the company ginning it, rather than carry it to another purchaser. It is also in evidence that individuals, as well as corporations owned and operated gins, and that other oil companies than the plaintiff in error obtained their supplies of seed from growers, from gin owners, and from brokers.

The plaintiff in error has heretofore relied, and here relies, for its defense upon the unconstitutionality of the Anti-Gin Act, which it asserts upon two grounds, *viz.,* first, that, as applied to the plaintiff in error, it imposes a direct and substantial, and therefore an unconstitutional, burden upon an instrumentality of interstate commerce; and, second, mildly, that, the act being applicable to corporations, and not to individuals, owning and operating cotton gins, it denies to the plaintiff in error the equal protection of the laws, and therefore offends against the Constitution of the United States.

The basis of the first contention is the claim that it had become impracticable for the oil company to carry on its oil manufacturing business successfully when

purchasing its cotton seed supply from other ginners or from brokers, that for this reason the company acquired its two cotton gins in Mississippi, and nine in other states, to obtain the advantage of purchasing seed direct from the growers of cotton, and that all of the cotton seed which it had purchased in connection with its gins was shipped in interstate commerce to its oil mill at Memphis, the gins being, in effect, "feeders" to its oil mill.

These facts, not disputed in the record, it is argued, constitute the gins an essential means and instrumentality of

interstate commerce, and that therefore the act imposes a direct and unconstitutional burden on commerce between the states, in violation of 8 of Article I of the Constitution of the United States.

Western Union Telegraph Co. v. Kansas, 216 U. S. 1 , *Pullman Co. v. Kansas,* 216 U. S. 56 , *Ludwig v. Western Union Telegraph Co.,* 216 U. S. 1 46, and *Harrison v. St. Louis & San Francisco Railroad Co.,* 232 U. S. 318 , are relied upon to sustain this contention of the plaintiff in error. In the first two of the cases cited, an attempt was made by the State of Kansas to tax interstate carriers on the basis of all of their property, wherever situated, as measured by the capital stock of the companies. In the third case, a similar attempt was made by the State of Arkansas.

There was no question in any of these cases but that the principal business of the companies challenging the taxing law was interstate in character, and that their chief investment was in property used in and necessary to the conduct of their interstate commerce. The controversy in the cases was as to the incidence of the tax -- whether it was so imposed upon the property of the companies or the stock representing it as to constitute a direct and substantial burden upon the interstate commerce in which they were engaged.

It is clear that these decisions cannot be of aid in determining the question we are now considering, which is whether a cotton gin operated by an oil company in

Mississippi is rendered an instrumentality of interstate commerce by the fact that the owner of it ships out of the state, for its use in another state, all of the cotton seed which may be purchased in connection with its ginning operations.

The fourth case relied upon, *Harrison v. St. Louis & San Francisco Railroad Co.,* 232 U. S. 318 , was an attempt on the part of a state to prevent removal of causes from state to United States courts, and is, if possible, yet more inapposite.

Page 257 U. S. 136

The separation of the seed from the fiber of the cotton, which is accomplished by the use of the cotton gin, is a short but important step in the manufacture of both the seed and the fiber into useful articles of commerce, but that manufacture is not commerce was held in *Kidd v. Pearson,* 128 U. S. 1 , 128 U. S. 20 -21; *United States v. E. C. Knight Co.,* 156 U. S. 1 , 156 U. S. 12 -13; *Capital City Dairy Co. v. Ohio,* 183 U. S. 238 , 183 U. S. 245 ; *McCluskey v. Marysville & Northern Railway Co.,* 243 U. S. 36 , 243 U. S. 38 , and in *Hammer v. Dagenhart,* 247 U. S. 251 , 247 U. S. 252 ; *Arkadelphia Milling Co. v. St. Louis & South Western Railway Co.,* 249 U. S. 134 , 249 U. S. 151 -152. And the fact, of itself, that an article, when in the process of manufacture, is intended for export to another state does not render it an article of interstate commerce. *Coe v. Errol,* 116 U. S. 517 ; *New York Central R. Co. v. Mohney,* 252 U. S. 152 , 252 U. S. 155 . When the ginning is completed, the operator of the gin is free to purchase the seed or not, and, if it is purchased, to store it in Mississippi indefinitely, or to sell or use it in that state, or to ship it out of the state for use in another, and, under the cases cited, it is only in this last case, and after the seed has been committed to a carrier for interstate transport, that it passes from the regulatory power of the state into interstate commerce and under the national power.

The application of these conclusions of law to the manufacturing operations of the cotton gins, which we have seen precede, but are not a part of, interstate commerce, renders it quite impossible to consider them an instrumentality of such commerce, which is burdened by the Anti-Gin Act, and the first contention of the

plaintiff in error must be denied.

There remains the second contention, that the Anti-Gin Act denies to plaintiff in error the equal protection of the laws because it applies to corporations, and not to individuals.

Where, as we have found in this case, a foreign corporation has no federal right to continue to do business in a state, and where, as here, no contract right is involved, and there is no employment by the federal government, it is the settled law that a state may impose conditions, in its discretion, upon the right of such a corporation to do business within the state, even to the extent of excluding it altogether. *Horn Silver Mining Co. v. New York,* 143 U. S. 305 ; *Baltic Mining Co. v. Massachusetts,* 231 U. S. 68 , 231 U. S. 83 , and cases cited. And, in such case, the inherent difference between corporations and natural persons is sufficient to sustain a classification making restrictions applicable to corporations only. *Hammond Packing Co. v. Arkansas,* 212 U. S. 322 , 212 U. S. 343 -344; *Baltic Mining Co. v. Massachusetts,* 231 U. S. 68 , 231 U. S. 83 . *And see Ft. Smith Lumber Co. v. Arkansas,* 251 U. S. 532 , 251 U. S. 533 ; *American Sugar Refining Co. v. Louisiana,* 179 U. S. 89 ; *Williams v. Fears,* 179 U. S. 270 , 179 U. S. 276 ; *W. W. Cargill Co. v. Minnesota,* 180 U. S. 452 .

This would be sufficient to dispose of this second contention, but we may add that the law assailed was enacted by the state in the exercise of its police power, to prevent a practice conceived to be promotive of monopoly with its attendant evils. It is clearly settled that any classification adopted by a state in the exercise of this power which has a reasonable basis, and is therefore not arbitrary, will be sustained against an attack based upon the equal protection of the laws clause of the Fourteenth Amendment, and also that every state of facts sufficient to sustain such classification which can be reasonably conceived of as having existed when the law was enacted will be assumed. *Lindsley v. Natural Carbonic Gas Co.,* 220 U. S. 61 , and cases cited; *Rast v. Van Deman & Lewis Co.,* 240 U. S. 342 .

Page 257 U. S. 138

The record before us shows that, before the law assailed was enacted, cotton gins had been operated in Mississippi by individuals as well as by corporations, but there is no showing that oil mills and cotton gins were both operated by an individual or by groups of individuals, and we think it may well be assumed, under the rule stated, that, because of the larger capital required, and perhaps for other reasons, oil mills and cotton gins may have been operated in that state only by corporations, and that, for this reason, the restraint of the evil aimed at by the act of the legislature could be accomplished by controlling corporations only. Assuming this to be the fact when the law was enacted, obviously the classification objected to cannot be pronounced so without reasonable basis as to be arbitrary.

A number of minor contentions are discussed in the briefs. These have all been considered, but are found to be not of sufficient substance to deserve special discussion.

It results that the judgment of the Supreme Court of Mississippi will be

Affirmed.

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