

Miller Vs. Mclaughlin

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Court : US Supreme Court

Decided On : 1930

Appeal No. : 281 U.S. 261

Appellant : Miller

Respondent : Mclaughlin

Judgement :

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U.S. Supreme Court Miller v. McLaughlin, 281 U.S. 261 (1930)

Miller v. McLaughlin

No. 261

Argued February 28, March 3, 1930

Decided April 14 1930

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CERTIORARI TO THE SUPREME COURT OF NEBRASKA

SYLLABUS

Iowa and Nebraska are bounded by the middle of the main channel of the Missouri River. The Act of Congress admitting Iowa into the Union gave her "concurrent jurisdiction on" the river. An Iowa statute made it lawful for any person to take fish with nets and seines from the river within the jurisdiction of the state upon procuring a license. A Nebraska statute forbade the taking of fish with nets and seines from the waters within the state, and prohibited the possession of nets and seines. This suit was brought by a resident of Nebraska to enjoin enforcement of the Nebraska statute.

HELD

1. That the two statutes, as applied to the Missouri River, though not concurrent, are not inconsistent, each relating only to the part of the river within the jurisdiction of the state enacting it, and that the Nebraska prohibition is valid, at least as against residents of Nebraska. P. [281 U. S. 263](#) .

2. That a state may regulate or prohibit fishing within its waters, and, for the proper enforcement of such statutes, may prohibit the possession within its borders of the special instruments of violation, regardless of the time of acquisition or the protestations of lawful intentions on the part of a particular possessor. P. [281 U. S. 264](#) .

118 Neb. 174 affirmed.

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Certiorari, 280 U.S. 541, to review a decree of the Supreme Court of Nebraska which reversed a decree of injunction, and ordered that the bill be dismissed, in a suit to prevent the enforcement of a Nebraska statute against fishing with nets, etc.

MR. JUSTICE BRANDEIS delivered the opinion of the Court.

The middle of the channel of the Missouri river is the boundary line between the states of Nebraska and Iowa. Act April 19, 1864, c. 59, 2, 13 Stat. 47; Act Aug. 4,

1846, c. 82, 9 Stat. 52. A Nebraska statute prohibits the taking of "any fish except minnows from the waters within the State of Nebraska with nets, traps or seines," and made the possession of these unlawful, "except as authorized by the Department of Agriculture." Laws of Nebraska (1927), c. 126, 10, pp. 343-4. An Iowa statute provides:

"It shall be lawful for any person to take from the Mississippi or Missouri Rivers within the jurisdiction of this state any fish with nets or seines upon procuring from the state game warden an annual license for the use of such nets and seines."

Code of Iowa (1927), 1747.

Miller, a resident of Nebraska, brought this suit in a court of that state, on behalf of himself and others similarly situated, to enjoin the enforcement of the Nebraska statute. Its Secretary of the Department of Agriculture and Chief Game Warden were joined as defendants. Miller alleges that he has in his possession nets, traps, and

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seines purchased by him prior to the enactment of the law; that they are used exclusively in taking fish from the Missouri river; that he plans to use them on the Iowa side, and that the defendants are threatening to prevent their use by enforcing the statute. He claims that, in the absence of concurrence by Iowa, Nebraska is powerless to prohibit the fishing, even in that part of the Missouri river which is within its own boundaries, because, on admitting Iowa into the Union, Congress had granted it

"concurrent jurisdiction on . . . every . . . river bordering on the said State of Iowa so far as the said river[s] shall form a common boundary to said state, and any other state. . . ."

Act March 3, 1845, c. 48, 3, 5 Stat. 742, 743. He asserts that, in any event, the prohibition of the mere possession of innocuous traps, nets, and seines violates the Fourteenth Amendment. The trial court issued an injunction. The supreme

court of the state reversed the decree and directed that the bill be dismissed, 118 Neb. 174. This Court granted a writ of certiorari, 280 U.S. 541.

The grant of concurrent jurisdiction to Iowa does not deprive Nebraska of power to legislate with respect to its own residents within its own territorial limits. *Nicoulin v. O'Brien*, [248 U. S. 113](#) ; compare *McGowan v. Columbia River Packers' Assn.*, [245 U. S. 352](#) . While the two states have not concurred in this legislation, there is no conflict between them. Each has legislated only as to that part of the river which is within its own territorial limits. It is unnecessary to consider the questions which might arise if Nebraska undertook to prohibit the fishing on Iowa's part of the river, or if Miller were a citizen of Iowa and fished under an Iowa license. Compare *Nielsen v. Oregon*, [212 U. S. 315](#) . Neither Miller nor any of the persons in whose behalf he brought the suit have licenses from Iowa; nor does it appear that they could obtain them.

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The claim under the Fourteenth Amendment is also groundless. A state may regulate or prohibit fishing within its waters, *Manchester v. Massachusetts*, [139 U. S. 240](#) ; *Lawton v. Steele*, [152 U. S. 133](#) ; *Geer v. Connecticut*, [161 U. S. 519](#) , and, for the proper enforcement of such statutes, may prohibit the possession within its borders of the special instruments of violation, regardless of the time of acquisition or the protestations of lawful intentions on the part of a particular possessor, *Barbour v. Georgia*, [249 U. S. 454](#) ; *Samuels v. McCurdy*, [267 U. S. 188](#) ; compare *Lawton v. Steele*, *supra*; *Silz v. Hesterberg*, [211 U. S. 31](#) ; *Miller v. Schoene*, [276 U. S. 272](#) .

Affirmed.