

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. LUIS TORIBIO, DEFENDANT AND APPELLANT.

G.R. No. 5060. January 26, 1910

Ponente: CARSON, J.

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CARSON, J.:

The evidence of record fully sustains the findings of the trial court that the appellant slaughtered or caused to be slaughtered for human consumption, the carabao described in the information, without a permit from the municipal treasurer of the municipality wherein it was slaughtered, in violation of the provisions of sections 30 and 33 of Act No. 1147, an Act regulating the registration, branding, and slaughter of large cattle.

It appears that in the town of Carmen, in the Province of Bohol, wherein the animal was slaughtered there is no municipal slaughterhouse, and counsel for appellant contends that under such circumstances the provisions of Act No. 1147 do not prohibit nor penalize the slaughter of large cattle without a permit of the municipal treasurer.

Sections 30, 31, 32, and 33 of the Act are as follows:

"SEC. 30. No large cattle shall be slaughtered or killed for food at the municipal slaughterhouse except upon permit secured from the municipal treasurer. Before issuing the permit for the slaughter of large cattle for human consumption, the municipal treasurer shall require for branded cattle the production of the original certificate of ownership and certificates of transfer showing title in the person applying for the permit, and for unbranded cattle such evidence as may satisfy said treasurer as to the ownership of the animals for which permit to slaughter has been requested.

"SEC. 31. No permit to slaughter carabaos shall be granted by the municipal treasurer unless such animals are unfit for agricultural work or for draft purposes, and in no event shall a permit be given to slaughter for food any animal of any kind which is not fit for human consumption.

"SEC. 32. The municipal treasurer shall keep a record of all permits for slaughter issued by him, and such record shall show the name and residence of the owner, and the class, sex, age, brands, knots of radiated hair commonly known as remolinos or cowlicks, and other marks of identification of the animal for the slaughter of which permit is issued and the date on which such permit is issued. Names of owners shall be alphabetically arranged in the record, together with date of permit.

"A copy of the record of permits granted for slaughter shall be forwarded monthly to the provincial treasurer, who shall file and properly index the same under the name of the owner, together with date of permit.

"SEC. 33. Any person slaughtering or causing to be slaughtered for human consumption or killing for food at the municipal slaughterhouse any large cattle except upon permit duly secured from the municipal treasurer, shall be punished by a fine of not less than ten nor more than five hundred pesos, Philippine currency, or by imprisonment for not less than one month nor more than six months, or by both such fine and imprisonment, in the discretion of the court."

It is contended that the proper construction of the language of these provisions limits the prohibition contained in

section 30 and the penalty imposed in section 33 to cases (1) of slaughter of large cattle for human consumption in a municipal slaughterhouse without a permit duly secured from the municipal treasurer, and (2) cases of killing of large cattle for food in a municipal slaughterhouse without a permit duly secured from the municipal treasurer; and it is urged that the municipality of Carmen not being provided with a municipal slaughterhouse, neither the prohibition nor the penalty is applicable to cases of slaughter of large cattle without a permit in that municipality.

We are of opinion, however, that the prohibition contained in section 30 refers (1) to the slaughter of large cattle for human consumption, anywhere, without a permit duly secured from the municipal treasurer, and (2) expressly and specifically to the killing for food of large cattle at a municipal slaughterhouse without such permit; and that the penalty provided in section 33 applies generally to the slaughter of large cattle for human consumption, anywhere, without a permit duly secured from the municipal treasurer, and specifically to the killing for food of large cattle at a municipal slaughterhouse without such permit.

It may be admitted at once, that the pertinent language of these sections taken by itself and examined apart from the context fairly admits of two constructions: one whereby the phrase "at the municipal slaughterhouse" may be taken as limiting and restricting both the word "slaughtered" and the words "killed for food" in section 30, and the words "slaughtering or causing to be slaughtered for human consumption" and the words "killing for food" in section 33; and the other whereby the phrase "at the municipal slaughterhouse" may be taken as limiting and restricting merely the words "killed for food" and "killing for food" as used in those sections. But upon a reading of the whole Act, and keeping in mind the manifest and expressed purpose and object of its enactment, it is very clear that the latter construction is that which should be adopted.

The Act primarily seeks to protect the "large cattle" of the Philippine Islands against theft and to make easy the recovery and return of such cattle to their proper owners, when lost, strayed, or stolen. To this end it provides an elaborate and compulsory system for the separate branding and registry of ownership of all such cattle throughout the Islands, whereby owners are enabled readily and easily to establish their title; it prohibits and invalidates all transfers of large cattle unaccompanied by certificates of transfer issued by the proper officer in the municipality where the contract of sale is made; and it provides also for the disposition of estrays and animals recovered from the possession of thieves or persons unlawfully in possession, so as to protect the rights of the true owners. All this, manifestly, in order to make it difficult for any one but the rightful owner of such cattle to retain them in his possession or to dispose of them to others. But the usefulness of this elaborate and compulsory system of identification, resting as it does on the official registry of the brands and marks on each separate animal throughout the Islands, would be largely impaired, if not totally destroyed, if such animals were permitted to be slaughtered for human consumption without requiring proof of ownership and the production of certificates of registry by the person slaughtering or causing them to be slaughtered, and this especially if the animals were slaughtered privately or in a clandestine manner, outside of a municipal slaughterhouse. Hence, as it would appear, sections 30 and 33 prohibit and penalize the slaughter for human consumption or killing for food at a municipal slaughterhouse of such animals without a permit issued by the municipal treasurer, and section 32 provides for the keeping of detailed records of all such permits in the office of the municipal and also of the provincial treasurer.

If, however, the construction be placed on these sections which is contended for by the appellant, it will readily be seen that all these carefully worked out provisions for the registry and record of the brands and marks of identification of all large cattle in the Islands would prove in large part abortive, since thieves and persons unlawfully in possession of such cattle could, and naturally would, evade the provisions of the law by slaughtering them outside of municipal slaughterhouses, and thus enjoy the fruits of their wrongdoing without exposing themselves to the danger of detection incident to the bringing of the animals to the public

slaughterhouse, where the brands and other identification marks might be scrutinized and proof of ownership required.

Where the language of a statute is fairly susceptible of two or more constructions, that construction should be adopted which will most tend to give effect to the manifest intent of the lawmaker and promote the object for which the statute was enacted, and a construction should be rejected which would tend to render abortive other provisions of the statute and to defeat the object which the legislator sought to attain by its enactment. We are of opinion, therefore, that sections 30 and 33 of the Act prohibit and penalize the slaughtering or causing to be slaughtered for human consumption of large cattle at any place without the permit provided for in section 30.

It is not essential that an explanation be found for the express prohibition in these sections of the "killing for food at a municipal slaughterhouse" of such animals, despite the fact that this prohibition is clearly included in the general prohibition of the slaughter of such animals for human consumption anywhere; but it is not improbable that the requirement for the issue of a permit in such cases was expressly and specifically mentioned out of superabundance of precaution, and to avoid all possibility of misunderstanding in the event that some of the municipalities should be disposed to modify or vary the general provisions of the law by the passage of local ordinances or regulations for the control of municipal slaughterhouses.

Similar reasoning applied to the specific provisions of section 31 4)f the Act leads to the same conclusion. One of the secondary purposes of the law, as set out in that section, is to prevent the slaughter for food of carabaos fit for agricultural and draft purposes, and of all animals unfit for human consumption. A construction which would limit the prohibitions and penalties prescribed in the statute to the killing of such animals in municipal slaughterhouses, leaving unprohibited and unpenalized their slaughter outside of such establishments, so manifestly tends to defeat the purpose and object of the legislator, that unless imperatively demanded by the language of the statute it should be rejected; and, as we have already indicated, the language of the statute is clearly susceptible of the construction which we have placed upon it, which tends to make effective the provisions of this as well as all the other sections of the Act.

It appears that the defendant did in fact apply for a permit to slaughter his carabao, and that it was denied him on the ground that the animal was not unfit "for agricultural work or for draft purposes." Counsel for appellant contends that the statute, in so far as it undertakes to penalize the slaughter of carabaos for human consumption as food, without first obtaining a permit which can not be procured in the event that the animal is not unfit "for agricultural work or for draft purposes," is unconstitutional and in violation of the terms of section 5 of the Philippine Bill (Act of Congress, July 1, 1902), which provides that "no law shall be enacted which shall deprive any person of life, liberty, or property without due process of law."

It is not quite clear from the argument of counsel whether his contention is that this provision of the statute constitutes a taking of property for public use¹ in the exercise of the right of eminent domain without providing for the compensation of the owners, or that it is an undue and unauthorized exercise of the police power of the State. But whatever may be the basis of his contention, we are of opinion, appropriating, with necessary modifications understood, the language of that great jurist, Chief Justice Shaw (in the case of *Com. vs. Tewksbury*, 11 Met., 55, where the question involved was the constitutionality of a statute prohibiting and penalizing the taking or carrying away by any person, including the owner, of any stones, gravel, or sand, from any of the beaches in the town of Chelsea), that the law in question "is not a taking of the property for public use, within the meaning of the constitution, but is a just and legitimate exercise of the power of the legislature to regulate and restrain such particular use of the property as would be inconsistent with or injurious to the rights of the public. All property is acquired and held under the tacit condition that it shall not be so used as to injure the equal rights of others or greatly impair the public rights and interests of the community."

It may be conceded that the beneficial use and exclusive enjoyment of the property of all carabao owners in these Islands is to a greater or less degree interfered with by the provisions of the statute; and that, without inquiring what quantum of interest thus passes from the owners of such cattle, it is an interest the deprivation of which detracts from their right and authority, and in some degree interferes with their exclusive possession and control of their property, so that if the regulations in question were enacted for purely private purposes, the statute, in so far as these regulations are concerned, would be a violation of the provisions of the Philippine Bill relied on by appellant; but we are satisfied that it is not such a taking, such an interference with the right and title of the owners, as is involved in the exercise by the State of the right of eminent domain, so as to entitle these owners to compensation, and that it is no more than "a just restraint of an injurious private use of the property, which the legislature had authority to impose."

In the case of *Com. vs. Alger* (7 Cush., 53, 84), wherein the doctrine laid down in *Com. vs. Tewksbury* (supra) was reviewed and affirmed, the same eminent jurist who wrote the former opinion, in distinguishing the exercise of the right of eminent domain from the exercise of the sovereign police powers of the State, said:

"We think it is a settled principle, growing out of the nature of well-ordered civil society, that every holder of property, however absolute and unqualified may be his title, holds it under the implied liability that his use of it may be so regulated that it shall not be injurious to the equal enjoyment of others having an equal right to the enjoyment of their property, nor injurious to the rights of the community. * * * Rights of property, like all other social and conventional rights, are subject to such reasonable limitations in their enjoyment as shall prevent them from being injurious, and to such reasonable restraints and regulations established by law, as the legislature, under the governing and controlling power vested in them by the constitution, may think necessary and expedient.

"This is very different from the right of eminent domain, the right of a government to take and appropriate private property to public use, whenever the public exigency requires it; which can be done only on condition of providing a reasonable compensation therefor. The power we allude to is rather the police power, the power vested in the legislature by the constitution, to make, ordain, and establish all manner of wholesome and reasonable laws, statutes, and ordinances, either with penalties or without, not repugnant to the constitution, as they shall judge to be for the good and welfare of the commonwealth, and of the subjects of the same.

"It is much easier to perceive and realize the existence and sources of this power than to mark its boundaries or prescribe limits to its exercise."

Applying these principles, we are of opinion that the restraint placed by the law on the slaughter for human consumption of carabaos fit for agricultural work and draft purposes is not an appropriation of property interests to a "public use," and is not, therefore, within the principles of the exercise by the State of the right of eminent domain. It is in fact a mere restriction or limitation upon a private use, which the legislature deemed to be detrimental to the public welfare. And we think that an examination of the general provisions of the statute in relation to the public interests which it seeks to safeguard and the public necessities for which it provides, leaves no room for doubt that the limitations and restraints imposed upon the exercise of rights of ownership by the particular provisions of the statute under consideration were imposed not for private purposes but, strictly, in the promotion of the "general welfare" and "the public interest" in the exercise of the sovereign police power which every State possesses for the general public welfare and which "reaches to every species of property within the commonwealth."

For several years prior to the enactment of the statute a virulent contagious or infectious disease had threatened the total extinction of carabaos in these Islands, in many sections sweeping away seventy, eighty, and in some cases as much as ninety and even one hundred per cent of these animals. Agriculture being the principal occupation of the people, and the carabao being the work animal almost exclusively in use in the fields as well as

for draft purposes, the ravages of the disease with which they were infected struck an almost vital blow at the material welfare of the country. Large areas of productive land lay waste for years, and the production of rice, the staple food of the inhabitants of the Islands, fell off to such an extent that the impoverished people were compelled to spend many millions of pesos in its importation, notwithstanding the fact that with sufficient work animals to cultivate the fields the arable rice lands of the country could easily be made to produce a supply more than sufficient for its own needs. The drain upon the resources of the Islands was such that famine soon began to make itself felt, hope sank in the breasts of the people, and in many provinces the energies of the breadwinners seemed to be paralyzed by the apparently hopeless struggle for existence with which they were confronted.

To meet these conditions, large sums of money were expended by the Government in relieving the immediate needs of the starving people, three millions of dollars were voted by the Congress of the United States as a relief or famine fund, public works were undertaken to furnish employment in the provinces where the need was most pressing, and every effort made to alleviate the suffering incident to the widespread failure of the crops throughout the Islands, due in large measure to the lack of animals fit for agricultural work and draft purposes.

Such measures, however, could only temporarily relieve the situation, because in an agricultural community material progress and permanent prosperity could hardly be hoped for in the absence of the work animals upon which such a community must necessarily rely for the cultivation of the fields and the transportation of the products of the fields to market. Accordingly efforts were made by the Government to increase the supply of these animals by importation, but, as appears from the official reports on this subject, hope for the future depended largely on the conservation of those animals which had been spared from the ravages of the disease, and their redistribution throughout the Islands where the need for them was greatest.

At large expense, the services of experts were employed, with a view to the discovery and application of preventive and curative remedies, and it is hoped that these measures have proved in some degree successful in protecting the present inadequate supply of large cattle, and that the gradual increase and redistribution of these animals throughout the Archipelago, in response to the operation of the laws of supply and demand, will ultimately result in practically relieving those sections which suffered most by the loss of their work animals.

As was to be expected under such conditions, the price of carabaos rapidly increased from three to five fold or more, and it may fairly be presumed that even if the conservative measures now adopted prove entirely successful, the scant supply will keep the price of these animals at a high figure until the natural increase shall have more nearly equalized the supply to the demand.

Coincident with and probably intimately connected with this sudden rise in the price of cattle, the crime of cattle stealing became extremely prevalent throughout the Islands, necessitating the enactment of a special law penalizing with the severest penalties the theft of carabaos and other personal property by roving bands; and it must be assumed from the enactment of the statute under consideration that the legislative authority found that the general welfare of the Islands necessitated the enactment of special and somewhat burdensome provisions for the branding and registration of large cattle, and the supervision and restriction of their slaughter for food. It will hardly be questioned that the provisions of the statute touching the branding and registration of such cattle, and prohibiting and penalizing the slaughter of diseased cattle for food were enacted in the due and proper exercise of the police power of the State; and we are of opinion that, under all the circumstances, the provisions of the statute prohibiting and penalizing the slaughter for human consumption of carabaos fit for work were in like manner enacted in the due and proper exercise of that power, justified by the exigent necessities of existing conditions, and the right of the State to protect itself against the overwhelming disasters incident to the further reduction of the supply of animals fit for agricultural work or draft purposes.

It is, we think, a fact of common knowledge in these Islands, and disclosed by the official reports and records of the administrative and legislative departments of the Government, that not merely the material welfare and future prosperity of this agricultural community were threatened by the ravages of the disease which swept away the work animals during the years prior to the enactment of the law under consideration, but that the very life and existence of the inhabitants of these Islands as a civilized people would be more or less imperiled by the continued destruction of large cattle by disease or otherwise. Confronted by such conditions, there can be no doubt of the right of the Legislature to adopt reasonable measures for the preservation of work animals, even to the extent of prohibiting and penalizing what would, under ordinary conditions, be a perfectly legitimate and proper exercise of rights of ownership and control of the private property of the citizen. The police power rests upon necessity and the right of self-protection, and if ever the invasion of private property by police regulation can be justified, we think that the reasonable restriction placed upon the use of carabaos by the provision of the law under discussion must be held to be authorized as a reasonable and proper exercise of that power.

As stated by Mr. Justice Brown in his opinion in the case of *Lawton vs. Steele* (152 U. S., 133, 136):

"The extent and limits of what is known as the police power have been a fruitful subject of discussion in the appellate courts of nearly every State in the Union. It is universally conceded to include everything essential to the public safety, health, and morals, and to justify the destruction or abatement, by summary proceedings, of whatever may be regarded as a public nuisance. Under this power it has been held that the State may order the destruction of a house falling to decay or otherwise endangering the lives of passers-by; the demolition of such as are in the path of a conflagration; the slaughter of diseased cattle; the destruction of decayed or unwholesome food; the prohibition of wooden buildings in cities; the regulation of railways and other means of public conveyance, and of interments in burial grounds; the restriction of objectionable trades to certain localities; the compulsory vaccination of children; the confinement of the insane or those afflicted with contagious diseases; the restraint of vagrants, beggars, and habitual drunkards; the suppression of obscene publications and houses of ill fame; and the prohibition of gambling houses and places where intoxicating liquors are sold. Beyond this, however, the State may interfere wherever the public interests demand it, and in this particular a large discretion is necessarily vested in the legislature to determine, not only what the interests of the public require, but what measures are necessary for the protection of such interests. (*Barbier vs. Connolly*, 113 U. S., 27; *Kidd vs. Pearson*, 128 U. S., 1.) To justify the State in thus interposing its authority in behalf of the public, it must appear, first, that the interests of the public generally, as distinguished from those of a particular class, require such interference; and, second, that the means are reasonably necessary for the accomplishment of the purpose, and not unduly oppressive upon individuals. The legislature may not, under the guise of protecting the public interests, arbitrarily interfere with private business, or impose unusual and unnecessary restrictions upon lawful occupations. In other words, its determination as to what is a proper exercise of its police powers is not final or conclusive, but is subject to the supervision of the courts."

From what has been said, we think it is clear that the enactment of the provisions of the statute under consideration was required by "the interests of the public generally, as distinguished from those of a particular class;" and that the prohibition of the slaughter of carabaos for human consumption, so long as these animals are fit for agricultural work or draft purposes was a "reasonably necessary" limitation on private ownership, to protect the community from the loss of the services of such animals by their slaughter by improvident owners, tempted either by greed of momentary gain, or by a desire to enjoy the luxury of animal food, even when by so doing the productive power of the community may be measurably and dangerously affected.

Chief Justice Redfield, in *Thorpe vs. Rutland & Burlington R. R. Co.* (27 Vt., 140), said (p. 149) that by this "general police power of the State, persons and property are subjected to all kinds of restraints and burdens, in order to secure the general comfort, health, and prosperity of the State; of the perfect right in the legislature to do which, no question ever was, or, upon acknowledged and general principles, ever can be made, so far as natural

persons are concerned."

And Cooley in his "Constitutional Limitations" (6th ed., p. 738) says:

"It would be quite impossible to enumerate all the instances in which the police power is or may be exercised, because the various cases in which the exercise by one individual of his rights may conflict with a similar exercise by others, or may be detrimental to the public order or safety, are infinite in number and in variety. And there are other cases where it becomes necessary for the public authorities to interfere with the control by individuals of their property, and even to destroy it, where the owners themselves have fully observed all their duties to their fellows and to the State, but where, nevertheless, some controlling public necessity demands the interference or destruction. A strong instance of this description is where it becomes necessary to take, use, or destroy the private property of individuals to prevent the spreading of a fire, the ravages of a pestilence, the advance of a hostile army, or any other great public calamity. Here the individual is in no degree in fault, but his interest must yield to that 'necessity' which 'knows no law.' The establishment of limits within the denser portions of cities and villages within which buildings constructed of inflammable materials shall not be erected or repaired may also, in some cases, be equivalent to a destruction of private property; but regulations for this purpose have been sustained notwithstanding this result. Wharf lines may also be established for the general good, even though they prevent the owners of water-fronts from building out on soil which constitutes private property. And, whenever the legislature deem it necessary to the protection of a harbor to forbid the removal of stones, gravel, or sand from the beach, they may establish regulations to that effect under penalties, and make them applicable to the owners of the soil equally with other persons. Such regulations are only 'a just restraint of an injurious use of property, which the legislature have authority' to impose.

"So a particular use of property may sometimes be forbidden, where, by a change of circumstances, and without the fault of the owner, that which was once lawful, proper, and unobjectionable has now become a public nuisance, endangering the public health or the public safety. Milldams are sometimes destroyed upon this ground; and churchyards which prove, in the advance of urban population, to be detrimental to the public health, or in danger of becoming so, are liable to be closed against further use for cemetery purposes."

These citations from some of the highest judicial and text-book authorities in the United States clearly indicate the wide scope and extent which has there been given to the doctrine of the sovereign police power of the State, and confirm us in our opinion that the provision of the statute in question being a proper exercise of that power is not in violation of the terms of section 5 of the Philippine Bill, which provide that "no law shall be enacted which shall deprive any person of life, liberty, or property without due process of law," a provision which itself is adopted from the Constitution of the United States, and is found in substance in the constitution of most if not all of the States of the Union.

The judgment of conviction and the sentence imposed by the trial court should be affirmed with the costs of this instance against the appellant. So ordered.

Arellano, C. J., Torres, Johnson, Moreland, and Elliott, JJ., concur.

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