LEXSEE 302 U.S. 253

PUERTO RICO v. THE SHELL CO. (P. R.), LIMITED, ET AL.

No. 18

SUPREME COURT OF THE UNITED STATES

302 U.S. 253; 58 S. Ct. 167; 82 L. Ed. 235; 1937 U.S. LEXIS 545

November 9, 1937, Argued
December 6, 1937, Decided

PRIOR HISTORY: CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE FIRST CIRCUIT.

CERTIORARI, 301 U.S. 675, to review a judgment affirming a judgment of the Supreme Court of Puerto Rico, which dismissed an appeal from an order of the insular district court sustaining demurrers to an information charging violation of the local antitrust Act.

DISPOSITION: *86 F.2d 577*, reversed.

LAWYERS' EDITION HEADNOTES:

[***LEdHN1]

RESTRAINTS OF TRADE, §7

Federal Antitrust Law as extending to Puerto Rico. --

Headnote:[1]

The word "territory" as used in 3 of the Sherman Anti-trust Act declaring combinations in restraint of trade or commerce in any territory of the United States to be illegal is to be construed as having been used in its most comprehensive sense, and as including a dependency bearing the relation to the United States which is borne by Puerto Rico.

[***LEdHN2]

STATUTES, §163

construction -- extension to fields not in existence when law enacted. --

Headnote:[2]

The fact that in enacting a statute Congress could not have had a particular field for its application in mind is not enough to exclude it therefrom, but it is necessary to go further and to say that had the situation been foreseen Congress would have so varied its comprehensive language as to exclude it from the operation of the act.

[***LEdHN3]

STATUTES, §178

construction -- "territory" as including dependency. --

Headnote:[3]

Whether a dependency bearing the relation to the United States which is borne by Puerto Rico comes within a given act of Congress applicable in terms to a "territory" depends upon the character and aim of the act.

[***LEdHN4]

STATUTES, §91

words used to be construed to effectuate intent. --

Headnote:[4]

Words used in statutes generally have different shades of meaning and are to be construed if reasonably possible to effectuate the intent of the lawmakers.

[***LEdHN5]

STATUTES, §100

construction as affected by context, purpose and circumstances. --

Headnote:[5]

The meaning of the words used in a statute is to be arrived at not only by a consideration of the words themselves, but by considering, as well, the context, the purposes of the law, and the circumstances under which the words were employed.

[***LEdHN6]

TERRITORIES, §10

power to enact antitrust law. --

Headnote:[6]

Section 3 of the Sherman Act declaring combinations in restraint of trade or commerce in any territory of the United States to be illegal and punishable as therein prescribed does not so pre-empt the field as to render invalid an act of the Puerto Rican Legislature making such combinations a crime.

[***LEdHN7]

PUERTO RICO, §1

powers of insular government. --

Headnote:[7]

The aim of the Foraker Act of April 12, 1900 (31 Stat. at L. 77, chapter 191) and of the Puerto Rican Organic Act of March 2, 1917 (39 Stat. at L. 951, chapter 145), was to give Puerto Rico full power of local self-determination, with an autonomy similar to that of the states and incorporated territories; and their effect is to confer many of the attributes of quasi sovereignty possessed by the states.

[***LEdHN8]

CRIMINAL LAW, §36

prosecution under Federal Anti-trust Law as bar to prosecution under territorial law, and vice versa. --

Headnote:[8]

Since both the acts of the Puerto Rican Legislature and of Congress, and the courts, whether exercising Federal or local jurisdiction, are creations emanating from the same sovereignty, prosecutions under a Federal statute or under a substantially identical Puerto Rican statute in the appropriate court will bar a prosecution under the other statute in another court.

[***LEdHN9]

CRIMINAL LAW, §8

PROSECUTION UNDER CRIMINAL CODE, §289

, as one to enforce Federal law.

Headnote:[9]

Prosecutions under 289 of the Criminal Code (*18 U. S. C. 468*) which, in respect of offenses committed upon places subject to the exclusive jurisdiction of the United States within the limits of a state or organized territory or district, makes applicable the laws of such state, territory or district in respect of such offenses, are not to enforce the laws of the state, territory or district, but to enforce the Federal law, the details of which, instead of being recited, are adopted by reference.

[***LEdHN10]

COURTS, §785

weight given to decisions which Supreme Court is not bound to follow. --

Headnote:[10]

Decisions of state courts, rendered when the states were newly created from former territories, sustaining the validity of territorial legislation notwithstanding identical legislation by Congress, though not conclusive on the Supreme Court of the United States, are entitled to great weight because dealing with territorial powers in operation at a time so shortly before the rendition of the decisions that the judges who rendered them well may be credited with such knowledge of the purpose of these powers and their history and application as to make these judges peculiarly competent to decide questions relating thereto.

[***LEdHN11] [11]

Davis v. Beason, 133 U. S. 333, 10 S. Ct. 299, 33 L. ed. 637, and *El Paso & M. E. R. Co. v. Gutierrez, 215 U. S. 87, 30 S. Ct. 21, 54 L. ed. 106*, explained.

[***LEdHN12]

COURTS, §767

former decision -- language of opinion limited by facts. --

Headnote:[12]

The broad language of a judicial opinion must be construed in the light of the question presented.

[***LEdHN13] [13]

Domenech v. National City Bank, 294 U. S. 199, 55 S. Ct. 366, 79 L. ed. 857, explained.

SYLLABUS

1. The meaning of a particular word as used in a particular instance in a statute is to be arrived at by consideration not only of the word itself, but also of the context, the purposes of the law, and the circumstances under which the word was used. P. 258.

2. The word "territory" in § 3 of the Sherman Antitrust Act -- forbidding contracts, combinations, or conspiracies "in restraint of trade or commerce in any territory of the United States" etc. -- was used in its most comprehensive sense, as embracing all organized territories, whether incorporated into the United States or not, and includes Puerto Rico. P. 259.

3. The existence of § 3 of the Sherman Antitrust Act did not preclude adoption by the legislature of Puerto Rico of a local antitrust Act. P. 259.

4. The insular legislature of Puerto Rico had authority, under the grant of legislative power contained in § 32 of the Foraker Act and continued in force by § 37 of the Organic Act of 1917, to enact a local antitrust Act. The subject-matter is "of a legislative character not locally inapplicable." P. 260.

5. Puerto Rico's power of local legislation is not limited by any express provision of the Foraker Act or of the Organic Act, to subjects in respect of which there is an absence of explicit legislation by Congress; and there is nothing in the nature of the power or in the consequences likely to ensue from the duplicate exercise of it which requires that such a limitation be implied. P. 263.

6. The federal appellate courts have power to resolve a conflict of decisions between the insular courts of Puerto Rico and the federal district court. P. 263.

7. A prosecution under either the Sherman Act or the antitrust Act of Puerto Rico is a bar to a prosecution under the other for the same offense; wherefore there is no risk of double jeopardy. *Grafton v. United States, 206 U.S. 333*. P. 264.

8. In determining questions relating to the history, purpose and application of territorial powers, pertinent decisions of state supreme courts, rendered when the States were newly created from former territories, are entitled to great weight. P. 266.

9. *El Paso & N. E. Ry. Co. v. Gutierrez, 215 U.S. 87*; *Davis v. Beason, 133 U.S. 333*; and *Domenech v. National City Bank, 294 U.S. 199*, distinguished. Pp. 268, 270.

10. The contention that the Sherman Act and the local antitrust Act of Puerto Rico can not both stand, because a conflict of jurisdiction between the federal courts and the insular courts may result, can not be sustained. P. 271.

COUNSEL: Mr. William Cattron Rigby, with whom Mr. Nathan R. Margold was on the brief, for petitioner.

Messrs. William D. Whitney and James R. Beverley for respondents.

Messrs. Oscar B. Frazer and Gabriel I. Lewis were on the brief for Pyramid Products, Inc., et al., respondents.

JUDGES: Hughes, McReynolds, Brandeis, Sutherland, Butler, Stone, Roberts, Cardozo, Black

OPINION BY: SUTHERLAND

OPINION

[*255] [**168] [***239] MR. JUSTICE SUTHERLAND delivered the opinion of the Court.

This is a criminal proceeding brought by petitioner

against the respondents in the insular district court of San Juan, Puerto Rico. An information filed by the district attorney charged respondents with entering into a conspiracy in restraint of trade in violation of the local anti-trust act, passed by the Legislature of Puerto Rico March 14, 1907. Demurrers to the information were sustained by the district court on the ground that the Sherman Anti-trust Act of 1890, supplemented by the Clayton Act of 1914, covered the entire field embraced by the local anti-trust act, and the latter, therefore, was void. The Supreme Court of Puerto Rico accepted that view and dismissed the appeal; and its judgment was affirmed on appeal by the court below. *86 F.2d 577.* The single question which we have to decide is whether the existence of § 3 of the Sherman Act precluded the adoption of the local act by the insular legislature.

The pertinent provisions of the Sherman Act and the local act are set forth in the margin. [1] Section 3 [***240] of the [*256] Sherman Act [**169] and § 1 of the local act, so far as the question here involved is concerned, are substantially identical. Section 4 of the Sherman Act confers jurisdiction [*257] in respect of violations of the act upon the several district courts of the United States. Section 3 of the local act confers jurisdiction upon the district courts of Puerto Rico in respect of violations of that act.

1

Sherman Act (July 2, 1890, c.	The Puerto Rico Act of March
647, 26 Stat. 209):	14, 1907 (Laws 1907, p. 328):
"Sec. 3. Every contract, com-	"Section 1. Every contract,
bination in form of trust or other-	combination in the form of trust
wise, or conspiracy, in restraint of	or otherwise, or conspiracy, in re-
trade or commerce in any Terri-	straint of trade, commerce, busi-
tory of the United States or of	ness transactions, and lawful and
the District of Columbia, or in	free competition in a town, or
restraint of trade or commerce	among the several towns of
between any such Territory and	Puerto Rico is hereby declared
another, or between any such	to be illegal. Every person who
Territory or Territories and any	shall make any such contract or
State or States or the District of	engage in any such conspiracy,
Columbia, or with foreign na-	shall be deemed guilty of a mis-
tions, or between the District of	demeanor, and, on conviction
Columbia and any State or States	thereof, shall be punished by fine
or foreign nations, is hereby de-	not exceeding five thousand dol-
clared illegal. Every person who	lars, or by imprisonment not ex-
shall make any such contract or	ceeding one year, or by both such
engage in any such combination	punishments in the discretion of
or conspiracy, shall be deemed	the court.
guilty of a misdemeanor, and, on	. . .
conviction thereof, shall be pun-	
ished by fine not exceeding $ 5,000	
or by imprisonment not exceeding	

one year, or by both said pun-	
ishments, in the discretion of the	
court.	"Section 3. The district courts
	of the island are hereby vested
"Sec. 4. The several district	with jurisdiction to prevent, pro-
courts of the United States are	hibit, enjoin and punish violations
hereby invested with jurisdiction	of this law; and it shall be the
to prevent and restrain violations	duty of the attorneys of the dis-
of this act; and it shall be the	trict courts of the island to insti-
duty of the several district attor-	tute proceedings of injunction or
neys of the United States, in their	any other civil proceeding to pre-
respective districts, under the di-	vent, prohibit, enjoin, and re-
rection of the Attorney-General,	strain such violations. . . ."
to institute proceedings in equity	
to prevent and restrain such vio-	
lations. . . ."	
By § 24 (2) of the Judicial	
28 U. S. C. § 41Code, (2), the	
district courts of the United	
States are given jurisdiction -- "Of	
all crimes and offenses cognizable	
under the authority of the United	
States."	

[***LEdHR1] [1] [***LEdHR2] [2]*First.* Section 3 of the Sherman Act extends to "any territory of the United States." But it is urged that Puerto Rico cannot be brought within the intent of this phrase, and, therefore, the section does not apply to that dependency. The point is not well made. When the Sherman Act was passed (1890), we had no insular dependencies; and, necessarily, the application of § 3 did not extend beyond our continental domain; and, undoubtedly, it was this domain which was in the immediate contemplation of Congress. Certainly, Congress at that time did not have Puerto Rico in mind. But that is not enough. It is necessary to go further and to say that if the acquisition of that insular dependency had been foreseen, Congress would have so varied its comprehensive language as to exclude it from the operation of the act. *Dartmouth College v. Woodward, 4 Wheat. 518, 644*; *Takao Ozawa v. United States, 260 U.S. 178, 195-196*; *United States v. Thind, 261 U.S. 204, 207-208*. The only question, therefore, is whether the word "territory," as used in § 3 of the Sherman Act, properly can be applied to a dependency now bearing the relation to the United States which is borne by Puerto Rico.

[***LEdHR3] [3] [***LEdHR4] [4] [***LEdHR5] [5]In *Balzac v. Porto Rico, 258 U.S. 298, 304-305*, it was held that, although the *Sixth Amendment of the Constitution* with respect to the right of trial by jury applied to the territories of the United States, it did not apply to territory belonging to the United States which had not been incorporated into the Union; and that neither the Philippines nor Porto Rico was territory which had been so incorporated or had become a part of the United

States, as distinguished from merely belonging to it. But it is evident, from a consideration of the pertinent acts [*258] of Congress and the decisions of this court with respect to these acts, that whether Puerto Rico comes within a given congressional act applicable in terms to a "territory," depends upon the character and aim of the act. Words generally have different shades of meaning, and are to be construed if reasonably possible to effectuate the intent of the lawmakers; and this meaning in particular instances is to be arrived [***241] at not only by a consideration of the words themselves, but by considering, as well, the context, the purposes of the law, and the circumstances under which the words were employed. *Atlantic Cleaners & Dyers v. United States, 286 U.S. 427, 433*; *Helvering v. Stockholms Enskilda Bank, 293 U.S. 84, 86, 87-88*. Thus, although Puerto Rico is not a territory within the reach of the *Sixth* and *Seventh Amendments* and may not be a "territory" within the meaning of the word as used in some statutes, we held in *Kopel v. Bingham, 211 U.S. 468, 474, 475, 476*, [**170] that Puerto Rico was a "territory" within the meaning of § 5278 of the Revised Statutes, which provides for the demand and surrender of fugitive criminals by governors of territories as well as of states. The court said that it was impossible to hold that Puerto Rico was not intended to have power to reclaim fugitives from its justice, or that it was intended that it should be an asylum for fugitives from the United States. The word "territory" as used in that statute was defined as meaning "a portion of the country not included within the limits of any State, and not yet admitted as a State into the Union, but organized under the laws of Congress with a separate legislature under a territorial governor and other officers appointed by the President and Senate of the United States." And the court concluded, "It may be justly asserted that Porto Rico is a completely organized Territory, although not a Territory incorporated into the United States, and that there is no reason why Porto Rico should not be held to be such a Territory [*259] as is comprised in § 5278." See *Porto Rico v. Rosaly y Castillo, 227 U.S. 270, 274*. Compare *Talbott v. Silver Bow County, 139 U.S. 438, 444-445*.

With equal force, it may be said here that there is no reason why Puerto Rico should not be held to be a "territory" within the meaning of § 3 of the Sherman Act. We pointed out in the *Atlantic Cleaners & Dyers* case, *supra, p. 435*, that in the light of the applicable history and circumstances, it was apparent that Congress meant to deal comprehensively with the subject of contracts, combinations, and conspiracies in restraint of trade, "and to that end to exercise all the power it possessed"; that while Congress in passing § 1 exercised only the power conferred by the *commerce clause*, in passing § 3 it exercised a general power, unlimited by that clause. We therefore concluded that the word "trade" as used in § 3 should be given a more extended meaning than the same word as used in § 1.

If, as we there determined, Congress intended by the Sherman Act to exert all the power it possessed in respect of the subject matter -- trade and commerce -- , it is equally reasonable to conclude that Congress intended to include all territories to which its powers might extend. The same reason which requires the utmost liberality of construction in respect of the word "trade," also requires the same degree of liberality of construction in respect of the word "territory"; and we hold, accordingly, that the word "territory" was used in its most comprehensive sense, as embracing all organized territories, whether incorporated into the United States or not, including Puerto Rico.

[***LEdHR6] [6]*Second.* The court below held that although § 1 of the local act contained some words not to be found in § 3 of the Sherman Act, the pertinent provisions were in substance the same; that the act charged in the information as a crime under the local statute was the [*260] same as that denounced as a crime in the Sherman Act; and that in each instance the offense was a crime against the [***242] sovereignty of the United States. With that view we agree. But that court concluded that the act of Congress preempted the ground occupied by the local act and superseded it; and consequently the local district court was without jurisdiction of the offense. With that conclusion we are unable to agree.

1. Section 14 of The Foraker Act, passed April 12, 1900, c. 191, 31 Stat. 77, 80, provided that the statutory laws of the United States, not locally inapplicable, should have the same force and effect in Puerto Rico as in the United States, with certain exceptions not material here. Section 27 (p. 82) provided "That all local legislative powers hereby granted shall be vested in a legislative assembly . . ." And by § 32 (p. 83-84), it was provided that the legislative authority "shall extend to all matters of a legislative character not locally inapplicable . . ." These various provisions are continued in force by §§ 9, 25 and 37 of the Organic Act of March 2, 1917, c. 145, 39 Stat.