
Foster et al. v. Davenport et al.

controversy, and probably will continue to be, both by the bench and the bar, in fixing the true boundary line between the power of Congress under the commercial grant and the power reserved to the States. But in all these discussions, or nearly all of them, it has been admitted, that if the act of Congress fell clearly within the power conferred upon that body by the Constitution, there was an end of the controversy. The law of Congress was supreme.

These questions have arisen under the quarantine and health laws of the States—laws imposing a tax upon imports and passengers, admitted to have been passed under the police power of the States, and which had not been surrendered to the General Government. The laws of the States have been upheld by the court, except in cases where they were in conflict, or were adjudged by the court to be in conflict, with the act of Congress.

Upon the whole, after the maturest consideration the court have been able to give to the case, we are constrained to hold, that the act of the Legislature of the State is in conflict with the Constitution and law of the United States, and therefore void.

The judgment of the court below is reversed.

PHINEAS O. FOSTER, ROGER A. HEIRNE, AND GEORGE J. BLAKES-
LEE, OWNERS OF THE STEAMBOAT SWAN, PLAINTIFFS IN ERROR,
v. GORHAM DAVENPORT AND OTHERS, COMMISSIONERS OF PILOT-
AGE OF THE BAY AND HARBOR OF MOBILE.

The principle established in the preceding case extends also to a steamboat employed as a lighter and towboat, sometimes towing vessels beyond the outer bar of the bay, and into the gulf to the distance of several miles.

The character of the navigation and business in which this boat was employed cannot be distinguished from that in which the vessels it towed or unloaded were engaged. The lightering or towing was but the prolongation of the voyage of the vessels assisted to their port of destination.

THIS was a writ of error to the Supreme Court of Alabama. The case was similar to the preceding one of *Sinnot* and others

Foster et al. v. Davenport et al.

v. Davenport, except that the steamboat *Swan* was employed as a lighter and towboat upon waters within the State of Alabama. It was therefore insisted that she was engaged exclusively in the domestic trade and commerce, and consequently could be distinguished from the preceding case. Both were argued together by the same counsel.

Mr. Justice NELSON delivered the opinion of the court.

This is a writ of error to the Supreme Court of the State of Alabama.

The case is, in all respects, like the one just decided, except it is insisted that the steamboat was employed as a lighter and towboat upon waters within the State of Alabama, and therefore engaged exclusively in the domestic trade and commerce of the State.

According to the admitted state of facts, this boat was engaged in lightering goods from and to vessels anchored in the lower bay of Mobile, and the wharves of the city, and in towing vessels anchored there to and from the city, and, in some instances, towing the same beyond the outer bar of the bay, and into the Gulf to the distance of several miles. This boat was duly enrolled and licensed to carry on the coasting trade at the time she was engaged in this business, and of the seizure under the State law.

It also appears from the answer, and which facts are admitted to be true, that the port of Mobile is resorted to and frequented by ships and vessels, of different size in tonnage, engaged in the trade and commerce of the United States with foreign nations and among the several States; that the vessels of small size and tonnage are accustomed to come up to the wharves of the city, and discharge their cargo, but that large vessels frequenting said port cannot come up, on account of the shallowness of the waters in some parts of the bay, and are compelled to anchor at the lower bay, and to discharge and receive their cargo by lighters; and that the steamboat of claimants was engaged in lightering goods to and from said vessels, and in towing vessels to and from the lower bay and the wharves of the city.

Collins v. Thompson et al.

It is quite apparent, from the facts admitted in the case, that this steamboat was employed in aid of vessels engaged in the foreign or coastwise trade and commerce of the United States, either in the delivery of their cargoes, or in towing the vessels themselves to the port of Mobile. The character of the navigation and business in which it was employed cannot be distinguished from that in which the vessels it towed or unloaded were engaged. The lightering or towing was but the prolongation of the voyage of the vessels assisted to their port of destination. The case, therefore, is not distinguishable in principle from the one above referred to.

Judgment of the court below reversed.

SIDNEY E. COLLINS, APPELLANT, *v.* DRURY THOMPSON, WILLIAM F. CLEVELAND, AND JAMES CAMPBELL'S WIDOW, HEIRS, AND DEVISEES.

Where the complainant set up in his bill that a deed, power of attorney, and other writings, all which, as alleged, were executed in contemplation of a suit for the recovery of his patrimonial inheritance of which he had been unjustly deprived, were obtained by imposition and fraud, and also that a deed, executed by him in the adjustment of the estate among the parties participating in the litigation to recover it, was obtained by like fraud and imposition, held, that upon the pleadings and proofs, the allegations are not sustained; on the contrary, the transactions in both respects referred to were fair, open, and unexceptionable.

THIS was an appeal from the Circuit Court of the United States for the southern district of Alabama.

It was a bill filed by Collins, to set aside certain agreements, upon the ground that he had been imposed upon and deceived by Thompson and the other defendants in error.

The facts are all stated in the opinion of the court.

The Circuit Court dismissed the bill, and Collins appealed to this court.

It was argued by *Mr. Sewall* for the appellant, and by *Mr. Smith* and *Mr. Benjamin* for the appellees.