Supplementary Material

Chapter 7: The Republican Era—Individual Rights/Religion

Holy Trinity Church v. U.S., 143 U.S. 457 (1892)

The Holy Trinity Church in 1887 made a contract with E. Wadpole Warren, an English citizen, in which the church paid for Warren to come to the New York to serve as the rector and pastor of their religious society. The United States claimed that this agreement violated a federal law forbidding "any person, company, partnership, or corporation . . . to prepay the transportation . . . of any alien . . . into the United States . . . under contract or agreement . . . to perform labor or service of any kind in the United States." Holy Trinity insisted that the law was intended to limit only unskilled labor and certainly did not apply to ministers. The circuit court rejected this claim. Holy Trinity appealed to the Supreme Court of the United States.

A unanimous Supreme Court reversed the lower federal court. Justice David Brewer's majority opinion declared that Congress had not intended to include ministers by the words "to perform labor or service of any kind." Brewer conceded that the language seemed to unambiguously prohibit the contract between Holy Trinity and Warren. Why did he nevertheless believe the statute did not apply? Suppose Congress had explicitly barred ministers? Would that have been constitutional?

The most famous passage in Holy Trinity Church *declares that the United States was a "Christian nation." What evidence does Brewer cite in support of this conclusion? What did he mean by Christian? Were Catholics or Jews included? Was his conclusion a correct interpretation of the Constitution of 1787? Was his conclusion a correct interpretation of the Constitution of 1892?*

JUSTICE BREWER delivered the opinion of the Court.

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It must be conceded that the act of the corporation is within the letter of this section, for the relation of rector to his church is one of service, and implies labor on the one side with compensation on the other. Not only are the general words "labor" and "service" both used, but also, as it were to guard against any narrow interpretation and emphasize a breadth of meaning, to them is added "of any kind"; and, further, as noticed by the circuit judge in his opinion, the fifth section, which makes specific exceptions, among them professional actors, artists, lecturers, singers, and domestic servants, strengthens the idea that every other kind of labor and service was intended to be reached by the first section. While there is great force to this reasoning, we cannot think congress intended to denounce with penalties a transaction like that in the present case. It is a familiar rule that a thing may be within the letter of the statute and yet not within the statute, because not within its spirit nor within the intention of its makers. This has been often asserted, and the Reports are full of cases illustrating its application. This is not the substitution of the will of the judge for that of the legislator; for frequently words of general meaning are used in a statute, words broad enough to include an act in question, and yet a consideration of the whole legislation, or of the circumstances surrounding its enactment, or of the absurd results which follow from giving such broad meaning to the words, makes it unreasonable to believe that the legislator intended to include the particular act. . . .

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It appears . . . that it was this cheap, unskilled labor which was making the trouble, and the influx of which congress sought to prevent. It was never suggested that we had in this country a surplus of brain toilers, and, least of all, that the market for the services of Christian ministers was depressed by foreign competition. . . .

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We find, therefore, that the title of the act, the evil which was intended to be remedied, the circumstances surrounding the appeal to congress, the reports of the committee of each house, all concur in affirming that the intent of congress was simply to stay the influx of this cheap, unskilled labor.

But, beyond all these matters, no purpose of action against religion can be imputed to any legislation, state or national, because this is a religious people. . . .

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[T]he declaration of independence recognizes the presence of the Divine in human affairs in these words: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness." "We, therefore, the Representatives of the united States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name and by Authority of the good People of these Colonies, solemnly publish and declare," etc.; "And for the support of this Declaration, with a firm reliance on the Protection of Divine Providence, we mutually pledge to each other our Lives, our Fortunes, and our sacred Honor."

If we examine the constitutions of the various states, we find in them a constant recognition of religious obligations. Every constitution of every one of the 44 states contains language which, either directly or by clear implication, recognizes a profound reverence for religion, and an assumption that its influence in all human affairs is essential to the well-being of the community. This recognition may be in the preamble, such as is found in the constitution of Illinois, 1870: "We, the people of the state of Illinois, grateful to Almighty God for the civil, political, and religious liberty which He hath so long permitted us to enjoy, and looking to Him for a blessing upon our endeavors to secure and transmit the same unimpaired to succeeding generations," etc.

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Even the constitution of the United States, which is supposed to have little touch upon the private life of the individual, contains in the first amendment a declaration common to the constitutions of all the states, as follows: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof," etc.,—and also provides in article 1, §7, (a provision common to many constitutions,) that the executive shall have 10 days (Sundays excepted) within which to determine whether he will approve or veto a bill.

There is no dissonance in these declarations. There is a universal language pervading them all, having one meaning. They affirm and reaffirm that this is a religious nation. These are not individual sayings, declarations of private persons. They are organic utterances. They speak the voice of the entire people. While because of a general recognition of this truth the question has seldom been presented to the courts, yet we find that in *Updegraph v. Com* [Pa. 1824], it was decided that, "Christianity, general Christianity, is, and always has been, a part of the common law of Pennsylvania; * * * not Christianity with an established church and tithes and spiritual courts, but Christianity with liberty of conscience to all men." . . .

If we pass beyond these matters to a view of American life, as expressed by its laws, its business, its customs, and its society, we find every where a clear recognition of the same truth. Among other matters note the following: The form of oath universally prevailing, concluding with an appeal to the Almighty; the custom of opening sessions of all deliberative bodies and most conventions with prayer; the prefatory words of all wills, "In the name of God, amen"; the laws respecting the observance of the Sabbath, with the general cessation of all secular business, and the closing of courts, legislatures, and other similar public assemblies on that day; the churches and church organizations which abound in every city, town, and hamlet; the multitude of charitable organizations existing every where under Christian auspices; the gigantic missionary associations, with general support, and aiming to establish Christian missions in every quarter of the globe. These, and many other matters which might be noticed,

add a volume of unofficial declarations to the mass of organic utterances that this is a Christian nation. In the face of all these, shall it be believed that a congress of the United States intended to make it a misdemeanor for a church of this country to contract for the services of a Christian minister residing in another nation?

Suppose, in the congress that passed this act, some member had offered a bill which in terms declared that, if any Roman Catholic church in this country should contract with Cardinal Manning to come to this country, and enter into its service as pastor and priest, or any Episcopal church should enter into a like contract with Canon Farrar, or any Baptist church should make similar arrangements with Rev. Mr. Spurgeon, or any Jewish synagogue with some eminent rabbi, such contract should be adjudged unlawful and void, and the church making it be subject to prosecution and punishment. Can it be believed that it would have received a minute of approving thought or a single vote? Yet it is contended that such was, in effect, the meaning of this statute. The construction invoked cannot be accepted as correct. It is a case where there was presented a definite evil, in view of which the legislature used general terms with the purpose of reaching all phases of that evil; and thereafter, unexpectedly, it is developed that the general language thus employed is broad enough to reach cases and acts which the whole history and life of the country affirm could not have been intentionally legislated against. It is the duty of the courts, under those circumstances, to say that, however broad the language of the statute may be, the act, although within the letter, is not within the intention of the legislature, and therefore cannot be within the statute.