Commonwealth v. Pullis

Date: 1806
Authors: Joseph Hopkinson, Moses Levy, Thomas Lloyd
Genre: court decision

Summary Overview

As the earliest document in this collection, the proceedings of Commonwealth v. Pullis *(also known as the Philadelphia Cordwainers case) illustrate the uphill battle faced by workers in achieving recognition for their rights. In this case, which was decided by the Philadelphia Mayor's Court, the very notion of workers organizing themselves and deciding not to work unless they received higher wages was the key question. Did workers have the right to withhold labor as a bargaining tactic, and to compel other members of their organization to hold the line until their demands were met? Or is that act of organization and action a criminal one? There were no "labor laws" at the time, as a modern American would understand them, so the justice system relied on other laws that were not necessarily applicable to the conditions being addressed. The arguments and decisions in* Commonwealth v. Pullis *would set the tone for the suppression of organized labor for decades and establish a precedent that organized labor efforts were inherently criminal in nature.*

Defining Moment

When the first Industrial Revolution emerged in the United States, shoemaking was one of the first businesses to take advantage of the new ways of working. These new ways of working were different from older, more craft-based ways of manufacture, with longer hours and worse conditions. In 1794, as a way to try and remedy these problems, workers in the Philadelphia shoe industry formed the Federal Society of Journeyman Cordwainers, one of the first organized labor groups in the United States. The society, through persuasion, directed actions such as work stoppages (strikes) and implemented a policy of making the shoe industry in the city a "closed shop." This meant that no one could be employed as a journeyman shoemaker unless they were a member of the society. This would help ensure that labor actions, such as strikes, would be carried out with all of the workers acting as one, increasing the pressure on the Master Shoemakers who employed the journeymen. From its beginnings in 1794 through 1804, the society fought for and received increases in pay. They also, in the spirit of cooperation and a broader understanding of the changing economy, agreed to lower wages in order to grow the industry to meet the increasing demand for manufactured goods—such as shoes—in the predominantly agricultural southern United States. As revenue increased for the Master Shoemakers, they sought to reduce wages further. The society represented an obstacle to employers keeping wages low.

The Master Shoemakers had to take steps in order to eliminate the society as a threat to their profits. Forming a trade organization of their own, the Masters filed a criminal complaint, charging that the activities of the society were illegal. The case would be heard by the Mayor's Court of Philadelphia, and the costs of prosecution were paid by the Masters, rather than by the court itself, raising the suspicion that justice in the case was available to whoever had the money to pay. The case would be heard in early 1806.

Author Biography

In the excerpt from the court records presented here, there are three men who played key roles. First was Joseph Hopkinson, the prosecuting attorney who argued the case. Hopkinson was born in Philadelphia in 1770. After earning bachelor's and master's degrees from the University of Pennsylvania, Hopkinson persuaded a

career in law, and would practice from 1791 until 1814, when he was elected to the House of Representatives. After serving two terms in Congress, Hopkinson returned to private law practice. Moving to New Jersey, he got involved in politics there, serving in the state legislature. In 1828, he was appointed to the federal court as a judge and he would serve as a district court judge in Pennsylvania until his death in 1842.

Moses Levy, born in Philadelphia in 1757, was the recorder of the Mayor's Court and provided the direction to the jurors which, as seen below, was in effect an additional argument on behalf of the prosecution's case. Levy's father had been active in the Revolutionary cause during the 1760s and 1770s. Following graduation from the University of Pennsylvania, he became a lawyer, and served as the recorder of the Philadelphia courts as well as being the judge of the district court for Philadelphia. In addition, he served in the Pennsylvania state legislature.

Finally, and perhaps most important, was the stenographer whose work insured that a record of their very important case existed. Thomas Lloyd was born in London in 1756 and moved to the United States in the 1770s. Lloyd had learned shorthand and was one of the most influential stenographers of the early United States, taking detailed notes that allowed for the publication of the proceedings of the First Continental Congress as well as George Washington's first inaugural address as president. He published a book that taught his method of using shorthand for taking detailed notes, which would become influential in American clerical education.

Historical Document

Indictment for common law conspiracy, tried before a jury consisting of two inn-keepers, a tavern-keeper, three grocers, a merchant, a hatter, a tobacconist, a watchmaker, a tailor, a bottler.

The indictment charged in substance:

(1) That defendants conspired and agreed that none of them would work at the shoemaking craft except at certain specified prices higher than prices which had theretofore customarily been paid;

(2) that defendants conspired and agreed that they would endeavor to prevent "by threats, menaces, and other unlawful means" other craftsmen from working except at said specified rates; and (3) that defendants, having formed themselves into an association, conspired and agreed that none of them would work for any master who should employ a cordwainer who had broken any rule or bylaw of the association, and that defendants, in accordance with such agreement refused to work at the usual rates and prices.

Counsel for the prosecution were Jared Ingersol and Joseph Hopkinson. Counsel for the defendants were Caesar A. Rodney and Walter Franklin.

During his address to the jury, Joseph Hopkinson, for the prosecution, stated, among other things, the following:

If the court and jury shall decide, that journeymen may associate together, and determine that none shall work under certain prices; then, when orders arrive for considerable quantities of any article, the association may determine to raise the wages, and reduce the contracts to diminish their profit; to sustain a loss, or to abandon the execution of the orders, as was done in Bedford's case, who told you he could have afforded to execute the orders he obtained at the southward, had wages remained the same as when he left Philadelphia. When they found he had a contract, they took advantage of his necessity. What was done by the journeymen shoemakers, may be done by those of every other trade, or manufacturer in the city A few more things of this sort, and you will break up the manufactories; the masters will be afraid to make a contract, therefore he must relinquish the export trade, and depend altogether upon the profits of the work of Philadelphia, and confine his supplies altogether to the city. The last turn-out had liked to have produced that effect: Mr. Ryan told you he had intended to confine himself to bespoke work.

It must be plain to you, that the master employers have no particular interest in the thing ...if they pay higher wages, you must pay higher for the articles. They, in truth, are protecting the community. Nor is it merely the advance of wages that increases the price to the consumer, the master must have some compensation for the advance of his cash, and the credit he frequently gives. They have no interest to serve in the prosecution; they have no vindictive passions to gratify ...they merely stand as the guardians of the community from imposition and rapacity.

If this conspiracy was to be confined to the person themselves, it would not be an offense against the law, but they go further. There are two counts in the indictment; you are to consider each, and give your verdict on each. The first is for contriving, and intending, unjustly and oppressively, to encrease and augment the wages usually allowed them. The other for endeavouring to prevent, by threats, menaces, and other unlawful means, other journeymen from working at the usual prices, and that they compelled others to join them.

If these persons claim the right to put the price on their own work, if they say their labour is their own, and they are the judges of its value, why not admit the same right to others? If it is the right of Dubois, and the other defendants, is it not equally the right of Hattison and Cummings? We stand up for the right of the journeymen, as well as of the masters. The last turn-out was called by a small majority ...60 against 50, or thereabout: shall 60 unreasonable men, perhaps single men, having no one to provide for but themselves, distress and bring to destruction 50 married men with their families?

Let the 60 put what price they please on their own work; but the others are free agents also: leave them free, or talk no more of equal rights, of independence, or of liberty.

It may be answered, that when men enter into a society they are bound to conform to its rules; they may say, the majority ought to govern the minority...granted...but they ought to leave a man free to join, or not to join the society. If I go into a country I am bound to submit to its laws, but surely I may judge whether or not I will go there. The society has no right to force you into its body, and then say you shall obey its rules under severe penalties. By their constitution you find, and from their own lips I must take the words, that though a man wants no more wages than he gets, he must join in a turn-out. The man who seeks an asylum in this country, from the arbitrary laws of other nations, is coerced into this society, though he does not work In the article intended to be raised; he must leave his seat and join the turnout.

Recorder Levy, in his charge to the jury, made the following statements, among others:

It is proper to consider, is such a combination consistent with the principles of our law, and injurious to the public welfare? The usual means by which the prices of work are regulated, are the demand for the article and the excellence of its fabric. Where the work is well done, and the demand is considerable, the prices will necessarily be high. Where the work is ill done, and the demand is inconsiderable, they will unquestionably be low. If there are many to consume, and few to work, the price of the article will be high; but if there are few to consume, and many to work, the article must be low.

Much will depend, too, upon these circumstances, whether the materials are plenty or scarce; the price of the commodity, will in consequence be higher or lower. These are the means by which prices are regulated in the natural course of things. To make an artificial regulation, is not to regard the excellence of the work or quality of the material, but to fix a positive and arbitrary price, governed by no standard, controlled by no impartial person, but dependent on the will of the few who are interested; this is the unnatural way of raising the price of goods or work. This is independent of the number who are to do the work. It is an unnatural, artificial means of raising the price of work beyond its standard, and taking an undue advantage of the public. Is the rule of law bottomed upon such principles, as to permit or protect such conduct?

Consider it on the footing of the general commerce of the city. Is there any man who can calculate (if this is tolerated) at what price he may safely contract to deliver articles, for which he may receive orders, if he is to be regulated by the journeymen in an arbitrary jump from one price to another? It renders it impossible for a man, making a contract for a large quantity of such goods, to know whether he shall lose or gain by it. If he makes a large contract for goods today, for delivery at three, six or nine months hence, can he calculate what the prices will be then, if the journeymen in the intermediate time, are permitted to meet and raise their prices, according to their caprice or pleasure? Can he fix the price of his commodity for a future day? It is impossible that any man can carry on commerce in this way. There cannot be a large contract entered into, but what the contractor will make at his peril. He may be ruined by the difference of prices made by the journeymen in the intermediate time. What then is the operation of this kind of conduct upon the commerce of the city? It exposes it to inconveniences, if not to ruin; therefore, it is against the public welfare.

What is the case now before us? ...A combination of workmen to raise their wages may be considered in a two fold point of view; one is to benefit themselves ...the other is to injure those who do not join their society. The rule of law condemns both. If the rule be clear, we are bound to conform to it even though we do not comprehend the principle upon which it is founded. We are not to reject it because we do not see the reason of it. It is enough, that is the will of the majority. It is law because it is their will—if it is law, there may be good reasons for it though we cannot find them out. But the rule in this case is

pregnant with sound sense and all the authorities are clear upon the subject. Hawkins, the greatest authority on the criminal law, has laid it down, that a combination to maintaining one another, carrying a particular object, whether true or false, is criminal... the authority cited does not rest merely upon the reputation of that book. He gives you other authorities to which he refers.

It is adopted by Blackstone, and laid down as the law by Lord Mansfield 1793, that an act innocent in an individual, is rendered criminal by a confederacy to effect it. One man determines not to work under a certain price and it may be individually the opinion of all; in such a case it would" be lawful in each to refuse to do so, for if each stands, alone, either may extract from his determination when he pleases. In the turn-out of last fall, if each member of the body had stood alone, fettered by no promises to the rest, many of them might have changed their opinion as to the price of wages and gone to work; but it has been given to you in evidence, that they were bound down by their agreement, and pledged by mutual engagements, to persist in it, however contrary to their own judgment. The continuance in improper conduct may therefore well be attributed to the combination. The good sense of those individuals was prevented by this agreement, from having its free exercise.

The defendants were found guilty and were fined eight dollars each plus costs.

Glossary

combination: a group or collective of individuals organized for a specific purpose

commodity: something that may be bought or sold

common law: the "common law" is a collection of laws, court decisions, and precedent compiled over the centuries of English jurisprudence

cordwainer: another term for a shoemaker; derived from the Cordovan leather that they often used

Document Analysis

The court record begins with the charge, which is conspiracy, and a description of the jury. This description includes their occupations and several of the jurors are artisans—similar to the shoemakers whose case they would be deciding. The conspiracy indictment is next described in greater detail. Prosecutors charge that the shoemakers entered into an agreement to raise prices for their shoemaking work and to refuse work that was below those "certain specified prices." Further, the shoemakers also, allegedly, threatened others from working for lower than those agreed-upon prices, and that they had formed "an association" to work against the employment of anyone who had violated the rules or minimum pay set by the group.

After identifying the attorneys for the prosecution and defense, the court records provides a portion of the statements by Joseph Hopkinson, one of the prosecuting attorneys. The first portion of Hopkinson's argument raises the concern that those who employ journeyman shoemakers would not be able to rely on the terms in contracts if the members of the society decided to increase prices, putting the shoe sellers at a disadvantage and allowing the shoemakers to take "advantage of his necessity." Hopkinson warns that if the shoemakers are allowed to manipulate prices in this way, there would be nothing standing in the way of journeymen in other trades to do the same thing, with disastrous effects on business. Hopkinson also makes the argument that the employers have the best interests of their customers at heart and are "protecting the community" from the higher prices that would result from higher wages.

Hopkinson's next argument addresses the very concept of an association of workers to set prices. If the defendants have a right to set their own prices for labor, as they claim, then what right do they have to target and interfere with other workers who charge less? Do those workers not have the ability to charge what they want? Journeyman shoemakers, he argues, cannot be compelled to join the society.

Later, in the instructions to the jury, the court recorder restated the charges and framed the case as a question of whether or not the "combination" of workers in the society and their efforts to set prices was "injurious to the public welfare." He explains that there is already a system in place to regulate prices—customer demand for quality goods will raise prices and customers avoiding low-quality goods would be low. There are other factors that go into prices, Levy explains, such as the price and availability of materials used in the making of shoes or other products. These are "natural" factors affecting the price. Setting prices through "artificial regulation," which the society promotes, would raise the price of labor—and, ultimately, the end product—and would be harmful to the public. It would also be very difficult to enter into contracts with groups that are able to dictate their own prices and change those prices at will. Note that Levy claims that workmen want the ability to increase prices for no other reason than "according to their caprice or pleasure," giving the impression that the shoemakers are intentionally trying to harm consumers. Indeed, Levy asserts that "A combination of workmen to raise their wages" has two goals. The first is financial gain for themselves and the other is to harm those who are not part of the group. Levy closes his summary by citing legal authorities (Blackstone and Hawkins) and precedent that some actions that may be legal if conducted by an individual, are illegal if undertaken by "a confederacy to effect it." Levy also points out that the mutual nature of the society prevented any members from exercising their own "good sense," perpetuating the harm of such combinations.

The summary closes with the jury's verdict and the imposed punishment.

Essential Themes

The guilty verdict for Pullis and the other the Philadelphia Cordwainers led to the end of the Federal Society of Journeyman Cordwainers. It also had a chilling effect on future labor organizing. With attempts by workers to combine their efforts to work for better pay and conditions being declared a criminal conspiracy, it was difficult to organize in any meaningful way. The use of the "common law" definition of conspiracy as precedents that were almost a century old (and from Britain, rather than the United States), was reflective of wider political differences in the United States at the time. Legal scholar Omar Swartz

has argued that Jeffersonian Republicans, such as the members of the society, believed that the new American republic represented "a radical break from English society and necessitated a rejection of the English legal system." Federalists, on the other hand, "maintained that the national interest could best be advanced through an aristocracy, such as that found in England" and that the application of English common law was a way to maintain these connections.

—Aaron John Gulyas, MA

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