

**GRUNSFELD V. BOARD OF COUNTY COMM'RS BERNALILLO COUNTY, 1910-
NMSC-022, 15 N.M. 363, 110 P. 563 (S. Ct. 1910)**

**SIEGFRIED GRUNSFELD, Appellee,
vs.
BOARD OF COUNTY COMMISSIONERS BERNALILLO COUNTY, Appellant**

No. 1297

SUPREME COURT OF NEW MEXICO

1910-NMSC-022, 15 N.M. 363, 110 P. 563

July 26, 1910

Appeal from the District Court for Bernalillo County before Ira A. Abbott, Associate Justice.

COUNSEL

George S. Klock for Appellant.

See brief in preceding case, No. 1296.

The District Court was without power to award a money judgment in favor of appellee against appellant. C. L. 1897, secs. 671, 672.

Laws 1907, chapter 45, was not special legislation. In re Application of Church, 92 N. Y. Court of Appeals.

Julius Staab and John A. White for Appellees.

The proviso of Sec. 6, Chapter 45, Laws of 1907, singles out Class A and makes it effective and in force alone for the two years 1907 and 1908, and is therefore special and local legislation. A. & E. Enc. of Law, 2 ed., vol. 26, pp. 683, 687; Dibrell v. Lanier, 12 L. R. A. 70, 79, 89 Tenn. 534; Joe Sutton v. State of Tennessee, 33 L. R. A. 589, 592; State ex rel Randolph v. Wood, 49 N. J. L. 85, 7 Atl. R. 286, 287; McCarthy v. Com., 110 Pa. 243; Edmunds v. Herbrandson, N. Dak., 14 L. R. A. 725; State v. Boyd, 19 Nev. 43, 5 Pac. R. 735; State v. Hoagland, 51 N. J. L. 62-68, 16 Atl. R. 166; State v. Scott, 50 N. J. L. 585, 1 L. R. A. 86; State Bd. of Assessors v. Central Ry. Co., 48 N. J. L. 148 and 278; State v. Mullica Twp., 51 N. J. L. 412; Lewis Sutherland Statutory Construction, vol. 1, p. 369; State v. Hermann, 75 Mo. 340; State v. Pugh, 43 Ohio St. 98, 1 N. E. 439; State v. Gaddis, 44 N. J. L. 365; Morrison v. Bachert, 112 Pa. 322, 5 Atl. 739; Territory of New Mexico v. Newman, 13 N.M. 98, 102; A. & P. Ry. Co. v. Mingus, 7 N.M. 360; Gibbs v. Morgan, 39 N. J. Eq. 126; Davis v. Clark, 106 Pa. 385;

City of Topeka v. Gillet, 4 Pac. Rep. Kans. 800; Henderson v. Koenig, 168 Mo. 356, 57 L. R. A. 659; McAunich v. Miss. etc. Ry. Co., 20 Iowa 338; Ayar's App. 2 L. R. A. 577, 122 Pa. 266; State v. Tolle, 71 Mo. 645; Com. v. Patton, 88 Pa. St. 258; State v. Ellet, 47 Ohio St. 90; 21 Am. St. Rep. 772; State v. Anderson, 44 Ohio St. 247; 6 N. E. 571; States v. Mitchell, 31 Ohio St. 592; sec. 2, ch. 114, L. 1909, art. 1, sec. 10 of Constitution of U. S.; Act of Congress, Sept. 9, 1850, sec. 17, Organic Act.

The legislation in question was not only special but it was also local. Mugler v. Kansas City, 123 U.S. 623, 663; People v. Cooper, 93 Ill. 585, 594; Devine v. Cook Co. Comrs., 84 Ill. 592; State v. Wood, 49 N. J. L., p. 88; Codlin v. Kohlhausen, 58 Pac. 499, 9 N.M. 565; Miller v. Kister, 68 Cal. 142, 8 Pac. R. 813; Cooley, Constitutional Laws 391; People v. Johnson, 6 Cal. 673; Omnibus R. Co. v. Baldwin, 57 Cal. 165; French v. Teschemaker, 24 Cal. 544; Constitution, article 4, sub-div. 29; Van Riper v. Parsons, 11 Vroom 125.

Section 1 of the Fourteenth Amendment prohibits discrimination in class legislation. Gulf Colo. & S. F. R. Co. v. Ellis, 165 U.S. 150; Cotting v. Goddard, 183 U.S. 79, 107-109; Magoun v. Ill. Trust & Sav. Bank, 170 U.S. 283; State v. Loomis, 115 Mo. 307, 314, 21 L. R. A. 789.

JUDGES

Mechem, J. Justice Wright having been appointed since the submission of the case in this court did not participate in its decision.

AUTHOR: MECHEM

OPINION

{*365} OPINION OF THE COURT.

{1} It is agreed that this case, involving similar facts and the same legal questions, should be considered on the briefs filed by appellee herein and by appellant in case of Territory of New Mexico v. Beaven, No. 1296, decided at this term, and the opinion rendered by the court in said case, should be decisive in this case.

{2} Judgment of the District Court is affirmed.