

Pennsylvania Vs. Quicksilver Company

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Court : US Supreme Court

Decided On : 1870

Appeal No. : 77 U.S. 553

Appellant : Pennsylvania

Respondent : Quicksilver Company

Judgement :

Pennsylvania v. Quicksilver Company - 77 U.S. 553 (1870)

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Pennsylvania v. Quicksilver Company

77 U.S. (10 Wall.) 553

ON MOTION TO DISMISS AN ORIGINAL WRIT

SYLLABUS

1. In a suit against a corporation by one state, an averment that the defendant is a body politic by the law of another state, named and "doing business" in it, is not sufficient to give jurisdiction to this Court.

2. This Court has no original jurisdiction of a suit brought by a state against its own citizens.

The first clause of the second section of the third article of the Constitution ordains that the judicial power shall extend to certain cases named, and among them "to controversies between a state and the citizens of another state."

The second clause of this same section provides:

"That in all cases affecting ambassadors &c.,, and those in which a state shall be a party, the Supreme Court shall have original jurisdiction,' and that 'in all the other cases before mentioned, it shall have appellate jurisdiction."

The 13th section of the Judiciary Act provides:

"That the Supreme Court shall have exclusive jurisdiction of all controversies of a civil nature where a state is a party, except between a state and its citizens, and except also between

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a state and citizens of another state or aliens, in which latter case it shall have original, but not exclusive, jurisdiction."

In this state of the law, constitutional and statutory, the Commonwealth of Pennsylvania brought an original suit against the Quicksilver Mining Company. The declaration was thus:

"The Commonwealth of Pennsylvania, by her attorney-general, complains of the Quicksilver Mining Company, a body politic in the law of, and doing business in, the State of California, of a plea that the said company render unto the said commonwealth the sum of \$100,000,"

&c.;

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MR. JUSTICE NELSON delivered the opinion of the Court.

By the second section of the third article of the Constitution, it is ordained that the judicial power shall extend "to all controversies between a state and the citizens of another state." The second clause of this section provides

"That in all cases affecting ambassadors &c.;, and those in which a state shall be a party, the Supreme Court shall have original jurisdiction. . . . In all other cases before mentioned, it shall have appellate jurisdiction. "

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This second clause distributes the jurisdiction conferred upon the Supreme Court in the previous one into original and appellate jurisdiction, but does not profess to confer any.

The thirteenth section of the Judiciary Act, quoted *supra*, which provides for the jurisdiction of this Court, accords with this construction.

A state therefore may bring a suit by virtue of its original jurisdiction against a citizen of another state, but not against one of her own. And the question in this case is whether it is sufficiently disclosed in the declaration that this suit is brought against a citizen of California. And this turns upon another question, and that is whether the averment there imports that the defendant is a corporation created by the laws of that state, for, unless it is, it does not partake of the character of a citizen within the meaning of the cases on this subject. *

The Court is of opinion that this averment is insufficient to establish that the defendant is a California corporation. It may mean that the defendant is a corporation doing business in that state by its agent, but not that it had been incorporated by the laws of the state. It would have been very easy to have made the fact clear by averment, and, being a jurisdictional fact, it should not have been left in doubt. Indeed, it was admitted in the argument that the defendant was a Pennsylvania corporation, and the jurisdiction sought to be sustained by a suit against this agency. We have already shown that this is unavailable to support the

jurisdiction.

Motion granted and the writ dismissed.

* [Marshall v. Baltimore & Ohio R. Co.](#), 16 How. 314, and cases there cited.

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