

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Chicago, B. and Q. Railway Co. Vs. United States

Chicago, B. and Q. Railway Co. Vs. United States

SooperKanoon Citation : sooperkanoon.com/91063

Court : US Supreme Court

Decided On : May-15-1911

Appeal No. : 220 U.S. 559

Appellant : Chicago, B. and Q. Railway Co.

Respondent : United States

Judgement :

Chicago, B. & Q. Railway Co. v. United States - 220 U.S. 559 (1911)

U.S. Supreme Court Chicago, B. & Q. Railway Co. v. United States, 220 U.S. 559 (1911)

Chicago, Burlington & Quincy Railway Company v. United States

No. 329

Argued March 9, 1911

Decided May 15, 1911

220 U.S. 559

CERTIORARI TO TH CIRCUIT COURT OF APPEALS

FOR THE EIGHTH CIRCUIT

SYLLABUS

Under the Safety Appliance Acts of March 2, 1893, c.196, 27 Stat. 531, April 1, 1896, c. 87, 29 Stat. 8, and March 2, 1903, c. 976, 32 Stat. 943, there is imposed an absolute duty on the carrier, and the penalty cannot be escaped by exercise of reasonable care.

This Court, in *St. Louis, I. M. & S. Railway Co. v. Taylor*, [210 U. S. 281](#) , considered and determined the scope and effect of the Safety Appliance Acts and the degree of care required by the carrier, and the question is not open to further discussion, as this Court should not disturb a construction which has been widely accepted and acted upon by the courts.

For this Court to give a construction to an act of Congress contrary to one previously given would cause uncertainty, if not mischief, in the administration of law in federal courts, and, having placed an interpretation on the Safety Appliance Acts, this Court will adhere thereto until Congress, by amendment, changes the rule announced in *St. Louis, I. M. & S. Railway Co. v. Taylor, supra*.

An action for penalties under the Safety Appliance Acts is a civil, and not a criminal one, and the enforcement of such penalties is not governed by considerations controlling prosecution of criminal offenses.

Congress has unquestioned power to declare an offense and to exclude the elements of knowledge and due diligence from the inquiry as to its commission.

170 F. 556 affirmed.

The facts, which involve the construction of the Safety Appliance Acts and the duties and liabilities of carriers to equip their cars with safety appliances, are stated in the opinion.

Page 220 U. S. 567

MR. JUSTICE HARLAN delivered the opinion of the Court.

Two separate actions were brought by the government in the District Court of the United States for the District of Nebraska, against the Chicago, Burlington & Quincy Railroad Company, an Iowa corporation engaged as a common carrier in interstate commerce. The object of each action was to recover certain penalties which, the United States alleged, had been incurred by the company for violations, in several specified instances, of the Safety Appliance Acts of Congress. March 2, 1893, c. 196, 27 Stat. 532; April 1, 1896, 29 Stat. 85, c. 87; March 2, 1903, 32 Stat. 943, c. 976. By consent of the parties and by order of court, the two actions were consolidated and tried together. At the trial, the court directed a verdict of guilty as to each cause of action, and a judgment for \$300 was rendered for the government in one case and for \$100 in the other.

By the original Act of March 2, 1893 (27 Stat. 531, c. 196), it was provided that from and after the first day of January, 1898, it should be unlawful for any common carrier engaged in moving interstate

Page 220 U. S. 568

traffic by railroad to use on its line any locomotive engine not equipped with a power driving-wheel brake and appliances for operating the train brake system, or, after that date, to run any train in such traffic that had not a sufficient number of cars in it so equipped with power or train brakes that the engineer on the locomotive drawing such train can control its speed without requiring brakemen to use the common hand brake for that purpose.

The second section provided

"that, on and after the first day of January, eighteen hundred and ninety-eight, it shall be unlawful for any such common carrier to haul or permit to be hauled or used on its line any car used in moving interstate traffic not equipped with couplers coupling automatically by impact, and which can be uncoupled without the necessity of men going between the ends of the cars."

The sixth section, as amended April first, 1896, provided that any such common carrier using a locomotive engine, running a train, or hauling or permitting to be

hauled or used on its line any car in violation of any of the provisions of this act

"shall be liable to a penalty of one hundred dollars for each and every such violation, to be recovered in a suit or suits to be brought by the United States district attorney in the district court of the United States having jurisdiction in the locality where such violation shall have been committed . . . *Provided,* That nothing in this act contained shall apply to trains composed of four-wheel cars, or to trains composed of eight-wheel standard logging cars, where the height of such car from top of rail to center of coupling does not exceed twenty-five inches, or to locomotives used in hauling such trains when such cars or locomotives are exclusively used for the transportation of logs."

The eighth section is in these words:

"That any employee of any such common carrier who may be injured by any locomotive, car, or train in use contrary to the provision of this act shall not be deemed thereby to have assumed the

Page 220 U. S. 569

risk thereby occasioned, although continuing in the employment of such carrier after the unlawful use of such locomotive, car, or train had been brought to his knowledge."

After referring to various cases holding that the omission of Congress to make knowledge and diligence on the part of the carrier ingredients of the act condemned, the trial court said:

"Its omission was intentional, in order that this statute might induce such a high degree of care and diligence on the part of the railway company as to necessitate a change in the manner of inspecting appliances, and to protect the lives and the safety of its employees, provided the accident occurs from a defective appliance such as is designated in this act. And for these reasons the jury will be peremptorily instructed to return a verdict for the government on each count of the petition."

In the circuit court of appeals, that judgment was affirmed. In the course of its opinion the latter court said:

"The cause is simplified by the concession of counsel for the railway company that there was evidence tending to prove the defective condition of each of the four cars as charged, and that they were all being used at the time stated in the several counts in hauling interstate commerce, or as a part of a train containing other cars which were doing so. The sole contention is that, notwithstanding this concession, inasmuch as it appears by the proof that defendant did not know its cars were out of repair, and had no actual intention at the time to violate the law, but, on the contrary, had exercised reasonable care to keep them in repair by the usual inspections, it is not liable in this action. Learned counsel concede, what is undoubtedly true, that sustaining their contention involves a reversal of the doctrine unanimously declared by this Court in *United States v. Atchison, T. & S.F. R. Co.*, 163 F. 517, and *United States v. Denver & Rio Grande R. Co.*, 163 F.

Page 220 U. S. 570

519, and a disregard of what they call the dictum of the Supreme Court in *St. Louis, I. M. & S. Ry. Co. v. Taylor*, [210 U. S. 281](#) , and they accordingly invite us to enter upon a reconsideration of the questions so decided. It was held by us, and in our opinion it was necessarily held by the Supreme Court in the *Taylor* case, that the duty of railroads under the statute in question is an absolute duty, and not one which is discharged by the exercise of reasonable care or diligence. Since those cases were decided, this Court, in the case of *Chi., Mil. & St.P. Ry. Co. v. United States*, 165 F. 423, has again approved of their doctrine, and the Circuit Court of Appeals for the Fourth Circuit in the case of *Atlantic Coast Line R. Co. v. United States*, decided March 1, 1909, 168 F. 175, in considering this question, made a review of pertinent authorities, and particularly of the cases of this court as well as of the *Taylor* case, and in an exhaustive opinion reached the same conclusion that we did. . . . The act made it unlawful for railroads to use cars not equipped as therein provided, and thereby imposed a duty upon railroad companies to equip cars accordingly. This was, by clear and unequivocal

language of the lawmaker, made an absolute duty, not dependable upon the exercise of diligence or the existence of any wrong intent on the part of the railroad companies. Whether a defendant carrier knew its cars were out of order or not is immaterial. Its duty was to know they were in order and kept in order at all times. Cases *supra*. A breach of this duty, like the breach of most civil duties, naturally entailed a liability, and Congress fixed that liability not as a punishment for a criminal offense, but as a civil consequence, so far as the government was concerned, of a failure to perform the duty which, in the opinion of Congress, the public weal demanded should be performed by railroad companies."

170 F. 556.

Does the act of Congress in question impose on an interstate

Page 220 U. S. 571

carrier an absolute duty to see to it that no car is hauled or permitted to be hauled or used on its line unless it be equipped with couplers coupling automatically by impact, and which can be uncoupled without the necessity of men going between the ends of the cars? Can the carrier engaged in moving interstate traffic escape the penalty prescribed for a violation of the act, in the particulars just mentioned, by showing that it had exercised reasonable care in equipping its cars with the required coupler, and had used due diligence to ascertain, from time to time, whether such cars were properly equipped?

The court below held that an explicit answer to the above questions was to be found in *St. Louis, I. M. & S. Ry. Co. v. Taylor, supra*. The government insists that such was the effect of the decision of that case. The defendant contends that the questions here presented were not necessary to be decided in the *Taylor* case, and that an examination of them now is not precluded by anything involved in that case.

Under the circumstances and because of the importance of the questions raised, it seems appropriate, if not necessary, to state the origin of the *Taylor* case and the grounds upon which this Court proceeded.

Neal, as administrator of the estate of Taylor, brought an action in an Arkansas court against the St. Louis, Iron Mountain & Southern Railway Company to recover damages for the death of Taylor, one of its employees, whose death, it was alleged, had been caused by the company's failure to provide certain safety appliances required by the Act of Congress. Pursuant to the direction of the state court, a verdict was returned for the railway company. The case was taken to the Supreme Court of Arkansas, and that court decided that the Act of Congress departed from or supplanted that general rule obtaining between master and servant, which protected the master, when charged with the failure to have safe machinery for the servant,

Page 220 U. S. 572

if it appeared that the master used reasonable care and diligence in providing suitable and safe appliances. "But," that court said,

"it is different where the injury is caused by a violation of a statutory duty on the part of the master. The statute upon which this case is based does not say that the company shall use ordinary care to provide its cars with drawbars of a certain height, but it imposes as a positive duty upon railway companies that they shall do so. . . . The act of Congress requiring railroad companies to equip their cars with drawbars of standard and uniform heights specifically provides that an employee injured by the failure of a company to comply with the act shall not be deemed to have assumed the risk by reason of his knowledge that the company had not complied with the statute, and there is no question of assumed risk presented."

The supreme court of the state was therefore of opinion that the trial court had not correctly interpreted the Act of Congress in respect of the nature of the duty imposed by the statute on the railroad company, and directed the case to be sent back for a new trial. *Neal v. St. Louis, I. M. & S. Ry. Co.*, 71 Ark. 445, 450. The second trial was conducted on the basis of the principles announced by the Supreme Court of Arkansas in that case. At the second trial, the railway company asked the court to instruct, but the court refused to instruct, the jury as follows:

"The court tells you that, if you find from the evidence in this case the defendant equipped all its cars with uniform and standard height drawbars when such cars are first built and turned out of the shops, then the defendant is only bound *to use ordinary care* to maintain such drawbars at the uniform and standard height spoken of in the testimony."

This was designated as instruction No. 23, asked by the railway company. It appears at page 126 of the original record, on file in this Court, of the *Taylor* case. At the last trial, there was a verdict in the state court against the railway company. The company appealed to the Supreme

Page 220 U. S. 573

Court of Arkansas, where the judgment was affirmed. *St. Louis, I. M. & S. R. Co. v. Neal*, 83 Ark. 591, 598.

The railway company prosecuted a writ of error to this Court, and the case is reported as *St. Louis, I. M. & S. Ry. Co. v. Taylor*, [210 U. S. 281](#) . It was assigned by the company for error, and its counsel insisted that the trial court erred in refusing the above instruction, No. 23, and that the supreme court of the state erred in not so ruling. (Original record, p. 154.) The reason assigned in support of that view was that

"a reasonable construction of the Safety Appliance Act is that, if the railroad company equipped all its cars with uniform and standard height drawbars when such cars were first built and turned out of the shops, then that *thereafter* the defendant is only bound to use *ordinary care* to maintain such drawbars at the uniform and standard height mentioned in the testimony."

Counsel for the other side contended in the case in 210 U.S. that,

"under the Safety Appliance Act, it is immaterial whether the defendant had notice of the defect, or had used ordinary care to prevent this and similar defects from arising,"

and that "the railroad is liable under the act, unconditionally, for any violation of its provisions," citing *Southern R. Co. v. Carson*, [194 U. S. 136](#) ; *United States v. Atlantic Coast Line Railway Co.*, 153 F. 918; *United States v. Southern Ry. Co.*, 135 F. 122; *United States v. Great Northern Ry. Co.*, 150 F. 229. It is thus seen that whether the Act of Congress imposed an absolute duty upon the carrier in the matter of the required safety appliances, or whether knowledge or diligence on its part was an ingredient in the act condemned, was a question distinctly presented here by the assignments of error and by counsel on both sides. This Court regarded the question as properly presented on the record, and that its duty was to meet and decide it. Speaking by Mr. Justice Moody, it said:

"It is not, and cannot be, disputed that the questions raised by the errors assigned

Page 220 U. S. 574

were seasonably and properly made in the court below, so as to give this Court jurisdiction to consider them, so no time need be spent on that."

What, then, was held by this Court in the *Taylor* case? Among other things, the Court said:

"On this state of the evidence, the defendant was refused instructions, in substance, that, if the defendant furnished cars which were constructed with drawbars of a standard height, and furnished shims to competent inspectors and train men, and used reasonable care to keep the drawbars at a reasonable height, it had complied with its statutory duty, and, if the lowering of the drawbar resulted from the failure to use the shims, that was the negligence of a fellow servant, for which the defendant was not responsible. In deciding the questions thus raised, upon which the courts have differed (*St. Louis & S.F. Ry. Co. v. Delk*, 158 F. 931), we need not enter into the wilderness of cases upon the common law duty of the employer to use reasonable care to furnish his employee reasonably safe tools, machinery, and appliances, or consider when and how far that duty may be performed by delegating it to suitable persons for whose default the employer is not responsible. In the case before us, the liability of the defendant does not grow

out of the common law duty of master to servant. The Congress, *not satisfied with the common law duty and its resulting liability*, has prescribed and defined the *duty by statute*. We have nothing to do but to ascertain and declare the meaning of a few simple words in which the duty is described. It is enacted that 'no cars, either loaded or unloaded, shall be used in interstate traffic which do not comply with the standard.' There is no escape from the meaning of these words. Explanation cannot clarify them, and ought not to be employed to confuse them or lessen their significance. The obvious purpose of the legislature was *to supplant the qualified duty of the common law with an absolute duty deemed by it more just*. If the railroad does, in point of fact,

Page 220 U. S. 575

use cars which do not comply with the standard, it violates the plain prohibitions of the law, and there arises from that violation the liability to make compensation to one who is injured by it. It is urged that this is a harsh construction. To this we reply that, if it be the true construction, its harshness is no concern of the courts. *They have no responsibility for the justice or wisdom of legislation, and no duty except to enforce the law as it is written, unless it is clearly beyond the constitutional power of the lawmaking body.* . . . It is quite conceivable that Congress, contemplating the inevitable hardship of such injuries and hoping to diminish the economic loss to the community resulting from them, should deem it wise to impose their burdens upon those who could measurably control their causes, instead of upon those who are in the main helpless in that regard. Such a policy would be intelligible, and, to say the least, not so unreasonable as to require us to doubt that it was intended, and to seek some unnatural interpretation of common words. We see no error in this part of the case."

These views were not new, but were in accord with previous judgments in several cases in the federal courts. In *United States v. Phil. & R. Ry. Co.*, 160 F. 696, 698; *United States v. L. & N. R. Co.*, 162 F. 185, 186; *United States v. Chicago Great Western Ry. Co.*, 162 F. 775, 778.

It cannot then be doubted that this Court, in the *Taylor* case, considered the scope and effect of the Safety Appliance Act of Congress and directly involved in the questions raised in that case, and it expressly decided that the provision in the second section relating to automatic couplers imposed an absolute duty on each corporation in every case to provide the required couplers on cars used in interstate traffic. It also decided that nonperformance of that duty could not be evaded or excused by proof that the corporation had used ordinary care in the selection of proper couplers or reasonable diligence in using them and

Page 220 U. S. 576

ascertaining their condition from time to time. That the *Taylor* case, as decided by this Court, has been so interpreted and acted upon by the federal courts generally is entirely clear, as appears from the cases cited in the margin. *

In *United States v. Atchison, T. & S.F. Ry. Co.*, 163 F. 517, MR. JUSTICE VAN DEVANTER, then circuit judge, speaking for the circuit court of appeals, referred to the *Taylor* case in this Court, saying:

"It is now authoritatively settled that the duty of the railway company in situations where the congressional law is applicable is not that of exercising reasonable care in maintaining the prescribed safety appliance in operative condition, but is absolute. In that case, the common law rules in respect of the exercise of reasonable care by the master, and of the nonliability of the master for the negligence of a fellow servant, were invoked by the railway company, and were held by the court to be superseded by the statute; . . . While the defective appliance in that case was a drawbar, and not a coupler, and the action was one to recover damages for the death of an employee, and not a penalty, we perceive nothing in these differences which distinguish that case from this. A respects the nature of the duty placed

Page 220 U. S. 577

upon the railway company, 5, relating to drawbars, is the same as 2, relating to couplers, and 6, relating to the penalty, is expressed in terms which embrace

every violation of any provision of the preceding sections. Indeed, a survey of the entire statute leaves no room to doubt that all violations thereof are put in the same category, and that whatever properly would be deemed a violation in an action to recover for personal injuries is to be deemed equally a violation in an action to recover a penalty."

In view of these facts, we are unwilling to regard the question as to the meaning and scope of the Safety Appliance Act, so far as it relates to automatic couplers on trains moving interstate traffic, as open to further discussion here. If the court was wrong in the *Taylor* case, the way is open for such an amendment of the statute as Congress may, in its discretion, deem proper. This Court ought not now disturb what has been so widely accepted and acted upon by the courts as having been decided in that case. A contrary course would cause infinite uncertainty, if not mischief, in the administration of the law in the federal courts. To avoid misapprehension, it is appropriate to say that we are not to be understood as questioning the soundness of the interpretation heretofore placed by this Court upon the Safety Appliance Act. We only mean to say that, until Congress, by an amendment of the statute, changes the rule announced in the *Taylor* case, this Court will adhere to and apply that rule.

The *Taylor* case was a strictly civil proceeding, being an action by an individual to recover damages for a personal injury alleged to have been caused by the negligence of a corporation, whereas the present action is to recover a penalty. This difference, it is suggested, will justify a reexamination, upon principle, of the rule announced in the *Taylor* case. In effect, the contention is that the present action for a penalty is a criminal prosecution, and

Page 220 U. S. 578

that the defendant cannot be held guilty of a crime when it had no thought or purpose to commit a crime, and endeavored with due diligence to obey the Act of Congress. This contention is unsound, because the present action is a civil one. It is settled law that

"a certain sum, or a sum which can readily be reduced to a certainty, prescribed in a statute as a penalty for the violation of law, may be recovered by civil action, even if it may also be recovered in a proceeding which is technically criminal."

It was so decided, upon full consideration, in *Hepner v. United States*, [213 U. S. 103](#) , [213 U. S. 108](#) . In that case, it was also held that it was competent for the trial court, even though the action was for a penalty, to direct a verdict for the government, the court saying that it was

"fundamental in the conduct of civil actions, that the court may withdraw a case from the jury, and direct a verdict according to the law, if the evidence is uncontradicted and raises only a question of law."

So, in *Oceanic Navigation Co. v. Stranahan*, [214 U. S. 320](#) , [214 U. S. 337](#) - 338,

"The contention that, because the exaction which the statute authorizes the Secretary of Commerce and Labor to impose is a penalty, therefore its enforcement is necessarily governed by the rules controlling in the prosecution of criminal offenses, is clearly without merit, and is not open to discussion."

If the statute upon which the present action is based had expressly or by implication declared that the penalty prescribed may only be recovered by a criminal proceeding, that direction must have been followed. The power of the legislature to declare an offense, and to exclude the elements of knowledge and due diligence from any inquiry as to its commission, cannot, we think, be questioned. *Regina v. Woodrow*, 15 Meeson & Welsby 404, 417; *People v. Snowberger*, 113 Mich. 86; *Commonwealth v. Emmons*, 98 Mass. 6, 8; *People v. Roby*, 52 Mich. 577; *Edgar v. State*, 37 Ark. 219, 223; *State v. Baltimore & Susquehanna Steam Co.*, 13 Md. 181,

Page 220 U. S. 579

187, 188. In *Halsted v. State*, 41 N.J.L. 552, 591, the suggestion was made that, in determining the mind of the legislature, the dictates of natural justice should be

the ground of decision, and not simply regarded as a mere circumstance of weight. But that court said:

"As there is an undoubted competency in the lawmaker to declare an act criminal, irrespective of the knowledge or motive of the doer of such act, there can be, of necessity, no judicial authority having the power to require, in the enforcement of the law, such knowledge or motive to be shown. In such instances, the entire function of the court is to find out the intention of the legislature, and to enforce the law in absolute conformity to such intention."

So, in *Greenleaf on Evidence*:

"Where a statute commands that an act be done or omitted, which, in the absence of such statute, might have been done or omitted without culpability, ignorance of the fact or state of things contemplated by the statute, it seems, will not excuse its violation. Thus, for example, where the law enacts the forfeiture of a ship having smuggled goods on board, and such goods are secreted on board by some of the crew, the owner and officers being alike innocently ignorant of the fact, yet the forfeiture is incurred, notwithstanding their ignorance. Such is also the case in regard to many other fiscal, police, and other laws and regulations, for the mere violation of which, irrespective of the motives or knowledge of the party, certain penalties are enacted; for the law in these cases seems to bind the party to know the facts and to obey the law at his peril."

3 *Greenl.* 16th ed. 21, 26, and notes.

We need say nothing more. The case is plainly covered by the act of Congress. And as it is determined by the rule announced in the *Taylor* case, it must be held that no error of law was committed to the prejudice of the defendant, and the judgment must be affirmed.

It is so ordered.

* *United States v. Phil. & R. Ry. Co.*, 162 F. 403; *United States v. Lehigh Valley R. Co.*, 162 F. 410; *United States v. Denver & R.G. R. Co.*, 163 F. 519;

Chicago, M. & St.P. Ry. Co. v. United States, 165 F. 423; *Donegan v. Baltimore & N.Y. Ry. Co.*, 165 F. 869; *United States v. Erie R. Co.*, 166 F. 352; *United States v. Wheeling & L. E. R. Co.*, 167 F.198, 201; *Atlantic Coast Line R. Co. v. United States*, 168 F. 175, 184; *Chicago Junction R. Co. v. King*, 169 F. 372, 377; *United States v. Southern Pac. Co.*, 169 F. 407, 409; *Watson v. St. Louis I. M. & S. Ry. Co.*, 169 F. 942; *Wabash R. Co. v. United States*, 172 F. 864; *Atchison, T. & S.F. R. Co. v. United States*, 172 F. 1021; *Norfolk & W. Ry. Co. v. United States*, 177 F. 623; *United States v. Illinois C. R. Co.*, 177 F. 801; *Johnson v. Great Northern Ry. Co.*, 178 F. 646; *Sielgel v. New York C. & H.R. Co.*, 178 F. 873.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com