

Sherman Vs. United States

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Court : US Supreme Court

Decided On : Nov-24-1930

Appeal No. : 282 U.S. 25

Appellant : Sherman

Respondent : United States

Judgement :

Sherman v. United States - 282 U.S. 25 (1930)

U.S. Supreme Court Sherman v. United States, 282 U.S. 25 (1930)

Sherman v. United States

No. 14

Argued October 30, 1930

Decided November 24, 1930

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CERTIFICATE FROM THE CIRCUIT COURT OF APPEALS

FOR THE NINTH CIRCUIT

SYLLABUS

1. The penalties of the Safety Appliance Acts are imposed upon the carrier only, and cannot be enforced by action against the carrier's officers and agents. P. [282 U. S. 29](#) .

2. The state Belt Railroad, a waterfront line in the City of San Francisco connecting many industrial plants and the line of the Southern Pacific Railroad with wharves belonging to the State of California and, through the wharves, with other common carriers engaged in interstate commerce by railroad, belongs to the state and is operated by it through the Board of State Harbor Commissioners, without profit, for the purpose of facilitating the commerce of the port. Charges for haulage are collected by the state, and go to expense of operation and to the credit of the San Francisco Harbor Improvement Fund. In a prosecution of the individual members of the Board for alleged breaches of the Federal Safety Appliance Act, as amended, in the operation of the line, *held* that the action could not be maintained, since, assuming that the work done by the line was interstate commerce, the statute, if it applied to anyone, could apply only to the state, and not the defendants, who were merely its agents. It was therefore unnecessary to decide whether the statute should be construed to embrace the state. P. [282 U. S. 30](#) .

District court reversed.

Upon a certificate of questions arising in the circuit court of appeals upon consideration of a judgment of the district court inflicting penalties under the Safety Appliance Act. The whole record was brought up here by certiorari.

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MR. JUSTICE HOLMES delivered the opinion of the Court.

This case comes here on a certificate of questions of law from the judges of the Circuit Court of Appeals for the Ninth Circuit. Subsequently the entire record was

brought up, but the facts sufficiently appear in the certificate, and both they and the questions may be abbreviated here. The suit is brought by the United States against the appellants by name, described as "constituting the Board of State Harbor Commissioners of the State of California, operating The State Belt Railroad," to recover penalties for alleged breaches of the Safety Appliance Acts. Acts March 2, 1893, c.196, 27 Stat. 531, April 1, 1896, c. 87, 29 Stat. 85, March 2, 1903, c. 976, 32 Stat. 943, and April 14, 1910, c.

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160, 36 Stat. 298 (U.S.Code, Tit. 45, 1, 2, 6, 8, 11, 12, 13, 16). The penalties are imposed upon "any common carrier engaged in interstate commerce by railroad," and the broad question is whether the defendants are liable under the Acts.

The matters complained of occurred upon what is known as the State Belt Railroad. The road is about five miles long, within the City of San Francisco, runs nearly parallel with the waterfront of the harbor, and connects many industrial plants and the line of the Southern Pacific Railroad Company with wharves belonging to the state and, through the wharves, with other common carriers engaged in interstate commerce by railroad. It may be assumed that the work done upon the Belt Line was interstate commerce. But the line belongs to and is operated by the state; the work is done without profit, for the purpose of facilitating the commerce of the port, and the funds received after paying expenses go to the treasury of the state to the credit of the San Francisco Harbor Improvement Fund. California has not gone into business generally as a common carrier, but simply has constructed the Belt Line as an incident of its control of the harbor -- a state prerogative. Cal.Political Code, 2524. The defendants are officers of the state charged with the administration of the Harbor of San Francisco and of the State Belt Railroad in connection therewith. They had no hand in or knowledge of the alleged violations of law, the immediate supervision being the duty of an inspector appointed by them, and his subordinates being civil service employees of the state.

On these facts, in our opinion, the statute, if it applies to anyone, can apply only to the state. The suit is not to recover damages for a tort, which, if a wrong on the part of the master, is at least equally a wrong on the part of the servant who personally is guilty of the act or omission that caused the harm. Here, the suit is for a penalty attached to an offence -- and the only party on whom the

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liability is imposed is the common carrier. The statute is not like the Hours of Service Act of March 4, 1907, c. 2939, 3, 34 Stat. 1415 (U.S.Code, Title 45, 63); that, in terms, extends the liability to officers and agents. It seems to us plain that, as between the Board of Harbor Commissioners and California, the carrier here is the state, by which it is agreed that the Road was owned and operated, which received such pay as was required for the work that was done, and which did the work for the purpose of facilitating the commerce of its principal port. The principal and its agents cannot both be the common carriers aimed at. One is, and the other is not, subjected to the penalty. One is superior, the other inferior. The superior is the one that operated the road, and the one whose commands the others were bound to obey.

The suit is brought against the appellants individually. This is conceded by the government, and sufficiently appears from the declaration and from the judgment against them by name, entered after they had ceased to be members of the Board. Manifestly, if we are right in what we have said, the judgment is wrong, and we are relieved from the duty of considering whether the Safety Appliance Act should be construed to embrace the state.

An answer to other questions proposed is unnecessary because of our conclusion that the judgment against the defendants cannot be sustained.

Judgment reversed.