

232 U. S. Argument for the United States Express Company.

employed in interstate commerce. In this view it is unnecessary to consider whether the ordinances have been superseded, as to automobiles, by the state statute.

The decree of the Circuit Court is reversed and the case is remanded to the District Court with direction to enter a decree in favor of the complainant in conformity with this opinion.

It is so ordered.

PLATT, TREASURER OF UNITED STATES EXPRESS COMPANY, v. CITY OF NEW YORK.

CITY OF NEW YORK v. PLATT, TREASURER OF UNITED STATES EXPRESS COMPANY.

APPEAL AND CROSS-APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

Nos. 85, 86. Argued December 3, 4, 1913.—Decided January 5, 1914.

Adams Express Co. v. New York, ante, p. 14, followed to the effect that certain municipal ordinances of the City of New York are void and unconstitutional as applied to the interstate commerce of express companies.

189 Fed. Rep. 268, reversed.

THE facts, which involve the constitutionality under the commerce clause of the Federal Constitution of certain ordinances of the City of New York as applied to the interstate business of express companies, are stated in the opinion.

Mr. Walker D. Hines for United States Express Company.¹

¹ For arguments see p. 20, *ante*.

Mr. Terence Farley, with whom *Mr. Archibald R. Watson* was on the brief, for the City of New York.¹

MR. JUSTICE HUGHES delivered the opinion of the court.

This suit was brought by the complainant as treasurer of the United States Express Company to restrain the enforcement against that company of certain license requirements contained in the ordinances of the City of New York. The ordinances are the same as those which were under consideration in *Adams Express Co. v. New York*, decided this day, and the decree of the Circuit Court was to the same effect in both cases. 189 Fed. Rep. 268.

The United States Express Company is an unincorporated association organized under the laws of New York and is extensively engaged in interstate commerce as a common carrier of packages. Over ninety-eight per cent. of its total business in New York City consists of the handling of traffic in interstate transportation. The interstate shipments in New York City are hauled by the Company's wagons to and from the rail terminals of the Central Railroad of New Jersey, the Lehigh Valley Railroad and the Delaware, Lackawanna and Western Railroad, all within the State of New Jersey. It employs in its business 343 express wagons of which 189 are stabled in and operated exclusively from Jersey City, New Jersey; 123 are similarly kept in Communipaw, New Jersey; and the remainder, or 31, are kept in the Borough of Manhattan. Both the local and interstate traffic are handled in these wagons indiscriminately. The Company has never taken out any licenses in the City of New York for its wagons or drivers.

The questions are the same as those which were presented in *Adams Express Co. v. New York*, *supra*, and a like

¹ For arguments see p. 21, *ante*.

232 U. S.

Statement of the Case.

decree should be entered restraining the enforcement of the ordinances against the Company with respect to the conduct of its interstate business and its wagons and drivers employed in interstate commerce.

The decree of the Circuit Court is reversed and the case is remanded to the District Court with direction to enter a decree in favor of the complainant in conformity with this opinion.

It is so ordered.

UNITED STATES *v.* REGAN.

CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE
SECOND CIRCUIT.

No. 503. Argued October 22, 1913.—Decided January 5, 1914.

While in strictly criminal prosecutions the jury may not return a verdict against the defendant unless the evidence establishes his guilt beyond a reasonable doubt, in civil actions it is the duty of the jury to resolve the issues of fact according to the reasonable preponderance of the evidence, and this although they may involve a penalized or criminal act.

In an action brought by the United States under § 5 of the Alien Immigration Act of February 20, 1907, c. 1134, 34 Stat. 898, to recover the prescribed pecuniary penalty for an alleged violation of § 4 of the act, it is not essential to a recovery by the Government that the evidence establish the violation beyond a reasonable doubt, as in a criminal case, but a reasonable preponderance of proof is sufficient.

203 Fed. Rep. 433, reversed.

THE facts, which involve the construction of the penalty provisions of the Alien Immigration Act of 1907, are stated in the opinion.