

359.

Syllabus.

*Adams Express Co. v. Croninger*, 226 U. S. 491; *Boston & Maine Railroad v. Hooker*, 233 U. S. 97; that it was the intention of Congress to deal with the whole subject; and that the rights of plaintiff in respect to personal injuries is governed by the federal law. But the Carmack Amendment deals only with the shipment of property. Its language is so clear as to leave no ground for the contention that Congress intended to deal with the transportation of persons. Furthermore, plaintiff was not even a passenger on the railway. His claim rests not upon a contract of carriage, but upon the general right of a human being not to be injured by the negligence of another. Compare *Southern Pacific Co. v. Schwyler*, 227 U. S. 601, 613. The case presents no substantial federal question. The writ of error is

*Dismissed.*

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MISSOURI, KANSAS & TEXAS RAILWAY COMPANY v. SEALY ET AL., PARTNERS AS HUTCHINGS, SEALY & COMPANY.

ERROR TO THE SUPREME COURT OF THE STATE OF KANSAS.

No. 90. Argued December 18, 1918.—Decided January 7, 1919.

When a party neglects to present a federal question within the time allowed by the state procedure, and it is refused consideration by the state court for that reason, writ of error will not lie under Jud. Code, § 237.

A cause of action under an interstate bill of lading, which arose, if at all, before the date of the Carmack Amendment, depends upon the state law.

Writ of error to review 98 Kansas, 225, dismissed.

THE case is stated in the opinion.

*Mr. Joseph M. Bryson*, for plaintiff in error, submitted. *Mr. W. W. Brown* and *Mr. James W. Reid* were also on the brief.

*Mr. Maurice H. Winger*, with whom *Mr. F. M. Harris*, *Mr. Arthur Miller* and *Mr. Samuel J. McCulloch* were on the brief, for defendants in error.

MR. JUSTICE BRANDEIS delivered the opinion of the court.

In June, 1900, the Missouri, Kansas & Texas Railway Company issued bills of lading to shipper's order covering 27 carloads of grain to be shipped from Kansas City, Missouri, to Galveston, Texas. No grain was in fact delivered to it for shipment; but before the fraud was discovered, the alleged shipper transferred the bills of lading to Hutchings, Sealy & Co., who made advances thereon. The advances were not fully repaid; and in 1905 they brought suit against the railroad in a state district court of Kansas. The railroad defended on the ground that, since the bills of lading had been delivered in Missouri, the transaction was governed by the Missouri law, and that under the law of that State the railroad was not liable. For more than eight years the record contained no suggestion of a federal question, the case having meanwhile been passed upon twice by the Supreme Court of Kansas (*Railway Co. v. Hutchings*, 78 Kansas, 758; *Hutchings v. Railway Co.*, 84 Kansas, 479). Thereafter, in 1913, the railroad presented the claim that the transaction was governed by the federal law; and that, by it, the defendant was not liable. The Supreme Court of Kansas, apparently as a matter of state practice, declared that the contention came too late to be considered; and entered judgment for the plaintiff. 98 Kansas, 225. The case comes here on writ of error under § 237 of the Judicial Code.

363.

Syllabus.

The federal question was not seasonably raised. *Bonner v. Gorman*, 213 U. S. 86, 91; *Louisville & Nashville R. R. Co. v. Woodford*, 234 U. S. 46, 51. But it is also unsubstantial. Prior to the Carmack Amendment (Act of June 29, 1906, c. 3591, § 7, 34 Stat. 584, 595) the rights of the parties were governed by state law, *Boston & Maine Railroad v. Hooker*, 233 U. S. 97, 109-110; *Pennsylvania R. R. Co. v. Hughes*, 191 U. S. 477; *Chicago, Milwaukee & St. Paul Ry. Co. v. Solan*, 169 U. S. 133; and the Carmack Amendment does not apply, as the cause of action, if any, arose six years before the passage of that act. The writ of error is

*Dismissed.*

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MERCHANTS EXCHANGE OF ST. LOUIS *v.* STATE  
OF MISSOURI AT THE RELATION OF BARKER,  
ATTORNEY GENERAL.

ERROR TO THE SUPREME COURT OF THE STATE OF MISSOURI.

No. 116. Argued December 19, 1918.—Decided January 7, 1919.

A state law forbade, under penalties, any person, corporation, or association, other than a duly authorized and bonded state weigher, to issue any weight certificate for grain weighed at any warehouse or elevator where state weighers were stationed, or to charge for such weighing or certificates. *Held*: (1) consistent with the due process and equal protection clauses of the Fourteenth Amendment as applied to a local corporation, having the usual powers of a board of trade, which weighed grain and issued weight certificates, for a charge, at the request of its members; (2) not a burden on interstate commerce as applied to grain received from or shipped to points without the State; (3) not superseded by or in conflict with the Federal Grain Standards Act (August 11, 1916, c. 313, 39 Stat. 482, Part B). Pp. 367-369.

269 Missouri, 346, affirmed.