

The Burger Court Opinion Writing Database

Japan Line, Ltd. v. County of Los Angeles
441 U.S. 434 (1979)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University in St. Louis
Forrest Maltzman, George Washington University



✓
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

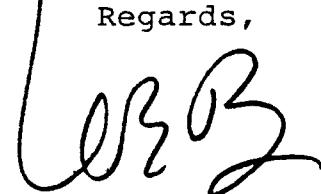
April 26, 1979

RE: 77-1378 - Japan Line, Ltd. v. County of Los Angeles

Dear Harry:

I join.

Regards,



Mr. Justice Blackmun

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

April 12, 1979

RE: No. 77-1378 Japan Line, Ltd. v. County of
Los Angeles

Dear Harry:

I agree.

Sincerely,



Mr. Justice Blackmun

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

April 13, 1979

Re: No. 77-1378, Japan Line, Ltd. v.
County of Los Angeles

Dear Harry,

I am glad to join your opinion for
the Court.

Sincerely yours,

Q.S.
P.

Mr. Justice Blackmun

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

April 17, 1979

Re: No. 77-1378, Japan Line, Ltd. v.
County of Los Angeles

Dear Harry,

I have no objection to your proposed
footnote additions.

Sincerely yours,

PS
J

Mr. Justice Blackmun

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

April 13, 1979

Re: No. 77-1378 - Japan Line, Ltd. v.
County of Los Angeles

Dear Harry,

Please join me.

Sincerely yours,



Mr. Justice Blackmun

Copies to the Conference

cmc

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

April 12, 1979

Re: No. 77-1378 - Japan Line, Ltd., et al. v.
County of Los Angeles, et al.

Dear Harry:

Please join me.

Sincerely,

Hil.
T.M.

Mr. Justice Blackmun

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

April 16, 1979

Re: No. 77-1378 - Japan Line, Ltd. v. County of
Los Angeles

Dear Harry:

While I will stay with you I am very luke-warm if not cold to your proposed new footnotes.

Sincerely,

T.M.
T.M.

Mr. Justice Blackmun

cc: The Conference

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stevens

From: Mr. Justice Blackmun

Circulated: 10 APR 1979

Recirculated:

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 77-1378

Japan Line, Ltd., et al.,
Appellants,
v.
County of Los Angeles et al. } On Appeal from the Supreme
Court of California.

[April —, 1979]

MR. JUSTICE BLACKMUN delivered the opinion of the Court.

This case presents the question whether a State, consistently with the Commerce Clause of the Constitution, may impose a nondiscriminatory ad valorem property tax on foreign-owned instrumentalities (cargo containers) of international commerce.

1

The facts were "stipulated on appeal," App. 29, and were found by the trial court, *id.*, at 33-36, as follows:

Appellants are six Japanese shipping companies; they are incorporated under the laws of Japan, and they have their principal places of business and commercial domiciles in that country. *Id.*, at 34. Appellants operate vessels used exclusively in foreign commerce; these vessels are registered in Japan and have their home ports there. *Ibid.* The vessels are specifically designed and constructed to accommodate large cargo shipping containers.¹ The containers, like the ships,

"A container is a permanent reusable article of transport equipment . . . durably made of metal, and equipped with doors for easy access to the goods and for repeated use. It is designed to facilitate the handling, loading, stowage aboard ship, carriage, discharge from ship, movement, and transfer of large numbers of packages simultaneously by mechanical means to minimize the cost and risks of manually processing each package."

April 11, 1979

Re: No. 77-1378 - Japan Line v. County of Los Angeles

Dear John:

Very many thanks for your supportive letter of today.
Words like that always help.

I suspect the "reversal" reference is confusing. Apparently, however, under California practice, when the Supreme Court takes a case, the intermediate consideration by the Court of Appeal is set to one side, and the technical review is of the Superior Court's decision. In this very litigation, the opinion of the Court of Appeal does not appear in Cal. App., although it is in Cal. Rptr. The enclosed pages 180, 182 and 190, taken from the California Supreme Court's opinion in Cal. 3d, indicate, I believe, what the situation is. The footnote at the bottom of page 182 is especially revealing. They just take over the opinion and make only the necessary changes.

Sincerely,

HAB

Mr. Justice Stevens

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

April 16, 1979

Re: No. 77-1378 - Japan Line, Ltd. v. County of
Los Angeles

Dear Byron:

This note is in response to your inquiry at Conference Friday about the treaty issues.

I enclose for your consideration proposed revisions of footnotes three and four that consider these issues and rather peremptorily reject them. If these revisions meet with your approval, I shall ask the printer to incorporate them. I must assume, of course, that those members of the Court who have already joined will have no objection.

Sincerely,



Mr. Justice White

cc: The Conference

3/

The Court of Appeal also rejected, 132 Cal. Rptr., at 534, appellants' argument that California's tax was prohibited by Art. XI, §§ 1 & 4, and by Art. XXII, § 2, of the Treaty of Friendship, Commerce and Navigation Between the United States of America and Japan, Apr. 2, 1953, [1953] 4 U.S.T. 2063, T.I.A.S. No. 2863 (providing that Japanese nationals residing in the U.S. may not be subjected to payment of taxes "more burdensome than those borne by" United States nationals, and according Japan "most favored nation" status). Appellants repeat this argument here, and we reject it. The provisions appellants cite interdict discrimination against Japanese nationals; there is no evidence that California has treated Japanese containers differently from domestic containers for purposes of applying its property tax.

STYLISTIC CHANGES
Hand 5

+ pp.

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stevens

From: Mr. Justice Blackmun

Circulated: _____

20 APR 1979

Recirculated: _____

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 77-1378

Japan Line, Ltd., et al.,

Appellants,

v.

On Appeal from the Supreme
Court of California.

County of Los Angeles et al.

[April —, 1979]

MR. JUSTICE BLACKMUN delivered the opinion of the Court.

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The facts were "stipulated on appeal," App. 29, and were found by the trial court, *id.*, at 33-36, as follows:

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¹ "A container is a permanent reusable article of transport equipment . . . durably made of metal, and equipped with doors for easy access to the goods and for repeated use. It is designed to facilitate the handling, loading, stowage aboard ship, carriage, discharge from ship, movement, and transfer of large numbers of packages simultaneously by mechanical means to minimize the cost and risks of manually processing each package."

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

April 14, 1979

77-1378 Japan Line v. County of Los Angeles

Dear Harry:

Please join me.

Sincerely,

Lewis

Mr. Justice Blackmun

lfp/ss

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

April 19, 1979

Re: No. 77-1378 Japan Line v. County of Los Angeles

Dear Harry:

Will you add at the end of your opinion for the Court in this case the following:

"Substantially for the reasons set forth by Justice Manuel in his opinion for the unanimous Supreme Court of California, Mr. Justice Rehnquist is of the opinion that the judgment of that court should be affirmed."

Sincerely,



Mr. Justice Blackmun

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

Personal

April 11, 1979

Re: 77-1378 - Japan Line v. County of
Los Angeles

Dear Harry:

Two separate comments, one trivial and one important.

My trivial question is whether it is strictly correct to say on page 4 that the California Supreme Court "reversed" the judgment of the Superior Court. Did it not affirm the judgment of the Court of Appeals?

My more significant comment is that this is another of your excellent opinions in the area of the law. You really have made an important and significant contribution to our jurisprudence in a most difficult area.

Respectfully,



Mr. Justice Blackmun

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

April 11, 1979

Re: 77-1378 - Japan Line v. County of
Los Angeles

Dear Harry:

Please join me.

Respectfully,



Mr. Justice Blackmun
Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

April 18, 1979

Re: 77-1378 - Japan Line, Ltd. v. County
of Los Angeles

Dear Harry:

My vote is to retain the revised footnotes. I think Byron is correct in suggesting that it is appropriate to dispose of the treaty issue before reaching the constitutional question.

Respectfully,



Mr. Justice Blackmun

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