NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

CSX TRANSPORTATION, INC. *v.* EASTERWOOD

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

No. 91–790. Argued January 12, 1993—Decided April 21, 1993[1]

After her husband was killed when a train owned and operated by CSX Transportation collided with his truck at a Georgia crossing, Lizzie Easterwood brought this diversity wrongful death action, alleging, *inter alia,* that CSX was negligent under Georgia law for failing to maintain adequate warning devices at the crossing and for operating the train at an excessive speed. The District Court granted summary judgment for CSX on the ground that both claims were pre-empted under the Federal Railroad Safety Act of 1970 (FRSA). The Court of Appeals affirmed in part and reversed in part, holding that the allegation based on the train's speed was pre-empted but that the claim based on the absence of proper warning devices was not.

Held: Under the FRSA, federal regulations adopted by the Secretary of Transportation pre-empt Easterwood's negligence action only insofar as it asserts that CSX's train was traveling at an excessive speed. Pp. 2–17.

(a) The FRSA permits the States ``to adopt or continue in force any law, rule, regulation, order, or standard relating to railroad safety until such time as the Secretary has adopted a . . . regulation . . . covering the subject matter of such State requirement,'' and, even thereafter, to adopt safety standards more stringent than the federal requirements ``when necessary to eliminate or reduce an essentially local safety hazard,'' if those standards are compatible with federal law and do not unduly burden interstate commerce. 45 U. S. C. §434. Legal duties imposed on railroads by a State's common law of negligence fall within the scope of §434's broad phrases

[1]Together with No. 91–1206, *Easterwood* v. *CSX Transportation, Inc.,* also on certiorari to the same court.

describing matters ``relating to railroad safety.'' The section's term ``covering'' indicates that pre-emption will lie only if the federal regulations substantially subsume the subject matter of the relevant state law. Pp. 2–5.

Syllabus

(b) The Secretary's grade crossing safety regulations do not ``cove[r] the subject matter'' of Easterwood's warning devices claim. In light of the relatively stringent standard set by §434's language and the presumption against pre-emption, the regulations of 23 CFR pt. 924 cannot be said to support pre-emption. They merely establish the general terms under which States may use federal aid to eliminate highway hazards, including those at grade crossings, and provide no explicit indication of their effect on negligence law, which often has assigned joint responsibility for maintaining safe crossings to railroads and States. Likewise, pre-emption is not established by 23 CFR §646.214(b)(1)'s requirement that the States comply with the Manual on Uniform Traffic Control Devices for Streets and Highways and by that Manual's declaration that the States determine the need for, and type of, safety devices to be installed at a grade crossing. It is implausible that established state negligence law would be implicitly displaced by an elliptical reference in a Government Manual otherwise devoted to describing for the benefit of state employees the proper size, color, and shape of traffic signs and signals. Moreover, the Manual itself disavows any claim to cover the subject matter of the tort law of grade crossings. Finally, although 23 CFR §§646.214(b)(3) and (4) do displace state decisionmaking authority by requiring particular warning devices at grade crossings for certain federally-funded projects, those regulations are inapplicable here because a plan to install such devices at the crossing at issue was shelved and the federal funds allocated for the project diverted elsewhere. Pp. 5–14.

(c) Easterwood's excessive speed claim cannot stand in light of the Secretary's adoption of the regulations in 49 CFR §213.9(a). Although, on their face, §213.9(a)'s provisions address only the maximum speeds at which trains are permitted to travel given the nature of the track on which they operate, the overall structure of the Secretary's regulations demonstrates that these speed limits were adopted with safety concerns in mind and should be understood as "covering the subject matter" in question. It is irrelevant that the Secretary's primary purpose in enacting the speed limits may have been to prevent derailments, since §434 does not call for an inquiry into purpose. Moreover, because the common-law speed restrictions relied on by Easterwood are concerned with local hazards only in the sense that their application depends on each case's facts, those restrictions are not preserved by §434's second saving clause. Pp. 14–16.

933 F. 2d 1548, affirmed.

WHITE, J., delivered the opinion for a unanimous Court with

Syllabus

respect to Parts I and II, and the opinion of the Court with respect to Parts III and IV, in which REHNQUIST, C. J., and BLACKMUN, STEVENS, O'CONNOR, SCALIA, and KENNEDY, JJ., joined. THOMAS, J., filed an opinion concurring in part and dissenting in part, in which SOUTER, J., joined.