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Our Supreme Court Holds

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and simplifying the administration of justice and regulating administrative procedure, lies at once the assurance of safety for our institutions during the emergency and their conversion into more stately mansions when the period of stress is ended.

Never in its history was the Bar so well organized to accomplish such a task. Never was the nation's need for such work so great. May the leaders of our Bar sense the opportunity and rally the profession to the discharge of this signal patriotic service!—American Law and Lawyers, Dec. 13, 1941.

OUR SUPREME COURT HOLDS

In *R. N. Campbell, Pltf. and Respt., vs. Towner County, North Dakota, Deft. and Applt.*

That under section 186 of the Constitution of the State of North Dakota all public moneys belonging to the State must be paid to the State Treasurer and cannot be disbursed except pursuant to legislative appropriation and on warrant drawn upon the Treasurer.

That uncollected taxes due the State are public moneys subject to the same requirements with respect to their receipt and disbursement as money already paid into the Treasury.

That the legislature cannot substitute some other method of receiving and disbursing money belonging to the state for that prescribed by section 186 of the constitution.

That an appropriation in the sense that the word is used in the constitution, is the setting apart from the public revenue of a definite sum of money for the specified object in such a manner that the officials of the government are authorized to use the amount so set apart and no more for that object. *State vs. Holmes*, 19 N. D. 286, 123 N. W. 884.

That chapter 252, Session Laws 1937, as amended by chapter 245, Session Laws 1939, is considered, and it is HELD, for reasons stated in the opinion, that it contravenes the provisions of section 186 of the Constitution with respect to the receiving and disbursing of public moneys belonging to the State.

Appeal from the district court of Towner County, Hon. G. Grimson, Judge. Action to recover money claimed as a bounty for the planting of trees. From a judgment for the plaintiff, defendant appeals. REVERSED. Opinion of the Court by Nuessle, J.

In *New York Life Insurance Company, Pltf. and Applt., vs. Margaret C. V. Hansen, Deft. and Respt.*

That where a life insurance company seeks to cancel a policy on the ground that the reinstatement thereof was obtained by means of misrepresentation, the burden of proof is upon the plaintiff to establish that such misrepresentation was made with actual intent to deceive, or that it increased the risk of loss.

That the record is examined, and it is held: that the plaintiff has failed to sustain such burden of proof.

Appeal from the district court of Williams County, Hon. A. J. Gronna, Judge. **AFFIRMED.** Opinion of the Court by Burr, Ch. J., Christianson, J. spec. con., Burke J. dissenting.

In E. N. Dornacker, doing business as Midwest Novelty Company, Pltf. and Applt., vs. Alvin C. Strutz, Attorney General of the State of North Dakota, Deft. and Respt.

That chapter 181, Session Laws 1941, entitled "An Act to license and regulate the operation of amusement games; levying a tax therefor, appropriating revenue derived therefrom, and repealing all acts and parts of acts in conflict therewith" is examined, and is HELD, for reasons stated in the opinion, that insofar as the provisions of the act apply to automatic coin-operated phonographs, in the operation of which there is no element of chance, skill, or contest, the act is broader than its title and void in that it violates section 61 of the State Constitution, which requires that no bill shall embrace more than one subject which shall be expressed in its title.

Appeal from the District Court of Burleigh County, Hon. Fred Janssonius, Judge. Action for Injunctive Relief. From a judgment for the defendant dismissing the proceeding, plaintiff appeals. **REVERSED AND REMANDED.** Opinion of the court by Nuessle, J.

In the Matter of the Application of Clarence Kiat for a Writ of Habeas Corpus, Petr., vs. O. K. Butts, as Sheriff in and for Stutsman County, North Dakota, Respt.

That section 3604 Compiled Laws of 1913, provides alternative methods of commencing actions for the violations of city ordinances; they may be commenced either by the issuance and service of a summons or in a proper case by the issuance of a warrant of arrest.

That the penalty clause of a city ordinance is not wholly void because it authorizes a penalty in excess of that permitted by state statute and a judgment and sentence pronounced under such an ordinance may be enforced to the extent that it is within the statutory limitation.

Appeal from the District Court of Stutsman County, Hon. Fred Janssonius, Judge. Opinion of the Court by Burke, J. **WRIT DENIED.**