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Our Supreme Court Holds

North Dakota State Bar Association

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cation, passed the required examination, established his good character, and standing, been duly admitted to the bar, and been enrolled as an attorney at law by order of the court.

In some instances there are express statutory provisions empowering admission-to-practice regulations, in others the power is exercised under general powers to prescribe regulations, and in a few cases the power is assumed by implication."

OUR SUPREME COURT HOLDS

In Waldo Bryan and J. R. Bryan, copartners doing business under the name and style of Economy Cab Company, successors of and formerly known as U-Drive Car Company, Pltfs, and Appt's, vs. Obert Olson, as Mayor, H. E. Spohn, et al., as Commissioners, and William Ebeling, as Chief of Police of the City of Bismarck, Burleigh County, North Dakota, Def'ts and Resp'ts.

That where a board is clothed by a valid enactment with the power to decide a question of fact, the exercise of their judgment and discretion in doing so, after a hearing whereat the parties interested were given an opportunity to be and were heard, cannot be controlled by a court in a certiorari proceeding under section 8443, 1925 Supplement to the 1913 Compiled Laws, which provides that the writ "shall be granted * * * where inferior courts officers, boards or tribunals have exceeded their jurisdiction and there is no appeal, nor, in the judgment of the court, any other plain, speedy and adequate remedy, and also when in the judgment of the court it is deemed necessary to prevent miscarriage of justice."

Appeal from the District Court of Burleigh County, Honorable H. L. Berry Judge. Application for writ of certiorari. From a judgment denying the writ and dismissing the application, plaintiff appeals.

AFFIRMED. Opinion of the Court by Nuessle, J.

In Wilhelm Fink, Sr., Plt'f and Appl't, vs. Workmen's Compensation Bureau of the State of North Dakota, Def't and Resp't.

That as a general rule an injury received by an employee in going to and from his work is not an injury received in the course of his employment.

That where an employee, required by his contract to work until 5 p.m., is told by the foreman prior to that time that his work is over and he may go home, and thereafter, while on the way home and some distance from the place of his employment, he receives injuries, such injuries are not incurred in the course of his employment even though received before 5 p.m., and the fact that such employee was employed as a teamster driving his own horses, being paid for their use, and received the injury while driving his horses home from the work, does not alter the rule in this case.

(Syllabus by the Court.)

Appeal from the District Court of Burleigh County. Hon. Fred Jansonius, Judge.

AFFIRMED. Opinion of the court by Burr, J.

In Frederic T. Cuthbert, Plt'f and Appl't., vs. Bert Smutz, as Sheriff of Ramsey County, Def't and Resp't.

That under the provisions of Section 67 of the Constitution of this State the legislative assembly is empowered to declare any act an emergency measure, except an "act granting a franchise or special privilege, or act creating any vested right or interest other than in the state", and when such declaration of emergency is adopted by a vote of two-thirds of the members present and voting and is set forth in the act, such emergency measure takes effect and is in force from and after its passage and its approval by the governor.

That such declaration of emergency when so adopted is conclusive upon the courts of this state.

That when the people of this state adopted the principle of the referendum they reserved to themselves the power of passing upon any measure enacted by the legislature, but under the provisions of Section 25 of the Constitution when a referendum petition is filed against an emergency measure, such measure "shall be a law until voted upon by the electors. And if it is then rejected by a majority of the votes cast thereon, it shall be thereby repealed."

That the power to declare an act an emergency measure, granted to the legislature under the provisions of Section 67 of the Constitution is not affected by the constitutional provisions set forth in Section 25 of the Constitution, dealing with the operation of the initiative and referendum and which provides: "Laws may be enacted to facilitate its operation, but no law shall be enacted to hamper, restrict or impair the exercise of the right herein reserved to the people." The constitutional provision providing for the referendum recognizes the power of the legislature to declare a measure an emergency measure, accepts its declaration as conclusive, and makes provision for the effect thereof.

That Chapter 271 of the Session Laws of 1935 contained in the act the declaration of the legislature that it was an emergency measure and therefore such act was in full force and effect from and after its passage and approval and until it was repealed by the people under the reserve power of the referendum, at the election held June 24, 1936.

That said Chapter 271 of the Session Laws of 1935 prescribed rates of taxation upon all income and was "effective on all income received during the year ending December 31, 1935."

That it was the duty of a taxpayer, during the time such law was in force and effect, to file his return on his income received during the year ending December 31, 1935, compute the amount of tax due thereon and pay the same to the state treasurer on or before the 15th day of March, 1936, and the subsequent repeal of said law by the people, under the reserve power of the referendum, did not relieve the taxpayer from this duty and obligation.

Appeal from the District Court of Ramsey County. Hon. G. Grimson, Judge.

AFFIRMED. Opinion of the Court by Burr, J. Kneeshaw, D. J., sitting in place of Sathre, J., disqualified, dissenting.