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Compensation Liabilities

North Dakota Law Review Associate Editors

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COMPENSATION LIABILITIES

Defendant was a Tennessee corporation. One Tidwell was employed by it in Tennessee, but it was also agreed that he should serve in other states. Defendant shipped a tank, fabricated in Tennessee, to Ohio, where Tidwell and others were to erect it. Tidwell, who had accepted the provisions of the Tennessee act, was killed while so at work. The Tennessee act provides: "when an accident happens while the employe is elsewhere than in this State, which would entitle him or his dependents to compensation had it happened in this State, the employe or his dependents shall be entitled to compensation under this act if the contract of employment was made in this State, unless otherwise expressly provided by said contract. . . the rights and remedies herein granted to an employe subject to this act on account of personal injury or death by accident shall exclude other rights and remedies of such employe, his personal representative, dependents or next of kin, at common law or otherwise." The defendant had no place of business in Ohio, had not qualified to do business there, and carried no insurance in the Ohio Fund. After the injury, causing death, the widow filed her claim with the Ohio Commission, later filing claim in Tennessee. The Tennessee claim was dismissed on the ground that the widow had elected to make claim in Ohio. The Ohio act provides that where an uninsured employer fails to pay an award against him the amount shall be paid out of the Fund. Payment was so made, and then action started against the employer in Tennessee. Distinguishing this case from the case of *Bradford vs. Clapper*, 286 U. S. 145, Justice Brandeis says: "In the Clapper case it was held that the Vermont Workmen's Compensation Act was a defense to an action brought in New Hampshire under the New Hampshire Act to recover for the death in that State of a Vermont resident who had been employed by a Vermont Company, pursuant to a contract made in Vermont; because 'It clearly was the purpose of the Vermont Act to preclude any recovery by proceedings brought in another State for injuries received in the course of a Vermont employment.' As construed and applied by the highest court of Tennessee, the (Tennessee) statute does not preclude recovery under the law of another State. And the full faith and credit clause does not require that greater effect be given the Tennessee statute elsewhere than is given in the courts of that State." Judgment in favor of the Ohio Fund and against the employer was sustained.—*Ohio vs. Chattanooga Boiler & Tank Co.*, 53 Sup. Ct. Rep. 663.

NORTH DAKOTA DECISIONS

State ex rel Larkin vs. Wheat Growers: Defendant warehouse company executed its bond "in the respective penal sums set forth herein as to each warehouse listed below" (36 being listed at \$5,000 each) for the faithful discharge of the duties of public warehousemen. Action was subsequently brought for a shortage at one of the warehouses listed against the surety, such surety contending that the assets of all the warehouses listed had to be marshalled under Chapter 156 of 1927 Laws; that Chapter 155 of 1927 Laws requires coverage of all elevators listed "as a whole"; that, when so marshalled, the total deficit under the bond was \$10,557.94, against which overages of \$7,790.88 should be charged; and that the statutory provision for one bond for any line of elevators is mandatory and exclusive. The bond, however, did not cover all of