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NORTH DAKOTA DECISIONS

Baird vs. Whitmire: Construes Section 5168 Compiled Laws and Chapter 96 Session Laws of 1931. The latter repealed Section 5168, but reenacted the provisions thereof in Chapter 96, 1931 Laws. The action was brought for added liability of stockholders of a Bank. The Bank was closed in fall of 1931, and plaintiff became receiver. The case came up on demurrer, the contention being that the added responsibility of the shareholders had been abrogated by the repeal of 1931, even though the same provisions were re-incorporated in the new law. HELD: "The general rule is that where the legislature, in a series of acts covering a period of time, decides to codify such laws and legislate upon matters involved in these acts so as to form a code dealing with the subject, and in this new code incorporates and re-enacts provisions of the old statute, so as to make the new law a harmonious code covering the entire subject sought to be governed by the legislature, the liabilities provided in the old sections and which have been re-enacted and incorporated do not lapse but are carried over into the new code . . . Because Section 70 of said Chapter 96 provides a 'saving clause' relating entirely to 'punishment for any acts heretofore committed violating' any act for the regulation or conduct of banking repealed by the chapter, and has no 'saving clause' for the civil liability does not affect the rule. . . The added liability is for the benefit of creditors. . . To assume the legislature now intends that creditors must wait until after the affairs of the corporation are wound up and then commence independent suits against the stockholders . . . requires a belief in a radical revision of legislative policy, not justified by specific statutory language."

Griffin vs. Implement Dealers: Defendant's place of business was and is in Grand Forks County. It issued a policy of insurance on stock of goods in South Dakota. The goods burned and action was started in Hettinger County against defendant. On motion for change of venue to county of defendant's residence, which was denied, appeal was taken. HELD: (Construing Sections 7415 of Supplement and 7417 Compiled Laws) The mere fact that members of the mutual company advance the interests of the company by soliciting business and memberships does not mean that the company is "doing business" in the locality so as to subject the company to jurisdiction therein. "The legislature must have had in mind, principally, the cases of domestic corporations which have established places of business in various counties, and can be said to be present in the county transacting business."

Gray vs. Elder: Defendant was doing business as Elder Horse Sales Company. At time of making of contract between plaintiff and defendant plaintiff did not know that Elder Horse Sales Company was a corporation, and thought the name was merely a trade name. HELD: There is ample evidence to support the verdict that plaintiff contracted with Elder individually, and "an agent who contracts in his own name with one unaware of the agency becomes liable as principal"; and, quoting *Kent, 2 Comm. 630, 631*, "if a person would excuse himself from responsibility on the ground of agency, he must show that he

disclosed his principal at the time of making the contract, and that he acted on his behalf so as to enable the party with whom he deals to have recourse to the party in case the agent had authority to bind him. . . . The agent becomes personally liable when the principal is not known."

DEFINING THE PRACTICE OF LAW

The State of Alabama has enacted a statute defining the practice of law which appears to be somewhat in advance of those passed by other legislative bodies. We quote it:

"Section 1. Only such persons as are regularly licensed have authority to practice law.

"Section 2. For the purposes of this Act, the practice of law is defined as follows: Whoever, (a) In a representative capacity appears as an advocate or draws papers, pleadings or documents, or performs any act in connection with proceedings pending or prospective before a court or a justice of the peace, or a body, board, committee, commission or officer constituted by law or having authority to take evidence in or settle or determine controversies in the exercise of the judicial power of the State or subdivision thereof; or, (b) For a consideration, reward or pecuniary benefit, present or anticipated, direct or indirect, advises or counsels another as to secular law, or draws or procures or assists in the drawing of a paper, document or instrument affecting or relating to secular rights; or, (c) For a consideration, reward or pecuniary benefit, present or anticipated, direct or indirect, does any act in a representative capacity in behalf of another tending to obtain or secure for such other the prevention or the redress of a wrong or the enforcement or establishment of a right; or, (d) As a vocation, enforces, secures, settles, adjusts or compromises defaulted, controverted or disputed accounts, claims or demands between persons with neither of whom he is in privity or in relation of employer and employee in the ordinary sense; is Practicing Law. Nothing in this section shall be construed to prohibit any person, firm or corporation from attending to and caring for his or its own business, claims or demands; nor from preparing abstracts of title, certifying, guaranteeing or insuring titles to property, real or personal, or an interest therein, or a lien or encumbrance thereon.

"Section 3. Any person, firm or corporation who is not a regularly licensed attorney who does an act defined in this Act to be an act of practicing law, is guilty of a misdemeanor, and on conviction must be punished as provided by law. And any person, firm or corporation who conspires with, or aids and abets, another person, firm or corporation in the commission of such misdemeanor must, on conviction, be punished as provided by law."

ARGUMENT FOR LONG TERM APPOINTMENTS

The Springfield (Illinois) Journal recently had this to say concerning the Capone trial: "There are several outstanding features in the prosecution of Al Capone that are worthy of every person's time. Government agents were not afraid of Capone and his gang. They went after the malefactors and got them. The Court was not afraid of them. What Judge Wilkerson has done and said in handling this