



1928

Review of North Dakota Decisions

North Dakota Law Review

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Recommended Citation

North Dakota Law Review (1928) "Review of North Dakota Decisions," *North Dakota Law Review*. Vol. 5: No. 6, Article 7.

Available at: <https://commons.und.edu/ndlr/vol5/iss6/7>

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public; yet, if that public's charges are found to be unfounded, by what measure may we adequately measure the harm that may have been done? Particularly disquieting is this question if the charges happen to relate to the honesty or integrity of the attorney, and happen to be made deliberately, and by a person of more than ordinary standing and influence.

We, of course, have set up standards, and we talk about compensatory and punitive damages. But they are mere approximations, guesses; occasionally, they mean nothing to the man against whom they are assessed. Exoneration! Damages! Neither nor both can ever adequately gauge the effect of the charges upon the public, much less the effect upon the individual to whom the charges relate.

In one case the incident might be forgotten by the public the next day, while the individual affected might brood over it until he became a nervous wreck. Again, the wronged individual might be temperamentally and philosophically capable of dismissing the matter immediately, yet the doubt created by the mere statement of the charge might never be erased from the minds of many constituting his public, and that, notwithstanding exoneration or a successful suit for damages.

One wonders sometimes if the public is not becoming just a little bit shocked at some of its own ruthlessness.

REVIEW OF NORTH DAKOTA DECISIONS

Chrysler Light & Power Co. vs. City of Belfield: City of Belfield in 1915 granted a franchise which was later assigned to Plaintiff company, to construct a light plant in the city and sell light and power for 25 years, with option to allow village to purchase at end of 15 years. The rates to be charged were made part of the franchise. In 1920, Plaintiff filed application with North Dakota Board of Railway Commissioners for permission to increase its rates. This was done and city paid these increased rates up to January, 1927, whereupon it refused to pay them. This action was brought by Plaintiff Power Co. to compel payment of rates. Defendant city entered a counter-claim for money paid in excess of franchise. From a judgment disallowing Plaintiff's claim and also Defendant's counterclaim, both parties appeal. **Held**: Affirmed. A city council has authority to grant franchise to electric light company and may impose as a condition that such company shall furnish service at a stipulated price. Board of Railway Commissioners has only those powers conferred on it by the legislature in the Public Utilities Act, which Act does not give the Board power to interfere with rates which have been fixed by contract in the franchise. In this case, order of Board of Railway Commissioners was illegal and void, but payments made by city to electric light company were done without misrepresentation or fraud and therefore the city is not entitled to recover money so paid.—A. E. A.

Voter vs. Newsalt: Plaintiff had a hernia of long standing. One King, of Omaha, not licensed to practice in N. D., claimed to be able to cure without operation, and referred plaintiff to Defendant, stating, "I have treated 20 cases for him". Plaintiff went to the office of defendant, as arranged by correspondence with him and King. When he arrived at the office, defendant said, "Here is our man". Defendant and King attempted a cure by inserting a needle through the wall of

the abdomen to reach the hernia and sew the parts together, after which defendant was instructed as to after treatment in case of infection. Infection did appear, and defendant followed the methods suggested by King, also giving plaintiff some "adjustments". Defendant said he received \$10 for the use of his office at operation, but King thought it was about \$20. HELD: Evidence is sufficient to establish that defendant recognized plaintiff as his patient, assisted in operation, and took charge of the case after operation, hence verdict of jury against defendant must stand.

Dakota Trust Co. vs. Headland: Action by administrator to quiet title to real estate, and for rents and profits, plaintiff claiming by virtue of loan made to permit redemption from foreclosure. Defendant claimed title by virtue of deed and bill of sale from husband shortly prior to his death. At the time of transfer the incumbrances over \$10,000, exceeded the actual value of the property. Personal property also was involved, against which there were charges of about \$6,000. Defendant assumed ownership, received the income, and began paying up the debts. After paying off some \$9,600, during the two years immediately following death of the husband, plaintiff started probate, and about a year later brought this action. HELD: By reason of laches on part of plaintiff relief demanded can not be granted; that there was no fraud in transfer of real or personal property; that plaintiff, however, is entitled to be subrogated to rights of holder of certificate of sale, but defendant is given until Nov. 1, 1929, to redeem.

JUDICIAL COUNCIL

Meeting held April 17, Bismarck. Present: All members of Supreme Court, 9 District Judges, 1 County Judge, and 4 Bar Association members.

Action: 1. Preliminary steps taken towards organization of Bureau of Statistics, with Supreme Court Reporter as Secretary; Bureau to be composed of Judges Burr and McKenna, the Attorney General, Dean Cooley, and C. L. Young. 2. Judges Christianson, Grimson and McKenna were appointed a committee to make a survey of the jail situation. 3. Messrs. Bradford, Lynch and Owens were named as a committee to study the jury system.

KNEESHAW TESTIMONIAL

The Pembina County Old Settlers Association, assisted by various local Bar associations and commercial clubs, has about completed plans for a demonstration in honor of Judge W. J. Kneeshaw, who has been in active service as District Judge for more than 30 years.

This is a worth while thing to do, in fact, it is our judgment that the State Bar Association should take the initiative in giving public recognition to all men who have served in judicial capacities for a period of twenty-five years or more. So far as this particular testimonial demonstration is concerned, President Lewis has appointed a committee, of which Geo. A. Bangs, Grand Forks, is chairman, to cooperate in every way towards the attainment of a complete and enthusiastic demonstration for Judge Kneeshaw.