North Dakota Law Review

Volume 2 | Number 6 Article 2

1925

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Larson v. Jacobson. The defendant undertook to foreclose a mortgage on plaintiff's land by advertisement. Plaintiff applied for an order enjoining the sale and directing all further proceedings to be had in the district court on the ground that he had a counter-claim and partial defense to the collection of the mortgage debt and that the defendant had failed to give the usual statutory notice of intention to foreclose. The order having been granted the defendant conceded the counter-claim set up in the application and thereupon the order was vacated. HELD: That failure to give notice of intention to foreclose a real estate mortgage does not constitute a legal counter-claim or valid defense against the collection of the whole or any part of the amount claimed to be due on the mortgage sought to be foreclosed within the meaning of Section 8074, Compiled Laws of 1913, and that the counter-claims having been conceded by the mortgagee the order vacating will not be disturbed. (Opinion filed April 24th, 1926.)

Great Northern Railway Company v. Ward County. An action was brought to recover taxes paid by plaintiff to defendant for 1921 under protest on the ground that the same were excessive under Chapter 122, Laws of 1921. On the county's behalf it is contended that the state special road levy for that year must be excepted from limitations prescribed by the act, the same as sinking funds and county tuition funds, and that excepting these the taxes paid were not excessive. HELD: that road taxes fall within the limitation prescribed by the act in question and not within the exception of "special levies for local improvements" as this clause is used in the act, and that when the intent of the legislature is not clear in a statute because of ambiguity in terms used, the history of these terms may be traced in other and previous legislation and the words construed ordinarily according to the sense in which they are or have been used in like statutes. (Opinion filed April 24th, 1926.)

Washburn Lignite Coal Company v. Murphy. The defendant board of administration called for bids for the lignite coal required to supply various state institutions. Plaintiff and the corporation defendants submitted bids. The bids in each case furnished certain information relative to the quality of the coal. Certain contracts were awarded to plaintiff and others to some of the defendants. Plaintiff brought this suit as a bidder and taxpayer to restrain the execution and carrying out of the contracts made with the defendant corporations on the ground that the contracts were not awarded upon the lowest responsible bid. Construing Section 1828, as amended by Chapter 78, Session Laws of 1915, IT IS HELD: That it is the duty of the board of administration to award contracts to the lowest responsible bidder; that as a bidder plaintiff is entitled to no relief merely because the method of determining the lowest bid was not the method prescribed by statute; and that it appearing that the board exercised its honest judgment and accepted the bids of the

lowest bidders, plaintiff as a taxpayer suffered no damage and is not entitled to injunctional relief pendente lite, though the board in awarding the contract did not follow the method prescribed by the statute. (Opinion filed May 1st, 1926.)

State v. Hagen. Convicted of receiving deposits in an insolvent bank, the defendant took an appeal to the supreme court, and after the statutory time for taking an appeal had expired, moved in the district court for a new trial on the ground that the stenographer's notes of the testimony taken by the official reporter at the trial had been stolen after they were partially transcribed. HELD: That the grounds for new trial specified in Section 10917, Compiled Laws of 1913, are exclusive, and that a new trial cannot be granted for such loss. (Opinion filed May 3rd, 1926.)

Ramsey County National Bank v. Kelly. Certain checks drawn on another bank were presented for deposit and collection to a state bank about fifteen minutes before it permanently closed its doors as an insolvent bank. The checks were accepted and negotiated to one having actual knowledge of the circumstances under which the checks were delivered to and received by the insolvent bank. In an action brought on the checks in which the foregoing facts are set up, IT IS HELD: That the insolvent bank under the circumstances committed a fraud upon the customer who may rescind the transaction and reclaim the checks from the bank; that the person to whom the checks were negotiated under the facts alleged, received no better title thereto than the insolvent bank had; and that they are subject to the same defenses in a suit brought thereon by such person as would have been available in an action brought thereon by the insolvent bank. (Opinion filed May 1st, 1926.)

Bank of North Dakota v. Johnson, County Auditor. The question before the court as stipulated by the parties is as follows: May the mortgagee in a mortgage executed after the enactment of the hail insurance law, Chapter 160, Session Laws of 1919, and prior to June 1st, in a given year, redeem from a tax certificate issued to a private individual upon a sale held after the execution of such mortgage by paying all taxes included in such tax certificate save and except the so-called hail indemnity tax provided for in Section 7 of the act, and thereupon must the county auditor execute a certificate of redemption from such tax certificate and tax sale. Held: A lien created under the hail indemnity tax law is created by an implied contract between the state and the owner of the land and becomes fixed and certain only after the 15th day of June, in the event that there was no withdrawal, as provided in the law, and the mortgage in question therefore took priority over the lien of the hail indemnity tax and redemption without paying such hail indemnity tax is permissible. (Opinion filed April 22nd, 1926.) (Petition for rehearing pending.)

Thompson Yards Inc. v. Kingsley et al. The officers of a school district entered into a contract with defendant to erect a school house for the district, but failed to take the bond required by Section 6832, Compiled Laws of 1913. Plaintiff furnished materials for which the contractor failed to pay. It accepted his note extending the time of payment without the consent of the officers of the school district. HELD: That failure of the officers of the district to take the bond required imposes upon them a liability on behalf of the contractor for a school house in favor of the material man similar to a mechanic's lien for the improvement of private property, that an extension of the time of payment did not release the liability which the statutes impose upon public officers in the absence of a contractor's bond, and that one who stands in the relation of a guarantor or surety upon an obligation required by statute to stand as security until certain claims are fully paid, is not released by a transaction between the principal debtor and creditor which does not result in the release of the debtor or the payment of the claim. (Opinion filed April 22nd, 1926.)

U. S. SUPREME COURT DECISIONS

The importance of the question involved in the Washington Quarantine Case, impells us to eliminate other cases this month and use all of the space in presenting it. In 1921 the State of Washington enacted a law which authorized its Department of Agriculture to establish and maintain necessary quarantine regulations to keep out of the State plant diseases and insect pests. Acting under the provisions of this law, certain carriers were enjoined from bringing certain specified produce and products into the state of Washington.

Prior to the passage of the Washington State Law, Congress (in 1917) had enacted a statute authorizing the Secretary of Agriculture to quarantine any State in order to prevent the spread of plant disease or insect infestation. At the time of the Washington injunctional proceedings, the Federal Department had failed to act.

The Supreme Court of Washington affirmed the decree making the injunction permanent, but the Federal Supreme Court reversed the decision. In the majority opinion, the following appears:

"It is impossible to read the statute (Federal) and consider its scope without attributing to Congress the intention to take over to the Agricultural Department of the Federal Government the care of the horticulture and agriculture of the states, so far as these may be affected injuriously by the transportation in foreign and interstate commerce of anything which by reason of its character can convey disease to and injure trees, plants or crops. All the sections look to a complete provision for quarantine against importation into the country and quarantine as between the states under the direction and supervision of the Secretary of Agriculture.

"It is suggested that the states may act in the absence of any action by the Secretary of Agriculture; that it is left to him to allow the states