North Dakota Law Review

Volume 2 | Number 6 Article 3

1925

U.S. Supreme Court Decisions

North Dakota Law Review

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

to quarantine, and that if he does not act there is no invalidity in the state action. Such construction as that can not be given to the federal statute. The obligation to act without respect to the states is put directly upon the Secretary of Agriculture whenever quarantine, in his judgment, is necessary. When he does not act, it must be presumed that it is not necessary. With the federal law in force, state action is illegal and unwarranted."

Two of the justices dissented (McReynolds and Sutherland), and expressed themselves, in part, as follows:

"We cannot think that Congress intended the Act should deprive the States of power to protect themselves against threatened disaster like the one disclosed by this record. It is a serious thing to paralyze the efforts of a State to protect her people against impending calamity and leave them to the slow charity of a far-off and perhaps supine federal bureau. No such purpose should be attributed to Congress unless indicated beyond reasonable doubt."—Oregon-Washington R. R. Co. vs. State of Wash., 46 Sup. Ct. Rep. 279.

WORKMEN'S COMPENSATION DECISIONS

To prove that service was being rendered in course of employment at time of injury, received while travelling to work, mission for the employer must be the major factor in the journey or movement. The incidental carrying of tools to and from home by employee using his own car, although customary on part of employee, does not bring injury, while so travelling, within the course of employment.—Eby vs. Accident Commission, 242 Pac. 901. (California, Dec. 1925.)

Injured employee cannot have benefits of compensation, unless he submits to medical treatment or operation that may reasonably be regarded as offering benefit, if not entire relief, and it is the duty of the Commission to determine whether refusal is reasonable or not.—Edison Co. vs. Accident Commission, 243 Pac. 455. (California, Dec. 1925.)

It is incumbent on claimant to prove by direct and positive evidence, or by evidence from which inference can be fairly and reasonably drawn, that accidental injury arose in the course of employment. Liability cannot be based on a choice between two views equally compatible with evidence, but must be based on facts established by evidence, and, where cause of death is equally consistent with an accident and with no accident, compensation will be denied.—Madison Coal Corp. vs. Industrial Commission, (Illinois, Fed. 1926, No. 16763).

Where a board of education hires an independent contractor to put a flag pole on the school grounds, an injury to the assistant janitor of the school building sustained while he was voluntarily helping the contractor is not an injury in the course of employment.—Ross vs. School District, 207 N. W. 446. (South Dakota, Feb. 1926.)