



9-1-1944

Current Law Review Digest Series

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Recommended Citation

Theodore M. Ryan, J. M. Chrisovergis, Francis J. Paulson & David S. Landis, *Current Law Review Digest Series*, 20 Notre Dame L. Rev. 91 (1944).

Available at: <http://scholarship.law.nd.edu/ndlr/vol20/iss1/5>

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of *Citizens Trust Co. v. Elders*³⁰ and held such a mortgage void. In this case the mortgage contained the regular provisions which we have been discussing. It was valid on its face, but the mortgagor, without accounting to the mortgagee, sold the stock and used the proceeds to replenish the goods sold. The court held that such a mortgage was rendered void as against creditors as far as the stock so affected was concerned.

Another problem which arises concerning this type of chattel mortgage is what is the effect where part of the mortgage is declared invalid? In answer to this question the cases are in conflict. However, a majority of the jurisdictions hold that where the mortgagor has power to sell a part of the goods so covered, the mortgage is not void in whole but it may be void as far as it allows the sale of the part of the goods. The states which hold thus are: Alabama, Arkansas, Florida, Illinois, Indiana, Missouri, Montana, Ohio, Washington, West Virginia, and Wisconsin.³¹ The minority view is that where the mortgagor is given the power to sell a part of the goods and the mortgage is void in part, the whole mortgage is colored and is void. The states which hold this view are: Colorado, Minnesota, New York, and Tennessee.³² Here, again, it must be said that the holding of a court on a particular mortgage will depend on the facts of each case.

It is extremely difficult to make a general statement concerning this problem of a chattel mortgage on a stock of goods. Since the facts and circumstances of each case influence the different courts in their decisions, each case must be considered in light of the particular court's general rules as to the broad subject of chattel mortgages. However, it must be said that in spite of these broad, general statements or essentials reliance should not be placed on them to guarantee absolute validity for the chattel mortgage. A study must be made of the courts' decisions in the particular jurisdiction in question. For only in this way will the essentials required for a valid chattel mortgage on a stock of goods be discovered for the state desired.

Charles M. Boynton.

CURRENT LAW REVIEW DIGEST SERIES

ADMINISTRATIVE AGENCIES UNDER FIRE. Wayland H. Elsbree, University of Pennsylvania Law Review, June, 1944.—The legal jargon of the day continues to be embellished by the phrase "administrative absolutism." The legal profession is warned that the adoption of unconstitutional doctrines by administrative agencies threatens to produce a

³⁰ 212 Mo. App. 589, 259 S. W. 136 (1923).

³¹ See also 73 A. L. R. 293.

³² See 73 A. L. R. 295.

bureaucracy that will destroy it; at the same time, it is informed that administrative law now and in the future offers the greatest opportunity for the practitioner.

Specifically, what agencies are indulging in unconstitutional practices or encouraging the spread of unconstitutional practices? What remedy do the critics propose and is it sound? Finally is there any program upon which sincere advocates for improvement in the functioning of such agencies can unite?

We are told by these critics that all administrative agencies have a tendency to go beyond or outside the statute creating them, to adjudicate matters without granting a hearing to one of the parties, and to make administrative rules exceeding statutory authority. They fail in that they do not specify in what respects the alleged excesses are not subject to judicial check, thus this supports the conclusion either that the evils complained of are not as serious as the reformers claim or else the courts are not conscientiously discharging their functions of review, an assumption very hard to support.

These critics further propose to have Congress enact a code of administrative procedure for all federal agencies. After two years of intensive study, a distinguished committee of lawyers rejected such a proposal. They pointed out that such a proposal of an all-out code for all agencies would result in either mere hortatory provisions, commanding the obvious, or laying down specific requirements certain to be harmful to some agencies. In other words each agency has a different code of rules. The committee made a number of recommendations and embodied a greater part of these recommendations in a bill proposed for Congressional enactment. The four main features of this bill embrace (1) the creation of an Office of Federal Administrative Procedure, a permanent agency to be devoted to the study and co-ordination of administrative procedures for the purpose of achieving improvements that could not be possible through *omnibus* legislation, (2) provision for publication of proposed rules in advance to give parties affected an opportunity to be heard in the rule-making process, (3) creation of hearing commissioners to improve the adjudication process, (4) and finally authorization for the issuance of binding, declaratory rulings to aid interested parties seeking authoritative statements of their rights and duties. By the adoption of an Office of Federal Administrative Procedure, we may hope for sustained orderly progress in administrative procedure.

Theodore M. Ryan.

PSYCHIATRY IN CRIMINAL TRIALS. . . by John Eric Nordskog, Southern California Law Review, June, 1944.—Many evils have grown out of the so called insanity plea and are becoming of great concern to both the lawyer and public. In fact it has resulted in many new

studies and developments, and a revision of data in textbooks on the subject. Yet with legal tradition and trial procedure being so reluctant to change, all of these advancements seem to be in vain for the present, and it will be some time before psychiatry can be adopted or used in a trial by jury or even a trial by judge only. The main objection is the emphasis on jury trial, and the due process features of the federal and most state constitutions.

The old theory that criminals were born, as such, and the ancient theory that some evil was responsible for the crime have been outmoded, and the final result is that criminals are not born but are a result of their social environment. True, their attitudes may vary, but what they become depends upon their culture area and social influence. From this increasing evidence the criminal should be studied individually, so that he will get fairer trials in court and be placed in the correct penal or corrective institution.

Psychiatry was started to heal mental disorders but today it can be used successfully to find out mental causes of crime — if they actually exist — and aid the courts in proving or disproving the plea of insanity. Even the earliest laws took into account intention and responsibility for criminal acts and qualified punishments accordingly.

The main argument of the psychiatrist is that insanity has grown to be a standard defense plea and that too much emphasis is placed upon the reports of psychiatrists who often differ because of the different methods of investigation, and often times their reports are ridiculous in comparison with the other testimony presented in the case — yet the judge and jury will often times close their eyes to the other evidence presented and base their decision on the reports of different psychiatrists. Thus the result is that cases are often won not in terms of law, but according to who can manipulate the psychiatrists the best.

The solution to this evil would be to let the decision rest upon the psychiatrists, not, however, in the present state of development, but have the entire routine tried before a trained board of criminologists also composed of social workers, and thus the criminal will be tried and sentenced before an impartial board of skillfully trained criminologists and laymen.

The blame is not to be placed on the lawyers or psychiatrists alone, because it is not their purpose that criminals should go free from their crimes. But both the legal and medical professions should get together and work out something, depending on how far the legal profession is willing to go. If this could be accomplished, a criminal trial would not be looked upon as brutal because of the punishment imposed, but rather as one with humanitarian methods involved, and actually trying to rehabilitate the criminal. Then the legal profession would be viewed as a servant of society, and rid it of the ruthless criminal lawyer who gets criminals off on insanity pleas.

J. M. Chrisovergis.

THE WAR LABOR BOARD AND THE PUBLIC INTEREST . . . by Harl R. Douglass, Rocky Mt. Law Review, June, 1944.—With the establishment of the War Labor Board a long time economic need was partially fulfilled. The national emergency with its complex economic and socio-economic problems was the impetus that ultimately took form in the W.L.B. Three principal economic problems, fostered by an unnatural demand for goods used by the government in the prosecution of the war effort, had to be met and successfully handled by the W.L.B. if a disastrous inflationary period were to be avoided. The first of these problems was a ridiculous wage scale caused by huge governmental purchases that insured every manufacturer a lucrative profit. The second problem was the critical manpower shortage with its concomitant deadly bidding for labor, that was already scarce because of military needs. The third problem to be coped with was the ever-increasing purchasing power of the American consumer as contrasted with the ever-diminishing supply of available consumption goods and services. To meet these three vast and imperative problems was the task that confronted the W.L.B.

The board, with representatives from the three interested groups; labor, management, and the general public, met the challenge of these abnormal economic conditions and achieved remarkable results. It has (1) effected to a degree, uniformity in wages, (2) distributed intelligently the valuable manpower and kept job changing at a minimum, (3) done much to bridge the insidious inflationary gap that must be bridged if we are to avoid the chasm of destructive inflation. As to the future of the board, Mr. Douglass makes this valuable commentary of the current need of such an agency:

“Whether this advance may be conserved and retained in peace times remains to be seen. Reaction against bureaucracy, and government regimentation, almost psychopathic in its emotional intensity and lack of rationale has evidenced itself in recent years. Born of short-sighted thinking, political chicanery, and misdirected self-interest, as well as an attachment to *laissez-faire* and rugged individualism and to associated traditions of mind and speech which no longer are appropriate to contemporary economic structure and functioning, the people have been excited by a somewhat mercenary and short-sighted public press.”

If the W.L.B., or a comparable organization, is to be retained when the crisis is passed seems a matter of conjecture. Whether the bounds of “rugged individualism” are loosed sufficiently or whether political expediency will demand the dissolution of the board, is something that only time, with the unfolding of coming historic events, will tell.

Francis J. Paulson.

WORKMEN'S COMPENSATION FOR RAILROAD EMPLOYEES, Vernon X. Miller, *Loyola Law Review*, June, 1944.—This article deals with the advisability of replacing the Federal Employers' Liability Act (45 U.S.C. Sec. 51 *et seq.* 1940) with a national compensation scheme for all railroad workers, corresponding roughly to the various workmen's compensation laws now obtaining in 47 of the 48 states, with which all lawyers are familiar. The main points of divergence between the existing federal law and the various state compensation laws now in effect appear to consist of (1) the retention in the federal law of the assumption of risk defense, which is available to the carriers and in some instances bars recovery completely, and (2) the absence in the federal law of any administrative body analogous to the various state industrial boards and commissions to find facts and award compensation pursuant to some statutory schedule. It is further noted that when proceeding under the Federal Employers' Liability Act, *supra*, there is no statutory limit on the sum that may be recovered in the event of wrongful death.

The need for such a national compensation scheme is emphasized, according to the author, by the confusion arising out of the definition of interstate commerce incorporated in the 1939 amendment to the Federal Employers' Liability Act, *supra*, wiping out case law refinements bearing on the question of what constituted interstate commerce under the prior law. The result has been that injured railroad employees such as members of construction gangs and switchmen, whose interstate commerce status is at best doubtful, are at a loss as to whether to proceed under a state compensation law or chance the applicability of the federal law. And, having unsuccessfully sought relief under one procedure, claimants run the risk of being barred from the other by reason of statutory time limitations.

The author discusses the alternative of federal withdrawal from the interstate commerce employment-relations picture entirely and projecting existing state compensation laws into the legal vacuum remaining. As a matter of fact, that very situation now obtains with respect to interstate truck drivers, no act of Congress having been adopted for their protection. It is mentioned that notwithstanding the hesitancy of some state courts to apply their local compensation laws to interstate truck drivers, yet as a matter of law there is no constitutional impediment to applying these laws so long as they are not repugnant to laws passed in pursuance of the paramount power of Congress to regulate interstate commerce.¹

The author comments favorably on state attempts to effect a sort of integration between their own compensation laws and the federal liability statute. In Indiana, for example, railroad workmen are ex-

¹ See *Spohn v. Industrial Commission*, 138 Ohio St. 42, 32 N. E. (2d) 554, 133 A. L. R. 951 (1941).