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ADMIRALTY—SEAMEN'S WAGES—ADVANCES IN FOREIGN PORT BY FOREIGN VESSEL.—The libelants were seamen who signed in France for two years' service on a British ship, receiving an advance of a half-month's wages, which was legal under British law. When the vessel reached New York, the seamen, being afraid of submarines, abandoned their contract and, a demand for half their wages having been refused, libeled the vessel, claiming full wages and contending that the advance payment made in France was void under the Seamen's Act (U. S. Comp. St. 1916, secs. 8322-3). *Held,* that the libelants were not entitled to recover, as they had already received more than half of their wages in advance and such advances were legal payments. *The Belgier* (1917, S. D. N. Y.) 246 Fed. 966.

The federal statute has been held to forbid advances by foreign ships in American ports and by American ships in foreign ports. *Patterson v. Bark Eudora* (1903) 190 U. S. 169, 23 Sup. Ct. 821; *The Rhine* (1917, E. D. N. Y.) 244 Fed. 833. One case has held that it forbids advances to alien seamen by a foreign ship in a foreign port. *The Imberhorne* (1917, S. D. Ala.) 240 Fed. 830. It is believed that the principal case makes a more reasonable construction of the statute in excluding such a case from its application.

CONFLICT OF LAWS—JURISDICTION FOR DIVORCE—SUIT BETWEEN ALIENS IN FRANCE.—An action for divorce was brought by a Russian woman against her Russian husband in the French courts. In accordance with the requirements of Russian law (one of the parties having been a Roman Catholic and the other a member of the Orthodox Russian Church), they had been married in Paris by a Russian clergyman; and they had also had a marriage ceremony performed by a French civil officer. By the Russian law, a divorce between people whose marriage was required to be celebrated before a Russian clergyman must likewise be pronounced by a Russian clergyman. *Held,* on a plea to the jurisdiction of the French court, that the court had no jurisdiction, inasmuch as the parties were governed by their national (Russian) law, which was their personal statute. The court added that a treaty of 1874 between Russia and France giving the citizens of either contracting party full access to the courts of the other had no application to the case, and that the French civil courts could neither enforce the provisions of the Russian law requiring Russian religious authorities to pronounce a divorce, nor enforce the French law in substitution for the Russian law. *Stankiewicz v. Stankiewicz,* Court of Paris, Jan. 26, 1914, reported in (1917) 44 CLUNET, 602.

This decision may be contrasted with another, also involving the marriage status of aliens. The marriage of two British subjects, celebrated in France, was annulled by a British court. On application in France for an *exequatur* validating and decreeing the registration of the British judgment, it was held that the judgment should be enforced in France. *Sassoon v. Sassoon,* Tribunal Civil de la Seine, December 13, 1916, reported in (1917) 44 CLUNET, 614.

CONTEMPT—DIRECT CONTEMPTS—LETTER MAILED TO JUDGE.—While an appeal from a decree denying probate of a will was pending before the Prerogative Court of New Jersey, the proponent of the will mailed a letter to the Ordinary in which he abused opposing counsel and the trial judge, disparaged a witness and protested that he would agree to donate whatever he might receive under the will, if it were probated, to any charitable institution the Ordinary might

select. *Held,* that the proponent was guilty of a direct contempt. *In re Merrill* (1917, N. J. Prerog.) 102 Atl. 400.

The case is interesting for the learned opinion of the Ordinary on the subject of contempts and on the jurisdiction of the Prerogative Court to punish them.

CONTEMPT—DIRECT CONTEMPTS—REFUSAL BY DRAFT BOARD TO GIVE UP COURT ROOM.—The respondent, chairman of a local draft board, was using the vice chancellor's courtroom for the physical examination of men drafted for military service, when he was informed that the vice chancellor wanted the room for the hearing of a case. The respondent declined to give up the room that day, and, although he had an hour's intermission at noon, failed to communicate with the vice chancellor. *Held,* that the respondent was guilty of contempt *facie curiae. In re Schmidt* (1917, N. J. Ch.) 102 Atl. 264.

The court was careful to point out that there was no conflict of authority between the state court of chancery and the federal exemption board. There were other rooms in the court house which could have been used by the board. In view of the respondent's protests of respect for the court, no punishment was inflicted.

CONSTITUTIONAL LAW—DUE PROCESS—LIEN UPON SALOON PREMISES UNDER DRAMSHOP ACT.—The defendant owned a building which he rented to a tenant for a saloon. In a prior suit the plaintiff had recovered a judgment by default against the tenant for injury to her means of support by reason of intoxicating liquor furnished to her husband at the tenant's saloon. The Dramshop Act (Ill. Rev. Stat. ch. 43, sec. 10) declared that such a judgment should be a lien upon the premises wherein the liquor was sold if the owner had rented them for the purpose of the sale of intoxicating liquor. The present suit was brought to subject the defendant's building to the lien of the judgment obtained against his tenant. The defendant contended that the enforcement of this lien would deprive him of property without due process, since the judgment had been rendered without notice to him or opportunity to defend. *Held,* that the lien was enforceable and the statute, thus applied, constitutional. *Eiger v. Garrity* (1918) 38 Sup. Ct. 298.

The court reasons that the statute in effect makes the tenant the lessor's agent, and that through this agency, voluntarily assumed by renting for saloon purposes, the landlord becomes a participant in the sales and responsible for their consequences. This is the first time the federal Supreme Court has passed upon the question. For decisions by state courts sustaining such statutes, see cases cited in *Garrity v. Eiger* (1916) 272 Ill. 127, 111 N. E. 735.

CONSTITUTIONAL LAW—DUE PROCESS OF LAW—VALIDITY OF LEGISLATION PROHIBITING "TRADING STAMPS."—A statute of Wisconsin forbade the issuing of "trading stamps" in connection with the sale of goods, subject to the exception that sellers might issue tickets redeemable only in cash for amounts stated on the faces thereof. A number of "trading stamp" firms brought actions against the appropriate state officer, asking the court to prevent the enforcement of the statute on the ground that it deprived them of liberty and property without due process of law. *Held,* that the statute was valid. *Sperry & Hutchinson Co. v. Weigle* (1917, Wis.) 166 N. W. 54.

The opinion calls attention to the great conflict of authority upon the point at issue, the tendency of the cases in the state courts until recently being to hold similar laws invalid. The decision in favor of the law is put on the sensible ground that the view of the legislature that "trading stamp" schemes are injurious to legitimate business is at least a reasonable one and hence that

the requirements of due process are satisfied. In this the court followed recent cases in the United States Supreme Court which upheld prohibitory taxes upon "trading stamps." *Rast v. Van Deman & Lewis Co.* (1916) 240 U. S. 342, 36 Sup. Ct. 370; *Tanner v. Little* (1916) 240 U. S. 369, 36 Sup. Ct. 379.

CONTRACTS—BOND TO SECURE MATERIAL-MEN—GROCER SUPPLYING CONTRACTOR FOOD FOR LABORERS.—The defendant, as surety for a contractor, gave the bond required by federal statute (Comp. St. 1916, sec. 6923) to insure payment to persons supplying "labor or materials in the prosecution of" government work. The work was the dredging of a portion of the St. Mary's river so remote from any settlement that the contractor was obliged to furnish his laborers board, for which a deduction was made from their wages. The complainant sold provisions to the contractor on credit. *Held,* that the complainant was entitled to recover payment under the bond. McKenna, Pitney and McReynolds, JJ. *dissenting. Brogan v. National Surety Co.* (1918) 38 Sup. Ct. 250.

Previous decisions of the Supreme Court had given a liberal construction to the statute and to bonds given thereunder but none had gone quite so far as the present case. *Dicta* opposed to the decision may be found in the authorities cited in the opinion of the Circuit Court of Appeals, which the present decision reversed. See *National Surety Co. v. United States* (1916, C. C. A. 6th) 228 Fed. 577. But under the peculiar facts of the case, the contract being performed "in a wilderness," it is believed that food might properly be deemed material used in the construction of the work.

CRIMINAL LAW—BRIBERY IN NATIONAL ELECTIONS—LIABILITY UNDER FEDERAL STATUTES.—The defendants were indicted under section 19 of the federal Criminal Code (35 U. S. St. at L. 1092; Comp. St. 1916, sec. 10183) which denounces a conspiracy "to injure, oppress, threaten or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the constitution or laws of the United States." The indictments were based on alleged conspiracies to bribe voters in a national election. *Held,* that the conspiracies described were not within the statute. *United States v. Bathgate* (1918) 38 Sup. Ct. 269.

This decision both follows and supplements *United States v. Gradwell* (1916) 243 U. S. 476, 37 Sup. Ct. 407, discussed in (1917) 27 YALE LAW JOURNAL, 137, in which it was held that similar conspiracies were not indictable under section 37 of the federal Criminal Code as conspiracies "to defraud the United States." The same arguments from legislative history which determined the *Gradwell* case, leading to the conclusion that Congress had intended to leave the regulation of such elections to the states, were held to be applicable here.

EMINENT DOMAIN—POWER OF CONDEMNOR TO ABANDON PROCEEDINGS AFTER AWARD.—The plaintiff water company, acting under statutory powers conferring upon it the power to acquire land by eminent domain proceedings, instituted proceedings before the county commissioners for the condemnation of the defendant's property. After a hearing the commissioners filed their award assessing the defendant's damages and ordering the company to make payment. Thereafter the company, which had never taken possession of the premises, delivered to the defendant "a written notice of so-called abandonment and surrender" of the proceedings and the property. The defendant disregarded this notice and filed with the commissioners a petition asking them to issue a warrant of distress against the company to compel payment of the award. The company then filed a bill in equity asking that the defendant be restrained from further proceedings. *Held,* that the company did not have the

power to abandon the proceedings after the award of damages had been made by the commissioners. *York Shore Water Co. v. Card* (1917, Me.) 102 Atl. 321.

The court in its opinion recognizes that its decision is not in accord with the rule prevailing in the majority of jurisdictions, but rightly says that so much depends upon the statutory system of each state that precedents in another state are not necessarily of value. The decision is based upon the view that under the Maine system "the award of the county commissioners stood as a judgment until and unless it was appealed from." The making of the award therefore imposed a duty upon the company to pay the sum awarded, a duty which it had no power to destroy except by securing a reversal on appeal.

EVIDENCE—DYING DECLARATIONS—OPINION RULE.—At a trial for murder the following statement was admitted, "O Lord, what a pity for Frank McNeal to shoot a poor boy like me for nothing." *Held,* that the statement was inadmissible, as it was at most an exclamation of self pity. *McNeal v. State* (1917, Miss.) 76 So. 625.

The leading text-writers are in conflict over the question whether dying declarations containing expressions of opinion should be admitted. 4 Chamberlayne, *Evidence,* sec. 2852; 2 Wigmore, *Evidence,* sec. 1447. The Mississippi Supreme Court has held admissible such declarations as "killed me without any cause" and "killed him without cause." *House v. State* (1897) 74 Miss. 777, 21 So. 657; *Jackson v. State* (1908) 94 Miss. 107, 48 So. 3. The court declared that it would not extend the doctrine of these cases. For a discussion of another recent case on the subject, see (1918) 27 YALE LAW JOURNAL, 700.

INSURANCE—ACCIDENT—DEATH BY SUBMARINE.—The defendant issued a policy insuring the holder against injury caused "by external, violent, and accidental means." Injuries "from fire-arms of any kind or from explosives" were expressly excluded. The insured sailed for England in 1915 on the Arabic, and this vessel was torpedoed and sunk by a German submarine. Later the body of the insured was found, wearing a life preserver, the death having been caused by drowning. *Held,* that the beneficiary could recover on the policy. *Woods v. Standard Acc. Ins. Co.* (1918, Wis.) 166 N. W. 20.

The sinking of the vessel was of course an intentional act, although, by reason of the Act of State doctrine, neither the crew of the submarine nor the rulers of Germany could be held liable for it in a municipal court. See COMMENTS, *supra,* p. 812. Nevertheless, the death may properly be held to be due to an accident of the sea as we have come to regard it. The court considers the explosion of the torpedo as a remote cause of the death and hence holds the exclusion clause of the policy not applicable. In construing a policy like this it is proper to apply a much narrower rule of causation than would be applied in the law relating to crimes or torts.

WILLS—REPUBLICATION BY CODICIL—EFFECT ON LAPSED LEGACY.—The testatrix bequeathed $10 to her daughter. After the daughter's death a codicil was executed modifying another bequest but making no reference to the lapsed legacy. By statute lineal descendants of a legatee who predeceases the testator take the bequest given to such legatee (Cal. Civ. Code, sec. 1310). Another section of the Code (sec. 1307) gives a pretermitted heir, unless his omission appears by the will to have been intentional, a share in the estate such as he would have taken in case of intestacy. The son of the deceased daughter claimed as pretermitted heir of the testatrix. *Held,* that the son was entitled to share in the estate as a pretermitted heir, because republication of the will made void the legacy to the daughter then deceased, and section 1310 applied.

only to lapsed and not to void legacies. Shaw and Sloss, JJ., *dissenting*. *In re Matthews' Estate* (1917, Cal.) 169 Pac. 233.

Under similar statutes the prevailing view allows the descendant of a legatee dead when the will was made to take the bequest. *Lewis v. Corbin* (1907) 195 Mass. 520, 81 N. E. 248; *contra, Lindsay v. Pleasants* (1846) 39 N. C. 320. But even if one accepts the minority view as to the construction of such statutes, it is difficult to support the court's application of the doctrine of republication in the principal case. This doctrine should be applied to effectuate not to defeat the testator's intentions. See *Izard v. Hurst* (1697, Ir. Ch.) 2 Freem. 223 (adeemed legacy not revived); *Gurney v. Gurney* (1855, Eng. V. C.) 3 Drew. 208 (legacy to witness not rendered void); *In re McCauley's Estate* (1903) 138 Cal. 432, 71 Pac. 512 (legacy to charity not made illegal).

WORKMEN'S COMPENSATION ACT—WHO IS AN EMPLOYEE—OFFICER OF CORPORATION.—The claimant received $50 per week for his services as secretary-treasurer of respondent corporation as well as salesman and collector of its accounts. He sustained an injury while acting in the latter capacity. He was also one of the three stockholders of the corporation. *Held,* that the mere fact that he was an officer and stockholder did not exclude him from the benefits of the Workmen's Compensation Act. *In re Raynes* (1917, Ind.) 118 N. E. 387.

On a somewhat similar state of facts the New York Court of Appeals held that the majority stockholder and president of a corporation, whose salary was $70 per week, was not an employee within the meaning of the Workmen's Compensation Act. *Bowne v. S. W. Bowne & Co.* (1917) 221 N. Y. 28, 116 N. E. 364, discussed in 27 YALE LAW JOURNAL, 284. The principal case approves but distinguishes this decision. The court declares that there is no single decisive test which can be applied to the problem as to what sort of employee is entitled to compensation. The solution depends on a consideration of all the facts in each particular case, regard being had to the purposes of the legislation.