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Master and Servant—Special Employer of Airplane Pilot Furnsihed by General Employer Held Liable for Injuries to Pilot

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not be liable for any damage caused by an explosion unless fire should ensue from it.

While this policy was in effect, an explosion occurred in a structure which was some eighty feet from plaintiff's building. A fire preceded this explosion, and due to severe wind sparks were blown on the roof of plaintiff's building, causing a damage of $10. The principal damage to plaintiff's building was caused by concussion due to the explosion in the other building, and plaintiff seeks to recover for this damage.

The court held that this class of risk was not within the reasonable intendment of the parties when they made the contract, and as a result they did not contemplate that the policy should cover a loss arising from the concussion of air produced by the explosion on the premises of other persons than the insured, regardless of whether the explosion was preceded by fire. Plaintiff was given judgment for $10, the amount of the fire alone.

INTOXICATING LIQUORS—MERE POSSESSION OF JAMAICA GINGER NOT UNLAWFUL.

Young vs. State, 102 So. 161.

Appellant was convicted of having intoxicating liquors upon his premises. When his saloon was searched a certain quantity of Jamaica ginger was seized by the sheriff. Subsequently he was convicted for the possession of the above. The court held that it was necessary for the state to prove, first, that the defendant sold the article, second, that the compound was intoxicating, and, third, that it was sold by the defendant as a spiritous beverage and not as a medicine. The state having failed to prove the above, and the fact that Jamaica ginger is primarily used as a medicine, its possession cannot be unlawful per se.

MASTER AND SERVANT—SPECIAL EMPLOYER OF AIRPLANE PILOT FURNISHED BY GENERAL EMPLOYER HELD LIABLE FOR INJURIES TO PILOT.

Famous Players-Lasky Corporation vs. Industrial Accident Commission of California, 228 Pac. 5.

The Famous Players-Lasky Corporation while engaged in the filming of a moving picture, acquired from the Williams Bros. Aircraft Corporation the use of one of their airplanes to be piloted by one of the latter's employees. While filying at a low level, due to plaintiff's orders, the pilot was injured. The court held that he could recover compensation from the plaintiff, as the Williams Corporation gave the pilot no other direction than that he should

Washington University Open Scholarship

place himself under the representatives of the plaintiff; and as a result the plaintiff was a special employer and would be liable for any injury which followed while the pilot was under their direction.

NEGLIGENCE—OWNER NOT LIABLE FOR DEATH OF BOY WHO RAN IN FRONT OF STREET CAR WHEN BOY WAS ORDERED OFF THE PREMISES.

Miller v. Schmidt, 126 Atl. (N. J.) 309.

Several small boys were playing upon the defendant's lumber pile. An employee of the defendant "chased" the boys away, one of whom, the plaintiff's decedent, ran into the street and was killed by a street car.

The Court held that the defendant could not be held liable, saying, "The fact that the defendant might reasonably have anticipated a possible injury to the plaintiff, plays no part in determining willfulness. There must be some evidence tending to show the maliciousness of the defendant."

STREET RAILWAYS—LIABILITY FOR DEATH OF A BICYCLIST COLLIDING WITH PASSENGER PERMITTED TO ALIGHT AT THE MIDDLE OF A CITY BLOCK.

Gilman vs. Fleming, 265 S. W. 104. (Mo. App.) 1924.

A motorman of defendant railway company negligently opened a car door and permitted a trainman, not on duty, to alight in the middle of a block, while the car was in motion. The plaintiff's son, a bicyclist, struck the alighting trainman in such manner as to upset the bicycle and precipitate the rider beneath the wheels of the moving street car, causing injuries from which he died. A petition to this effect, charging negligence of the motorman, was held sufficient.

Held, the fact that the alighting trainman may have been negligent in failing to watch for traffic does not negative the motorman's carelessness in opening the door while the car was in motion and at a place not used as a regular stop.

The fact that the trainman who alighted and with whom deceased collided, was not produced as a witness or his absence accounted for, was held to be a circumstance for the jury's consideration. The custom of permitting employees and certain public servants to board and alight at places other than the regular stops, was shown but held to be no defense to an action for negligence in so doing.

The questions of proximate cause and of negligence are for the jury, who found the opening of the door by the motorman and permitting the trainman to alight under the circumstances constituted negligence, and that such was the proximate cause of the injuries and death of plaintiff's deceased son. It was held to be no defence that the motorman anticipated no such occurrence, which as a reasonably prudent man he should have anticipated.

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