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Injuries to Interstate Employees on Railroads

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cases 843, although not decided until 1829, interpreted a statute of 1787, and held in terms that a judgment was a lien.

As pointed out in the dissenting opinion, Courts cannot safely decide nor lawyers advise if a long established precedent is thus reversed on no new grounds.

BOOK REVIEW.

Injuries to Interstate Employees on Railroads, by Maurice G. Roberts (Callaghan & Co., Chicago, Ill.).

The year 1906 was marked by the adoption by Congress of an employer's liability act for the protection of interstate railroad employees (34 U. S. St. at L., c., 3037). This statute was later declared to be unconstitutional by the United States Supreme Court (*The Employers' Liability Cases,* 207 U. S. 463). Thereupon, the present federal employer's liability act was adopted (35 U. S. St. at L., c., 149). The validity of this statute has since been upheld (*Mondau* v. *N. Y., etc., R. Co.,* 223 U. S. 1).

Like many another act of this type, the new act abolishes the harsh fellow-servant doctrine of the common law; it eliminates, in a large measure, the doctrine of assumption of risk; it emasculates the rule anent contributory negligence, by reducing the contributory negligence of an employee to the position of a factor important merely in mitigation of the damages claimed by him; and it declares void contracts between employer and employee, designed to deprive the latter of the benefits of the act (60 Cong. Rec. (1st sess.), p. 4527, *per* Doliver, *Senator*).

The federal act, doubtless, would appear revolutionary to a mid-Victorian lawyer, bred in the doctrines of the common law. But, notwithstanding the improvements it effects, this new act is still far from pleasing. It now is universally recognized that almost half the accidents suffered by employees, in the course of their employment, are due neither to the employee's nor to the employer's negligence, but are merely incidental to the trade, and are, indeed, what are aptly denominated by the French as the *risque professional.* This fact, although recognized in the modern workmen's compensation acts, is ignored in the federal employer's liability act, which bottoms the employee's right to recover upon the negligence of his employer. It is to be hoped, therefore, that,

at no late date, a workmen's compensation act will be substituted by Congress for the existing employer's liability act.

Until that is done, however, Mr. Roberts' work is destined to prove of great service to lawyers concerned with the rights and duties of employers and employees, who are governed by the new act. His book, it is apparent, is the result of a careful study of the great body of case-law, which the act already has produced. Yet the fact that the law on this subject is still in the making, is recognized by the incorporation in the book of blank pages, whereon the careful practitioner may enter the new cases, as they are reported, at their appropriate places.

We regret exceedingly the necessity of condemning the method of referring to cases, which is pursued in this book. It is a glaring defect in a book which, aside from this, is all that can be desired. For example, at page 25, the author writes, "In *Reeve* vs. *Northern Pacific Railway Co., cited in the notes*" (italics ours). This case is not cited in a note on page 25, but only in a note on the preceding page. Again, on page 29, the author states, "In *Hobbs* vs. *Great Northern Railway Co., cited in the notes*" (italics ours). The reader, however, in searching for the report of the case, is compelled to turn back five pages to page 24, note 6, before he finds it. Surely, it requires no argument to demonstrate that such a practice as this can only result in unnecessary annoyance to the lawyer, who is called upon to use the book.

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