North Dakota Law Review

Volume 8 | Number 4 Article 1

1931

Treking Back

Richard E. Wenzel

BAR BRIEFS

PUBLISHED MONTHLY AT BISMARCK

—By—

STATE BAR ASSOCIATION OF NORTH DAKOTA

Richard E. Wenzel, Editor

Entered as Second Class Matter Jan. 15, 1925, at the Postoffice at Bismarck, North Dakota, Under the Act of August 24, 1912

VOL. 8 MARCH, 1932 NO. 4

TREKING BACK

Following the introduction of workmen's compensation acts into this country the courts, usually adopting the theories ordinarily applicable to damage suits, followed a rather liberal line of interpretation. Costs have been mounting to such an extent, however, that more recent decisions evidence a desire to back-pedal on some of the former rulings. Two of such decisions have recently come from the Supreme Court of Massachusetts. Construing the statutory provisions relating to "average weekly wages" (similar to ours) the Court, in the Patrick O'Loughlin case, determined that wage computations are too high when measured on the basis of day or hour earnings translated into weeks, and that the average annual wage, separated into weeks, must be the standard.

The other decision, covering a number of claims, Vasilios Panagotopulo's case, Slivey Corey's case, Elias Maloof's case, and John Perangelo's case, dealt with skin diseases caused by employment, particularly after advice of physicians that further exposure would start the condition again. The court says: "In this state of the evidence as to the employee's knowledge of the probable physical effect of further exposure, despite the pressure upon him of desire or need for the highest wage he could earn, it could not be found that his exposing himself to poisonous liquids in the course of his employment was not such a voluntary act on his part as to break the line of causation between his original injury and his incapacity for work."

Whether or not this new line of decisions is generally followed, it represents recognition of the fact that past liberality has seriously jeopardized these laws, increasing costs to a point where "the goose that lays the golden eggs" was about to be sacrificed.