

## RECENT DECISIONS OF STATE COURTS ON POINTS OF PUBLIC LAW

*Martial Law.* Ex parte Jones. (West Virginia, March 21, 1913. 77 S. E. 1029.) The constitution of West Virginia authorizes the governor to call out the militia to execute the laws, suppress insurrection and repel invasion. The code (chap. 18, sec. 92) authorizes the commander-in-chief, in the event of invasion, insurrection, rebellion or riot, in his discretion to declare a state of war in the districts where such disturbances exist. Held, the courts will not question the justification of the governor in declaring a state of war, and, on habeas corpus, will inquire only into the legality of present custody, and not into the validity of penitentiary sentences imposed for definite terms.

*Delegation of powers—Referendum to locality affected.* People vs. Kennedy. (New York, March 14, 1913. 101 N. E. 442.) An act to erect the county of Bronx sustained, though submitting the question of the erection to the people of the territory comprised within the proposed county. Distinguished from Barto vs. Himrod, 8 N. Y. 483, where the referendum was State wide; the electors of a restricted locality may be permitted to determine whether the provisions of a "completed" act shall become operative or shall be taken advantage of.

*Delegation of powers—Re Municipal Charters.* (Vermont—Opinion of Justices—January 13, 1913. 86 Atl. 307.) The legislature cannot leave it to a public service commission to determine the plan and frame of government of villages to be organized.

*Administrative law—Regulations.* State vs. Normand. (Maryland, January 7, 1913. 85 Atl. 899.) An order issued by the State board of health that all bread before removal from the baking room must be wrapped in unused paper is not an exercise of invalidly delegated legislative power.

*Constitution and statute.* Lanigan vs. Gallup. (New Mexico, April 10, 1913. 131 Pac. 997.) A constitutional provision to the effect that no city shall contract any debt except by ordinance, etc., subject to certain limitations, with a proviso that any city may contract debts in excess of such limitation for certain purposes, does not authorize a municipality to contract a debt for one of these purposes without statutory authority.

*Taxation.* State vs. Birmingham Southern R. C. (Alabama, February 14, 1913. 62 So. 77.) The fact that the constitution requires for the support of schools a special annual tax of 30 cents on each \$100 of taxable property, does not prevent the legislature from prescribing that property for the purpose of taxation shall be assessed at 60 per cent of its fair and reasonable cash value.

*Taxation.* McKennon vs. McFall. (Tennessee, April 3, 1913. 155 S. W. 158.) The State may tax a resident's intangible property, held outside of the State and taxed where located.

*Equal protection of the laws.* Vosburg vs. A. T. & S. F. R. Co. (Kansas, March 8, 1913. 130 Pac. 667.) A statute does not deprive railroad companies of the equal protection of the laws by providing that shippers who sue railroad companies for failure to furnish cars may recover attorneys' fees, while railroad companies may not recover attorneys' fees from shippers whom they sue successfully for detaining cars.

*Penalties—ex post facto laws.* State vs. Adams. (Kansas, May 10, 1913. 132 Pac. 171.) A statute imposing a higher penalty for a repeated offense may be applied although the first offense was committed previous to the enactment of the statute. Relying upon 224 U. S. 616.

*Penalties—Repeated offense.* Goeller vs. State. (Maryland, November 12, 1912. 85 Atl. 954.) The fact that accused has been previously convicted of a similar offense may not be ascertained by the court merely from the court dockets, if the repeated offense carries a higher penalty, since under the constitution the previous offense must be alleged in the indictment and established by the verdict.

*Penalties—Imprisonment for debt.* People vs. Heise. (Illinois, February 20, 1913. 100 N. E. 1000.) A statute punishes wife abandonment by fine and imprisonment, and provides that the court may direct the fine to be paid in whole or in part to the wife, and also that the court may order defendant to pay a weekly sum for one year to the wife, and release him from custody on probation, and may sentence him on the original conviction if he violates the order. Held this violates no constitutional provision, among others not that relating to imprisonment for debt. See also State vs. Gilmore, Kansas. February 8, 1913. 129 Pac. 1123.

*Personal rights—Infants; jury.* Lindsay vs. Lindsay. (Illinois, February 20, 1913. 100 N. E. 892.) Constitutionality of juvenile court act sustained as exercise of sovereign power of protection of infants. The proceeding being statutory and not according to the course of the common law, the statute may validly provide for a jury of six.

*Personal rights—Labor contracts.* Fortune vs. Braswell. (Georgia, March 11, 1913. 77 S. E. 818.) A statute makes it unlawful to hire an employee or tenant under contract, without the written consent of the employer or landlord. At the option of the party injured a person violating the law may be either criminally prosecuted or held liable for double damages. Held unconstitutional as unreasonably interfering with the liberty of contract, and as giving a private party the option of declaring an act to be a public offense or a private wrong.

*Labor legislation.* Sexton vs. Newark District Telegraph Co. (New Jersey, February 25, 1913. 86 Atl. 451.) Elective workmen's compensation act sustained.

*Labor legislation.* St. Louis & S. W. R. Co. vs. Griffin. (Texas, February 12, 1913. 154 S. W. 583). A statute is valid which requires a corporation discharging an employee to furnish him on his demand a true statement in writing of the cause of his discharge. In the absence of a distinct statutory provision, the statement is not privileged. A similar statute had been held unconstitutional in Georgia. 94 Ga. 732.

*Statutes—Operation upon existing contracts.* State vs. Seattle. (Washington, May 6, 1913. 132 Pac. 45.) A workmen's compensation act applies to hazardous employments performed under contracts entered into prior to the time the act went into effect. The court states the principle that the police power overrides contracts, without qualification, but it does not appear that in the present case the contract had any specific reference to compensation for injuries.

*Statutes—Certainty.* Railroad Commission vs. Grand Trunk Western R. C. (Indiana, February 18, 1913. 100 N. E. 852.) A statute makes it unlawful for any railroad company to operate a train unless the railroad has in operation an approved block system for the control of train movements. The court holds the statute is not sufficiently definite for enforcement. Yet apparently "approved" is construed as meaning "approved by the commission."