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HISTORY OF THE MINNESOTA SUPREME COURT

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When Associate Justice Philip E. Brown died in February 1915, Governor Hammond appointed Albert Schaller to the vacant seat. Judge Schaller was born in Chicago, Illinois, May 20, 1856, and died at his home in Hastings, Minnesota, March 31, 1934.

When Schaller was only a few months old, he was brought by his parents to Hastings, Territory of Minnesota, and for the following seventy-seven years, until his death, he always referred to Hastings as his home.

After graduating from St. Vincent's College at Cape Girardeau, Missouri, he spent two years studying in France. On his return he attended the Washington University Law School at St. Louis, Missouri, from which he was graduated in 1879. Later that same year he was admitted to the bar in Minnesota.

Here in Minnesota his first public office was that of county attorney of Dakota county, a position which he held for ten years, 1880 to 1890. Fresh from school he took over this office and of 13 criminal cases he prosecuted he secured 11 convictions. He was legal advisor to the city of Hastings from 1891 until 1897, city attorney of South St. Paul from 1895 to 1899, state senator from Dakota county from 1895 to 1915.

In 1915 he was appointed by Governor Hammond associate justice of the supreme court, and served from March of

that year until January 1, 1917, the expiration of the term. Thereafter, until his death, he practiced law in St. Paul and Hastings.

While serving as Democratic state senator, Schaller got immense fun out of yearly presenting a bill making it "a gross misdemeanor for any man to work between meals", and although many of his fellow senators agreed with him in principle they must have failed [-1-] to vote favorably for it, because after trying to pass it for twenty years he gave up.

In the twenty-one months that Justice Schaller was a member of the supreme court he wrote 88 opinions and not a single dissent. They are to be found in volumes 129 to 135 of the Minnesota Reports.

James H. Quinn was another justice who came to the court at this time. He assumed his seat January 1, 1917, having been elected the previous November. He was born on a farm near Kilbourne, Wisconsin, and seventy-three years later died at St. Paul, Minnesota, on February 15, 1930.

Early in 1863 his parents journeyed to Minnesota in a covered wagon, stopping in the southeast corner of Blue Earth county and settling there. Soon after their arrival eight of their neighbors were murdered by the Indians, and it was in this frontier that young Quinn grew to manhood.

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He worked his way through both grade and high school, then took up the study of law in the office of William N. Plymat at Mapleton, Minnesota.

In Blue Earth county a commission of three members was created in 1884 to examine applicants for admission to the bar. Young Quinn passed this examination, was admitted, and began practice at Minnesota Lake. Two years later, at Wells, he formed the firm of Quinn & Putnam. However, he soon turned to public service, and starting with the election of 1888, he was elected county attorney five times. On March 19, 1897, while serving his fifth term, he was appointed by Governor Clough judge of the Seventeenth district, and served until 1916, at which date he was elected to the supreme court bench. He was re-elected in 1922, but ill-health forced his retirement January 1, 1928. [-2-]

An opinion by Quinn, which was later to draw favorable comment from the United States supreme court, was handed down April 12, 1918. The action was brought under the Federal Employer's Liability Act by an engineer of a passenger train to recover for injuries sustained by him in a train wreck.

The case was first tried in lower court at Austin, Minnesota, in February, 1917, and resulted in a verdict for $10,000 in favor of plaintiff, being half of the amount he had asked for.

The plaintiff had been an engineer for 11 years, and on October 27, 1915, was pulling a first-class passenger train from

Hayfield, Minnesota, through Austin, Freeman, and Mason City, Iowa, to Clarion, Iowa.

The opinion stated: "The train was late and plaintiff received orders at Austin to run 25 minutes late to Mason City... Plaintiff had received an order advising him that all first class trains had arrived and departed, which, under the defendant's rules, entitled him to a clear track from Freeman to Mason City. The train passed Freeman at two o'clock, running about 40 miles per hour. It slowed down to about 5 miles per hour at bridge 53, one mile west of Freeman, and approaching the place of the accident within the corporate limits of Mason City, about one mile east of the depot, was running at the rate of about 35 miles per hour.... Plaintiff had shut off steam three-eighths of a mile before reaching the place of accident and was standing by his seat in the cab looking out ahead over the boiler of the locomotive, when he saw a caboose attached to a freight train on the main track a mile ahead. He applied the brakes in emergency, opened the sanders, and started to get off on his side of the locomotive, but, observing the side track full of cars, he crossed to the opposite side, went down onto the steps and jumped off, injuring his right shoulder in the fall. The freight train was moving west at about four miles per hour. Plaintiff's engine struck the caboose, practically demolishing it, but doing little damage to the locomotive. When plaintiff got up he was near the rear end of his

train. He walked up to the engine [-3-] climbed into the cab, looked at his watch, and it was eight minutes past two.

"...the freight train was trespassing upon the time of the passenger...it should have been in the clear of the main track by not later than two o'clock...The freight train was not protected by a flag man, nor was any torpedo on the track. That the defendant and the freight crew were grossly negligent requires no argument...no explanation was offered for its presence at that time on the main track over which the passenger had the right of way".

Next appellant's 34 assignments of error are disposed of under 4 headings. The first deals with contributory negligence on the part of plaintiff: "Upon the trial defendant offered in evidence an ordinance of the city of Mason City, which prohibited the running of trains within the corporate limits at a speed greater than eight miles an hour, and providing a penalty for its violation. The ordinance was received over objection. It is not disputed but that the ordinance has all the force and effect of a statute. It is the contention of the defendant that plaintiff was guilty of contributory negligence, as a matter of law, in running his train at a rate of speed exceeding eight miles per hour within the corporate limits of the city, in violation of the ordinance.

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"To determine whether the ordinance was properly admitted in evidence, it becomes necessary to consider the act under which this case was brought.

"It is well settled that the Federal Employer's Liability Act 'establishes a rule or regulation which is intended to operate uniformly in all the states, as respects interstate commerce, and in that field it is both paramount and exclusive. Congress having declared when, how far, and to whom carriers shall be liable on account of accidents in the specified statutory laws of the state'".

Under the second heading is considered the ruling on the admissibility of certain evidence; the third, improper remarks of counsel; [-4-] the fourth, excessive damages.

The opinion concludes: "We are of the opinion that the amount of damages allowed is not so large as to justify this court in interfering therewith".

The above, particularly in his statement of the scope and purpose of the Federal Employer's Liability Law, is a typical example of Quinn's style. Part of this opinion was quoted in full by Chief Justice Taft of the United States Supreme Court, in "C. & O. vs. Stapleton" (279 U. S. 587).

This case also serves as an illustration of how involved had become certain cases which a few years previously would have been disposed of quickly. Increasing city, state, and

federal legislation was often involved and pointed to as being in conflict.

A new court commissioner came to the bench on November 12, 1918, when Edward Lees was appointed to the vacancy created by Dibell's appointment to full justiceship. Judge Lees was born in Buffalo county, Wisconsin, in 1865. He was educated at the public schools and later attended the University of Wisconsin, graduating from the Law Department in 1886. Following he was admitted to practice, in both Wisconsin and Minnesota. All of his practice, however, was confined to Minnesota, and this in Winona until 1918 when he was appointed commissioner of the supreme court to fill the vacancy created by Commissioner Dibell being moved up to associate justice. On December 1, 1924, the court appointed Lees to succeed himself for the term commencing on that day. He served until October 1, 1927, the date of his resignation. He died March 25, 1928.

In the nine years that Lees served the court he wrote 530 opinions and no dissents. They are said to be sound and logical, with many showing painstaking labor. Minnesota Reports 141 to 172 contain them.

About a year after Lees came to the court, Irving A. Caswell retired from the office of clerk of supreme court and was succeeded by [-5-] Herman Mueller, who took over the duties of that office on January 7, 1919. He remained until January 1, 1923.

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The first decision growing out of the Workmen's Compensation Act was handed down by the supreme court July 2, 1920. Since that time a great deal of litigation arising out of this act has been before the Minnesota Supreme Court.

The State Industrial Commission, to which body claims for compensation arising out of this act are now first referred, became effective June 1, 1921.

This means that all proceedings arising under the Workmen's Compensation Act are passed on by the State Industrial Commission. Since Sec. 60 of Chap. 82, Laws of 1921, granting the right of appeal, was repealed or amended by Chap. 423, Laws of 1921, certiorari was made the only remedy of review before the supreme court in such matters; and this is the only recourse by which such cases passed on by the Industrial Commission may be brought before the supreme court. Certiorari means, in this sense, a review of the findings or decision or award arrived at by a lower body which had sat and acted as a tribunal in the matter.

Very often in these cases reaching the supreme court the question is whether the injury or harm was due to an accident arising out of and in the course of the plaintiff's employment as provided in the statutes. Many widely scattered incidents and occurrences have been taken as directly arising out of such employment. Instances are:

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It was held that a traveling representative injured by the overturning of an automobile used by him in the course of his travels was within the statute;

Again, it was held that a traveling representative drowned while using a boat to catch a train during a flood was within the act;

A servant in a hotel occupying a room in the hotel in order to perform her duties as servant, who was suffocated in a fire that broke [-6-] out in the night time, was held within the statute;

A threshing machine operator sleeping in a barn on a farm where the machine was in use, injured while asleep by the falling of a wagon-box, was permitted to recover compensation;

A bricklayer while eating dinner on the premises of his employer, injured by the collapse of a wall, was granted recovery for injuries sustained; and so on. A large number of these cases are now reaching the Minnesota supreme court every year. [-7-]