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## The Lookout: The Lookout Reports That These Questions Are Now Before the Supreme Court

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# The Lookout

## The Lookout Reports That These Questions Are Now Before the Supreme Court:

The JOURNAL expects to establish "The Lookout" as a regular department to keep the Bar advised as to interesting and important questions pending in the Supreme Court of this state. The information is not furnished by the Court but is compiled from the briefs now on file with the clerk. The JOURNAL suggests that attorneys desiring more complete information should communicate with counsel. This does not purport to be a complete survey of all questions now pending, but if the Bar evidences sufficient interest in this service it will be extended to include, as far as possible, all questions pending up to the time each issue of the JOURNAL goes to press.

**HEIRSHIP**—Sufficiency of evidence.

**DISTRIBUTION**—Necessity of filing inheritance tax receipt or waiver prior to order of distribution.

26777 (King) *re Estate Chas. Kometzko, Seattle First National Bank et al.*, Resps. *v. State*, App.; W. H. Pemberton and Chas. Snyder for App.

**UNDUE INFLUENCE**—Sufficiency of evidence.

26921 (King) *re Estate Wm. Bush, Shoemaker*, App. *v. Billington, et al.*, Resps.; J. Will Jones and J. F. Knight for App.

**CONSTITUTIONALITY**—Of Ch. 164, Laws '37, providing that Washington produced fuel is to be used in buildings of state and its subdivisions.

**PARTIES**—Does respondent Nichols, a resident of King County and president of coal miners' union, have sufficient interest to maintain injunction suit to prohibit use of Canadian coal?

26937 (Spokane) *Nichols, et al.*, Resps., *v. Spokane School Dist. No. 81, et al.*, Apps.; Nuzum & Nuzum and P. F. Schiffner for Apps.; S. Foster and R. S. Munter for Resps.

**WORKMEN'S COMPENSATION**—Is sleeping in movable bunk house supplied by employer within the act?

**SAME**—Does final order of Dept. that employee was not injured in

course of employment bind employer against defense of common law action by employee based on the injury as occurring in course of employment?

26953 (Grays Harbor) *Prince*, App. *v. Saginaw Logging Co.*, Resp.; H. E. Foster and R. W. DeKraay for App.

**EVIDENCE**—Where defense to action on insurance policy is that death not accidental because culpably provoked, is testimony of stenographer employed by prosecuting attorney to record statements of boy who shot deceased admissible?

26957 (Whatcom) *Preston*, Resp. *v. Metropolitan Life Ins. Co.*, App.; Preston, Thorgrimson & Turner for App.; Walter F. Fisher and Howard & Kindall for Resp.

**NEGLIGENCE**—Where roof shored up by building contractor falls because post is knocked out by a truck is instruction proper which instructs jury that mere fact the post fell would justify an inference of the contractor's negligence?

26970 (King) *Tuveson*, Resp. *v. J. M. Colman, et al.*, and *Gjarde*, App.; Ralph S. Pierce, Edwin J. Cummins, Gordon H. Sweany for App.

**VENDOR AND PURCHASER**—Where purchaser permitted to become in default on agreement to pay taxes, is this an indulgence

which will prevent the vendor from repudiating the contract without notice?

Where the seller remained on the land as lessee and after default by the purchaser paid no more rent and collected rent from another tenant, is this a "repudiation" entitling purchaser to recover purchase money?

26972 (King) *Hall, et ux.*, Resp. *v. Nordgren*, App.; James A. Dougan for App.

#### TAXATION — REDEMPTION —

Where county acquired title at tax sale and resold four years later, can former owner redeem land after statutory period of redemption? Can resident taxpayer as such question legality of tax resale by the county? Can county commissioners after expiration of redemption period contract with former owner to allow him to redeem?

26975 (King) *Sasse*, App. *v. King County and Thuesen, et ux.*, Resp.; Henry W. Parrott for App.; B. Gray Warner, L. W. Shorett, R. M. Wardall, and Jerry Finch for Resps.

TAXATION—Is tax sale held just inside court house door because of inclement weather valid in view of statute requiring such sales to be held "in front of the court house door"?

26976 (King) *Polson Logging Co.*, App. *v. A. C. Martin as Commissioner of Public Lands*, Resp.; Theodore B. Bruener for App.

#### EXECUTORS AND ADMINISTRATORS —

Is allowance of funeral expense of \$1,630.44 out of \$2,936.77 estate "unreasonable" when in accordance with testatrix's orally expressed wishes?

26978 (King) *re Estate of Mary Byam, State*, App. *v. Mallahan*, Resp.; Wm. H. Pemberton and Charles Snyder for App.

TAXATION—Under Chap. 191, Laws 1933, was taxpayer liable for 12 per cent interest on delinquent taxes where statutory return had been made but no payment? Where taxpayers personally liable on delinquent taxes, may legal interest be collected even though statute imposing the tax is silent as to interest? May interest be collected where col-

lection has been restrained by writ of injunction and by *supersedeas* pending appeal?

26979 (Thurston) *State*, App. *v. Pac. Tel. & Tel. Co.*, Resp.; The Attorney General and R. G. Sharpe for App.

TAXATION—Is note of deceased's promissory son to be included in estate in computing inheritance tax when son is insolvent and a legatee and when the Statute of Limitations had run on note during deceased's lifetime?

26987 (Walla Walla) *re Estate of Christian J. Bowers, State*, App. *v. Bowers*, Resp.; Wm. H. Pemberton and Charles Snyder for App.

QUIET TITLE—In action to quiet title may judgment for costs and attorney's fees be entered against party claiming no interest paramount to plaintiff and not answering suit or against a defaulting party where there is no contract for such fees?

26993 (King) *Caldwell, et al.*, Resp. *v. Miller, et al.*, Def. and *Tibbels, et al.*, App.; Walter Scott Acheson for App.

AUTOMOBILES—Where motorist while exercising due care knocks down "arterial stop" sign and fails to replace it or notify authorities is he liable to one injured in wreck caused by absence of the sign?

27001 (King) *Baldwin*, App. *v. Washington Motor Coach Co.*, Resp.; Wm. Phelps Totten for App.

EVIDENCE—Where injured by printing press, may evidence that guard subsequently placed on press be admitted where jury instructed that this evidence allowed only to show that guards could be placed on press?

PARTIES—Is plaintiff a competent party where sues as a minor pupil although married three months after accident?

27003 (King) *Banks*, Resp. *v. Seattle School District No. 1*, App.; B. Gray Warner and Patrick M. Tammany for App.; Oscar A. Zabel for Resp.

**NEGLIGENCE**—Sufficiency of evidence that charitable hospital negligent in selecting or retaining nurse. Did court err in admitting evidence of hospital's financial standing and in letting jury consider the fact of accident as bearing on hospital's negligence?

27006-7 (Pierce) *Miller et ux., Resp. v. Mohr and Sisters of St. Frances*, App. and *Miller, Resp. v. Sisters of St. Frances*, App.; Guy E. Kelly and Robert E. Evans for App.

**CRIMINAL LAW**—May perjury be based on deposition if deposition not signed?

27011 (King) *State, App. v. Ledford*, Resp.; B. Gray Warner and Henry Clay Agnew for App.

**NEGLIGENCE**—Did court over-emphasize element of contributory negligence in instruction in regard to fall in theatre rest room, and is confusion of "degree of care" and "amount of care" reversible error?

27013 (King) *Hubbard, et ux., App. v. The Embassy Theatre Corp.*, Resp.; Wright & Wright for App. and DuPuis & Ferguson for Resp.

**CONSTITUTIONAL LAW**—Is State Securities Act as amended constitutional?

**STATUTES**—Are oil and gas leasehold interests "securities" within the meaning of the statute? Can validity of statute be attacked prior to application for and denial of permit?

27016-7 (Thurston) *Callahan, App. v. Huse, Resp. and Petroleum Lease Properties Co.*, App. v. *Huse, Resp.*; George F. Ward and Will G. Beardslee for App.; The Attorney General, W. A. Toner, and John E. Belcher for Resp.

**TAXATION**—Where premiums on decedent's life insurance paid from community funds, can state include whole amount of policies in estate for tax purposes or only one-half thereof? If entire amount can be included is Laws 1935, Chap. 180, Sec. 115 a law impairing obligation of contract as it affects policies acquired before 1935?

27025 (King) *re Estate of Bertrum C. Coffey, State, App. v. Coffey, Resp.*; Wm. H. Pemberton and Charles Snyder for App.; Bayley & Croson for Resp.

**AUTOMOBILES**—Where defendant, over plaintiff's objection, drove fast over a bump, is this conduct amounting to "intentional accident" within meaning of the Guest Statute?

27026 (Spokane) *Parker, App. v. Taylor, Resp.*; L. H. Brown and John Huneke for App.

**INSURANCE**—May company charge compound interest on policy loan advances? Does "annual interest" mean "compound interest"? Is policy holder in a "mutual life insurance company" bound by resolutions of directors?

27029 (King) *Goodwin, Resp. v. Northwestern Mutual Life Insurance Corp.*, App.; Allen, Froude & Hilten for App.

**EXECUTORS AND ADMINISTRATORS**—Where vendor files claim for unpaid price and claim allowed and later vendor serves notice of forfeiture, may seller later claim to be a creditor of the estate?

27030 (King) *re Estate of Clarence R. Berry, Berry, Resp. v. Hamlin, App.*; Robert D. Hamlin, and Lincoln Tyler for App.; Raymond D. Ogden, Ward W. Roney, and Raymond D. Ogden, Jr. for Resp.

**CONSTITUTIONAL LAW**—Is Occupational Disease Act constitutional?

**COURTS**—Does action to restrain the director from making collections confer jurisdiction on the court?

27040 (Thurston) *Polson Logging Co., Resp. v. Kelly, App.*; The Attorney General and J. A. Kavaney for App.; Grosscup, Morrow & Ambler, amici curiae.

**AUTOMOBILES**—Is it negligence to leave stalled truck on bridge in view of statutes prohibiting parking on bridge and prohibiting the coasting with engine dead or clutch disengaged?

27043 (Pierce) *Bracy, Resp. v. Lund, Def. and Smart's Auto Freight Co.*, App.; Poe, Falknor,

Emory & Howe for App.; S. A. Gagliardi for Resp.

**CIVIL SERVICE**—May civil service carpenter be supplanted by a common laborer? To what extent must civil service employee wrongfully laid off draw the matter to the attention of the city officers? May taxpayers' money be used to employ W. P. A. workers to supplant regular carpenter? May employee with senior service object to employments in other departments?

27045 (King) *Haga, App. v. City of Seattle*, Resp. and Cross-App.; Wright & Wright, Dwight N. Stevens, and Ambrose C. Grady for App.

**BANKS**—Can national bank consolidate with state bank not in the same county? Can county raise issue of invalidity of consolidation as defense to national bank's suit to cancel personal property tax levy for taxes levied after consolidation?

27048 (Spokane) *Seattle First National Bank*, Resp. *v. Spokane County, et al.*, App.; Ralph E. Foley and A. O. Colburn for App.; Graves, Kizer & Graves for Resp.

**STATUTES**—Is Rem. Rev. Stat. §

7306-92 prohibiting sale of intoxicating liquor by the drink amended or repealed by Regulations 112 to 118 of Liquor Board? Is state bound by law to allege and prove that appellant did not have license to sell whiskey by the drink?

27051 (Spokane) *State, Resp. v. Young, App.*; Edward M. Connelly for App.; Ralph E. Foley and Leslie M. Carroll for Resp.

**ELECTION**—Is canvass of county seat election by commissioners and consideration of precinct returns showing on their faces that they are void, reviewable? Are election returns showing on their face that electors had not signed poll book valid?

27054 (Asotin) *Morris, App. v. Board of County Commissioners, et al.*, Resp.; C. A. McCabe for App.

**VENDOR AND PURCHASER**—

When entire purchase price due, must tender of deed accompany notice of forfeiture to prevent buyer from asserting that he accepts cancellation and is entitled to a return of purchase money?

27062 (Chelan) *Crim et ux., App. v. Watson, et al.*, Resp.; Harry C. Hagel for App.

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