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Two-hundred and fifty-eight opinions were filed by the Supreme Court of the State of Washington during 1953. 135 decisions of the superior courts were affirmed, 74 were reversed, and 31 others were reversed in part or modified in some respect.

Two of the most publicized decisions were *General Electric Co. v. State,* 42 Wn.2d 411, 256 P.2d 265 (1953), reversed 74 Sup. Ct. 474 (1954) and *Lundquist v. Coca Cola Bottling, Inc.,* 42 Wn.2d 170, 254 P.2d 488 (1953).

In the first case, General Electric brought suit to recover from the state nearly a million dollars in business and occupation taxes. General Electric contended that its construction and operation of the Hanford atomic works in eastern Washington was, in effect, an activity of the Atomic Energy Commission; hence, the tax exemption granted by the Atomic Energy Act of 1946 extended to them. The Washington Court held that General Electric was an independent contractor which could not claim the tax exemption. The United States Supreme Court reversed.

In the second case, a bus driver found the decayed remains of a mouse in his almost finished bottle of "Coke." He recovered damages resulting from the breach of an implied warranty of sale.

To explain why neither of these cases has been included in this survey is to define sufficiently the purposes and scope of the survey. The *General Electric* case was omitted because, though it presented a legal problem with both novelty and interest, the practical impact of the decision on Washington law was nil. The mouse-in-the-bottle case was omitted because, though factually interesting, the opinion is nothing more than the expectable application of a well settled rule of law.

Of the 258 opinions considered by the editorial board, 64 have been given textual treatment below. Brief summaries of 28 others appear at the end of the appropriate section. An additional 12 have been treated in footnotes.

Fields in which no cases believed worthy of note were found are: Administrative Law, Agency, Bills & Notes, Corporations, Equity, Partnerships, Public Utilities, and Social Security.

For a survey of statutory law enacted during 1953, see *Washington Legislation*—1953, 28 WASH. L. REV. 167 (1953).

CONFLICT OF LAWS

Jurisdiction—Order Affecting Possession of Foreign Land. In *Alaska Airlines, Inc. v. Molitor*,[1] the Supreme Court held that a trial court in Washington lacked "jurisdiction" to order a litigant personally before the court to give up possession of land in Alaska. The litigation was commenced by a vendor of an interest in land against the vendee for breach of contract. Prior to trial the plaintiff-vendor moved for an order directing the defendant-vendee to surrender all right, title and possession of the premises described in the agreement. The trial judge indicated he would issue the order. The defendant then applied to the Supreme Court for a writ of prohibition which was granted.

The court indicated that the order of the trial court would require the defendant to do an affirmative act outside the state affecting real property located outside the state and hence was not within the jurisdiction of the court.

Generally, a trial court will not issue such an order under circumstances similar to those found in this case. Refusal is usually based upon principles of sovereignty (a state has a sovereign or inherent right to decide exclusively controversies affecting land located within its borders[2]), or upon pragmatic reasons (a state in which property is

[1] 143 Wash. Dec. 606, 263 P.2d 276 (1953).

[2] The significance of the situs of real property is demonstrated in the prevailing rule that actions in law (including the action of trespass) involving property are "local" and not "transitory"; hence, the venue must be laid in the county in wihch the property is located. This distinction between "local" and "transitory" actions (which is often criticized) is usually traced in this country to Chief Justice Marshall's opinion in Livingston v. Jefferson, 1 Brock. 203, Fed. Case No. 8411 (1811). Even Marshall indicated that he could not discern a reason other than a technical one for the distinction. See Taylor v. Sommers Bros. Match Co., 35 Idaho 30, 204 Pac. 472 (1922). A court of equity cannot make a decree operating directly on land in another state. Carpenter v. Strange, 141 U.S. 87 (1891). Nor need any decree attempting to do so be given full faith and credit. Fail v. Fall, 70 Neb. 694, 113 N.W. 174 (1907), affirmed in Fall v. Eastin, 215 U.S. 1 (1909).