

SUPREME COURT OF UNITED STATES

Arizona Copper Co., Limited,

Vs.

Hammer. Same v. bray. RAY Consol. Copper Co. v. Veazey. Inspiration Consol. Copper Co. v. Mendez. Superior & Pittsburg Copper Co. v. Tomich.

09.06.1919

[Syllabus from pages 400-402 intentionally omitted]

[Cases Nos. 20 and 21:

Messrs. Ernest W. Lewis, of Phoenix Ariz., *John A. Garver*, of New York City, and *William C. McFarland*, of Douglas, Ariz., for plaintiff in error.

[Argument of Counsel from pages 402-406 intentionally omitted]

Messrs. Frank E. Curley, of Tucson, Ariz., *L. Kearney*, of Clifton, Ariz., and *Frank H. Hereford*, of Tucson, Ariz., for defendants in error.

Case No. 232:

Messrs. William H. King, of New York City, and *Alex Britton, Evans Browne*, and *F. W. Clements*, all of Washington, D. C., for plaintiff in error.

Mr. Edward W. Rice, of Globe, Ariz., amicus curiae.

Case No. 332:

Messrs. Edward W. Rice, of Globe, Ariz., and *Harvey M. Friend*, of Washington, D. C.,
for plaintiff in error.

[Argument of Counsel from pages 407-414 intentionally omitted]

Mr. Graham Foster, of New York City, for defendant in error.

[Case No. 334:

Mr. C. T. Knapp, of Bisbee, Ariz., for plaintiff in error.

[Argument of Counsel from pages 414-416 intentionally omitted]

Mr. Samuel Herrick, of Washington, D. C., for defendant in error.

Mr. Justice PITNEY delivered the opinion of the Court.

In each of these cases, a workman in a hazardous industry in the state of Arizona, having received in the course of his employment a personal injury through an accident due to a condition or conditions of the occupation, not caused by his own negligence or so far as appears by that of his employer or others, brought action under the Employers' Liability Law of Arizona, and recovered compensatory damages against the employer ascertained upon a consideration of the nature, extent, and disabling effects of the injury in each particular case. And the question is raised whether the statute referred to, as applied to the facts of these cases, is repugnant to that provision of the [Fourteenth Amendment](#) which declares that no state shall deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

Article 18 of the [Constitution](#) of the state of Arizona is entitled 'Labor,' and contains, among others, the following sections:

'Section 4. The common-law doctrine of fellow servant, so far as it affects the liability of a master for injuries to his servant resulting from the acts or omissions of any other servant or servants of the common master is forever abrogated.

'Section 5. The defense of contributory negligence or of assumption of risk shall, in all cases whatsoever, be a question of fact and shall, at all times, be left to the jury.

'Section 6. The right of action to recover damages for injuries shall never be abrogated, and the amount recovered shall not be subject to any statutory limitation.

'Section 7. To protect the safety of employes in all hazardous occupations, in mining, smelting, manufacturing, railroad or street railway transportation, or any other industry the Legislature shall enact an employers' liability law, by the terms of which any employer, whether individual, association, or corporation shall be liable for the death or injury, caused by any accident due to a condition or conditions of such occupation, of any employe in the service of such employer in such hazardous occupation, in all cases in which such death or injury of such employe shall not have been caused by the negligence of the employe killed or injured.

'Section 8. The Legislature shall enact a workmen's compulsory compensation law applicable to workmen engaged in manual or mechanical labor in such employments as the Legislature may determine to be especially dangerous, by which compulsory compensation shall be required to be paid to any such workman by his employer, if in the course of such employment personal injury to any such workmen from any accident arising out of, and in the course of, such employment is caused in whole, or in part, or is contributed to, by a necessary risk or danger of such employment, or a necessary risk or danger inherent in the nature thereof, or by failure of such employer, or any of his or its officers, agents, or employe, or employes, to exercise due care, or to comply with any [law?] affecting such employment: Provided, that it shall be optional with said employe to settle for such compensation, or retain the right to sue said employer as provided by this [Constitution](#).'

Pursuant to section 7 the Employers' Liability Law was enacted (chapter 89, Laws 1912, Reg. Sess.; Arizona Rev. Stat. 1913, pars. 3153-3162); pursuant to section 8 a Workmen's Compulsory Compensation Law was enacted (chapter 14, Laws 1912, 1st Spec. Sess.; Arizona Rev. Stat. 1913, pars. 3163 et seq.).

In two of the present cases the former law was sustained by the Supreme Court of Arizona against attacks based upon the [Fourteenth Amendment](#). Inspiration Consol. Copper Co. v. Mendez, [19 Ariz. 151, 166 Pac. 278](#), 1183; Superior & Pittsburg Copper Co. v. Tomich, [19 Ariz. 182, 165 Pac. 1101](#), 1185. In the other three cases it was sustained by the United States District Court for that district. And the resulting judgments in favor of the injured workmen are brought under our review by writs of error.

Some of the arguments submitted to us assail the wisdom and policy of the act because of its novelty, because of its one-sided effect in depriving the employer of defenses while giving him (as is said) nothing in return, leaving the damages unlimited, and giving to the employe the option of several remedies, as tending not to obviate but to promote litigation, and as pregnant with danger to the industries of the state. With such considerations this court cannot concern itself. Novelty is not a constitutional objection, since under constitutional forms of government each state may have a legislative body endowed with authority to change the law. In what respects it shall be changed, and to what extent, is in the main confided to the several states; and it is to be presumed that their Legislatures, being chosen by the people, understand and correctly appreciate their needs. The states are left with a wide range of legislative discretion, notwithstanding the provisions of the [Fourteenth Amendment](#); and their conclusions respecting the wisdom of their legislative acts are not reviewable by the courts.

We have been called upon recently to deal with various forms of workmen's compensation and employers' liability statutes. Second Employers' Liability Cases [\[1897\] USSC 15](#); , [223 U. S. 1](#), 47-53 [\[1897\] USSC 15](#); , [32 Sup. Ct. 169, 56 L. Ed. 327, 38 L. R. A. \(N. S.\) 44](#); New York Central R. Co. v. White, [\[1916\] USSC 73; 243 U. S. 188](#), 196, et seq. [\[1916\] USSC 73](#); , [37 Sup. Ct. 247, 61 L. Ed. 667](#), L. R. A. [1917D, 1, Ann. Cas. 1917D](#), 629; Hawkins v. Bleakly, [\[1916\] USSC 30; 243 U. S. 210, 37 Sup. Ct. 255, 61 L. Ed. 678](#), Ann. Cas. 1917D, 637; Mountain Timber Co. v. Washington, [\[1916\] USSC 75; 243 U. S. 219, 37 Sup.](#)

[Ct. 260](#)

, [61 L. Ed. 685](#), Ann. Cas. 1917D, 642; Middleton v. Texas Power & Light Co., [\[1919\] USSC 58; 249 U. S. 152, 39 Sup. Ct. 227, 63 L. Ed. 527.](#)

These decisions have established the propositions that the rules of law concerning the employer's responsibility for personal injury or death of an employe arising in the course of the employment are not beyond alteration by legislation in the public interest; that no person has a vested right entitling him to have these any more than other rules of law remain unchanged for his benefit; and that, if we exclude arbitrary and unreasonable changes, liability may be imposed upon the employer without fault, and the rules respecting his responsibility to one employe for the negligence of another and respecting contributory negligence and assumption of risk are subject to legislative change.