Volume 52 | Issue 1 Article 9

December 1949

States--Public Contracts--Disqualification of Officers as Applying to Funds Received from Federal Government

R. F. T.
West Virginia University College of Law

Thompson, 148 F.2d 1 (7th Cir. 1945); 157 F.2d 709 (7th Cir. 1946) (carbon monoxide poisoning); *Baltimore & O. R. R. v. Branson,* 242 U. S. 623 (1917) (paint poisoning). In *Sadowski v. Long Island R. R.,* 292 N. Y. 448, 55 N. E.2d 497 (1944), recovery for silicosis was sustained under the Federal Employers' Liability Act. The dissent in the principal case has no quarrel with the question of liability under this act.

Under the circumstances, it would seem a justifiable inference that the Boiler Inspection Act was enacted for the purpose of facilitating employee recovery in connection with the Federal Employers' Liability Act, rather than restricting such recovery or making it impossible.

W. M. T.

STATES—PUBLIC CONTRACTS—DISQUALIFICATION OF OFFICERS AS APPLYING TO FUNDS RECEIVED FROM FEDERAL GOVERNMENT.—*H,* a member of the Board of Education of Roane County, in the general merchandise business, sold supplies and groceries to schools for use in administering the National School Lunch Act. 60 STAT. 230 (1946), 42 U. S. C. §1751 (1948). In a proceeding to remove board members, *H* was charged with violating W. VA. CODE c. 61, art. 10, §15 (Michie, 1943), which prohibits any member of any county or district board from being pecuniarily interested in the proceeds of any contract or service with the board, whereby as such member, he may have any voice, influence or control. Other board members were charged with having knowingly approved the violation by *H.* The lower court dismissed the proceeding. *Held,* reversed. The state statute, regulatory in nature, applies to funds furnished the State Department of Education under the federal statute. *Hunt v. Allen,* 53 S. E.2d 509 (W. Va. 1948).

The National School Lunch Act calls for government grant-in-aid to states for hot lunch programs. The defendants contended that, since payments were made to *H* entirely with funds appropriated by Congress and deposited to the credit of the board, W. VA. CODE c. 61, art. 10, §15 (Michie, 1943), did not apply, urging that it does not cover federal money going through their hands pursuant to a federal statute but is confined to money belonging to the state. Indicating that the problem was of first impression in this jurisdiction and that diligent search had failed to reveal a

dependable precedent elsewhere, the Supreme Court of Appeals took the position that dealings with federal money would be subject to the fiscal procedure and regulations required by local statutes. Congress, by adopting the act creating the hot lunch program, undoubtedly expected federal money to receive equal protection with that of the state.

It has been held that federal funds appropriated by Congress for vocational education and vested in the hands of the state treasurer are public funds subject to laws governing handling and the deposit of public funds, *State* ex rel. *Griffith v. Thompson,* 115 Kan. 457, 223 Pac. 258 (1924), unless the placing thereof in a special fund is specifically authorized by the constitution or a statute. *State v. McMillan,* 34 Nev. 264, 117 Pac. 506 (1911). In such case, although the funds may not be subject to appropriation by the legislature, not being part of the state's general fund and the duty of the state treasurer in reference to them being merely clerical and ministerial in nature, *cf. Melgard v. Eagleson,* 31 Idaho 41, 172 Pac. 655 (1918), state laws will still govern the handling and deposit thereof. *State* ex rel. *Griffith v. Thompson, supra* (recognizing that the money did not necessarily belong to the state, but could still be regarded as federal funds). Those authorities seem to agree with our court's determination to protect federal funds. Further, although the Kansas court was not faced in the *Thompson* case with the issue of disbursement of federal funds through a state agency, it seems probable that it would have protected them in distribution as it did in custody. By holding that our statutory regulations apply to federal money spent under the auspices of the state and not solely to money belonging to the state or its governmental units, our court has made a further application of the same basic policy. In view of increasing federal grants-in-aid to the states, the decision would seem both proper and important.

R. F. T.

TRADE REGULATION—MONOPOLIES—STATUS OF REQUIREMENTS CONTRACTS UNDER THE CLAYTON ACT.—Standard Oil had contracts binding some 6,000 gasoline stations to purchase all their requirements of one or more of its products. Gasoline sales under those contracts in 1947 totaled more than $57,000,000 which was, however, only 6.8% of the total gasoline sold to retail outlets in the