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MASTER AND SERVANT.—WORKMEN'S COMPENSATION ACT.—Claimant was shot after working hours, in a wash room, by a fellow worker with whom he had previously been engaged in a dispute concerning their work. The fellow worker, the aggressor, had abandoned his position with the company. Held, that the injury arose "out of the employment," so as to entitle the injured man to recover under the Workmen's Compensation Act. *Franklin Coal and Coke Co. v. Industrial Commission*. (Ill., 1926), 152 N. E., 498.

When suit is brought to recover compensation under a Workmen's Compensation Act the question, as a rule, resolves itself into whether the injury "arose out of" and "in the course of" the employment. Statutes in some states require that the injury in order to be compensable must not only "arise out of," but must be "in the course of" the employment. *In re Sundine*, 218 Mass., 1, 105 N. E., 433; *Walther v. American Paper Co.* (N. J.) 98 A., 264. On the other hand, in some states statutes do not so provide as in the case of *Bristow v. Department of Labor*, (Wash.) 246 Pac., 573. There an employee arrived at work thirty-five minutes early and was killed while fishing for his own purpose on his master's premises, and the court held his death compensable though not caused by accident "arising out of" or "in the course of" his employment. A dissenting judge said, "that he is not a workman if injured on the premises of his employer engaged in some employment other than for his employer." The court cites the case of *Stertz v. Industrial Insurance Commission*, 91 Wash., 588, 158 Pac., 256, where it was held that only when the injury occurs away from the employer's plant that the employee must be "in the course of his employment." The court in the *Bristow* case, *supra*, places its decision on the ground that the statute does not require the injury to "arise out of" and "in the course of" the employment. In cases where such words are in the statute they should be construed liberally. *Brady v. Oregon Lumber Co.* (Ore.) 243 Pac., 96. Courts do not, as a rule, disagree as to the fundamental principles necessary for recovery under Workmen's Compensation Acts, but they sometimes disagree as to the application of the law to the facts. "It may be said that an employee is injured in the course of his employment when the injury occurs within the period of his employment at a place where he may reasonably be, and while he is reasonably fulfilling the duties of his employment, or is engaged in doing something incidental to it." *Dietsen Co. v. Industrial Board*, 279 Ill., 11, 116 N. E., 684. "There must, however, be some causal relation between the employment and the injury. Although it need not be one which ought to have been foreseen, it must be one which, after its occurrence, may be seen to have had its origin in the nature of the employment." *Pekin Cooperaage Co. v. Industrial Commission*, 285 Ill., 31, 120 N. E., 530; *In re McNicol*, 215 Mass., 497, 120 N. E., 697. Generally, courts deny the claimant's right to recover in cases where the injury was the result of horseplay. *Hulley v. Moosbrugger*, 88 N. J. Law., 161, 91 Atl., 1007; *Pierce v. Boyer Coal Co.*, 99 Neb., 321, 156 N. W., 509. In the *Pierce* case the court held "that where an employee is assaulted by a fellow worker, whether in anger or in play, an injury so sustained does not arise 'out of the employment.'" The case of *Pekin Cooperaage Co. v. Industrial Board*, 277 Ill., 53, 115 N. E., 128, is, however, *contra*. A workman while in line to get his pay was pushed from his place in the line and thrown to the ground thereby injuring him, and the court held the employee was entitled to compensation as the injury arose out of the servant's employment. Thus in each case, brought to the attention of the court, a new set of facts present a new problem to be solved in the light of the statute of the state as applicable to the particular facts.

E. C. F. '27.

MUNICIPAL CORPORATIONS—ORDINANCES REGULATING BILLBOARDS—AESTHETIC CONSIDERATIONS.—The defendant was charged with the violation of a municipal

ordinance which prohibited the erection within the municipality of all billboards designed for advertising purposes, except signs of certain dimensions advertising realty for sale, or for rent. The county court convicted the defendant for a violation of the ordinance sustaining the validity of the ordinance on aesthetic grounds alone. On appeal, *held*, that the ordinance was invalid as being an unwarranted exercise of police power, as depriving the owner of the free use of his property, and as not tending to promote public safety, health, or general welfare, *People v. Wolf*, (1926) 127 Misc., 382, 216 N. Y. S., 241.

In the United States, the courts have held almost uniformly that the police power can not be exercised solely for aesthetic purposes. *Curran v. Denver*, 47 Colo., 221, 107 Pac., 261; *Commonwealth v. Boston Advertising Company*, 188 Mass., 348, 74 N. E., 601; *Passaic v. Patterson Bill Posting Company*, 72 N. J. L., 285, 62 Atl. 267; *State v. Whitlock*, 149 N. C., 542, 63 S. E., 123. Ordinances prohibiting the erection of advertising signs near public parks and boulevards have been held invalid as the unwarranted confiscation of private property to promote beauty alone, rather than to protect public rights which are imperiled. *Chicago v. Gunning System*, 214 Ill., 628, 73 N. E., 1035; *Haller Sign Works v. Training School*, 249 Ill., 436, 94 N. E., 920. In *Isenbath v. Barnett*, 206 App. Div., 546, the court held that, "the aesthetic is a matter to be secured so far as it may be by private covenant without the backing of police power," and quoting from the *Haller Sign Works v. Training School*, *supra*, the court said, "advancement along these lines (speaking of the aesthetic) has so far been left to schools and colleges, and under the influence of social intercourse." Ordinances prohibiting the erection of billboards in particular localities have been upheld as being within the police power. *Cusack v. Chicago*, 242 U. S., 526; *Gunning v. St. Louis*, 235 Mo., 99, 137 S. W., 929; *St. Louis Poster Company v. St. Louis*, 249 U. S., 269. Such ordinances do not bar billboards, however, by reason of their offensiveness to the aesthetic senses, but primarily because signboards afford increased hazards from fires, high winds, and interfere with the passage of sunlight and air, thereby jeopardizing public interest. Within recent years, increased population in urban districts has warranted an extension of the police power as evidenced by zoning regulations. *Wulfson v. Burden*, 241 N. Y., 288, 150 N. E., 120; *Bacon v. Walker*, 204 U. S., 311. The courts in upholding the zoning laws have been inclined to recognize, as incidental to the dominant factors of public health and safety, the auxiliary element of beauty. *Welsh v. Swasey*, 193 Mass., 364, 79 N. E., 745; *Cinello v. New Orleans*, 154 La. 271, 97 So., 440; *State v. Haughton*, 144 Minn., 1, 174 N. W., 885. Possibly the furthest extreme yet mentioned by any court is seen in the dissenting opinion of Judge Holt in *State v. Haughton*, *supra*, where he said, "it is time the courts recognized the aesthetic as a factor in life. Who will dispute that the general welfare of dwellers in our congested cities is promoted if they be allowed to have their homes in fit and harmonious or beautiful surroundings?" J. R. B. '28.

SUNDAY LAWS—ACTS OF NECESSITY OR CHARITY—GASOLINE NOT "NECESSITY."
 —Defendant was indicted for violating a city ordinance which prohibited, under penalty, the sale of goods, wares and merchandise on Sunday, and provided that "charity or necessity on the part of the customer may be shown in justification of the violation of this ordinance." Defendant opened his filling station on the Sabbath day to dispense gasoline to physicians, officers of the law, tourists, and patrons of his garage which he ran in connection with the filling station. Although defendant sold gasoline only to those who signed statements that it was necessary for them to have it, the particular circumstances under which the sales were made did not appear in the record. The circuit judge instructed the jury to return a verdict of guilty and defendant appeals on ground that this being the motor age, the sale of gasoline on Sunday is an inherent, essential, and