Workman's Compensation Act: Township Road Superintendent; Master and Servant

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as the hogs of the appellee. No showing that the hogs of the witnesses were fed and cared for in the same manner as the hogs of the appellee.

In order that there may be proof that similar causes produce like results there must also be proof of substantial similarity of all the conditions that might enter in or affect the result. Unless these are shown the matter necessarily becomes one of conjecture and speculation. The court has held repeatedly that such evidence is not admissible.\(^6\)

For the error pointed out, the case must be reversed.

\_ Albert A. Mayer

**Workman’s Compensation Act: Township Road Superintendent; Master and Servant.**

A recent case worthy of note is found in the advance sheets of the *North Western Reporter*\(^4\) and decided by the Supreme Court of Iowa. A township road superintendent in Iowa received injuries in the course of his official duties, and sought to hold the township liable, under the provisions of the Workmen’s Compensation Act of that state.

The court decided that the township was not liable, for a two-fold reason: first of all, the township, in the state of Iowa, does not fall within the definition of “employer” within the Workmen’s Compensation Statute;\(^2\) secondly, a township road superintendent is an “official,” and not an “employee” within the terms of the statute there.\(^3\)

The statutes of Wisconsin exclude, likewise, a township road superintendent from participation in the effects of the operation of the Workmen’s Compensation Act, not for a two-fold, but for a single reason. The reason is found in our statute, which defines “employee,” within the meaning of the aforesaid act.\(^4\) That section, in clear and unmistakable terms, delimits and defines “employee” as “Every person in the service of the state or of any county, city, town, village or school district therein under any appointment, or contract of hire, express or implied, oral or written, except any official of the state, or of any county, town, city, village or school district therein.” The road superintendent is a representative of the town, and his duties are official and supervisory in character, and so he comes within the last clause of the statute, and is therefore barred from partaking of the benefits of the statute.

Wisconsin, unlike Iowa, does not exclude the township from its definition of “employer” within the purview of the statute.\(^5\)

The Iowa case is valuable also so far as it summarizes, within a narrow compass, the functions of the township, the smallest unit of our government.

\_ Raymond Ford


\(^{1}\) *Hop v. Brink*, Supreme Ct. of Ia. 217 N.W. 551.

\(^{2}\) Code of Ia. 1924 Sec. 1421, 136 Ia. 709.

\(^{3}\) Code 1924 Secs. 1421, 4788, 4789, 4791, 4807, 4811, 4815, 4816.

\(^{4}\) Sec. 102.07 Wis. Stats. of 1923.

\(^{5}\) Sec. 60.01 and 102.04, Wis. Stats. of 1923.