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**WILLIAM J. INGERSOLL**

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THE  
**Federal Railway Digest**

A Cumulative Quarterly 47

**Digesting All Decisions**

Both State and Federal

Pertaining to the Civil and  
Criminal Liability of

**Interstate Carriers by Rail**

Under All Acts of Congress

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*WILLIAM J. INGERSOLL, Editor*

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# THE FEDERAL RAILWAY DIGEST

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Vol. III

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No. 4

## ADAMSON LAW\*

### Computation of Day's Work.

The thirty minutes required of trainmen preparatory to their trips is to be included in determining their day's work under the Adamson law. *Nelson v. St. Joseph & Grand Island R. Co.*,—Mo. App.—, 205 S. W. 870.

### Overtime.

The fact that a trainman's contract of employment does not provide for overtime pay, or specify what shall constitute a day's work, cannot alone defeat his right under the Adamson law to payment for overtime, since that law supplies such omission unless it is clearly inapplicable because the contract of employment cannot be construed so as to ascertain the daily

wage. *Nelson v. St. Joseph & Grand Island R. Co.*,—Mo. App.—, 205 S. W. 870.

The fact that a contract of employment provides for a fixed monthly wage does not preclude liability under the Adamson law for overtime work above the eight-hour period, where the daily wage may be easily ascertained. *Nelson v. St. Joseph & Grand Island R. Co.*,—Mo. App.—, 205 S. W. 870.

A contract to pay a trainman a fixed monthly wage for two round trips every four days with the fifth day off, is such that his daily compensation can be easily ascertained so as to entitle him to recover under the Adamson law for overtime work. *Nelson v. St. Joseph & Grand Island R. Co.*,—Mo. App.—, 205 S. W. 870.

\*For text of Adamson Law see Vol. I, Federal Ry. Digest, Part 3, p. 167.

## ANIMALS

See Carriers of Interstate Freight and Express, VII

**BOILER INSPECTION ACT\*****FEDERAL**

For previous decisions see Federal Ry. Digest, Vol. I, No. 2, pp. 7-8, and Vol. II, p. 5.

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**III. CRIMINAL LIABILITY.****I. VALIDITY AND CONSTRUCTION.****A. In General.**

(No decisions.)

**B. Effect of Act on State Laws.**

See generally same section Federal Ry. Digest, Vol. I, No. 2, p. 7.

(No new decisions.)

**C. Duty Imposed on Carriers.**

See generally same section Federal Ry. Digest, Vol. I, p. 7.

(No new decisions.)

**II. LIABILITY FOR INJURIES TO EMPLOYEES.****A. In General.**

For previous decisions see same section Federal Ry. Digest, Vol. I, p. 7.

**In General.**

A carrier is liable under the Federal Employers' Liability Act for the death of an engineer in consequence of the explosion of the boiler of an oil burning locomotive as the result of the alleged negligence of the former in using large button head bolts in the crown sheet, although such type of bolts had not been disapproved by the Federal boiler inspectors. *Great Northern R. Co. v. Donaldson*, 246 U. S. 121, 62 L. ed. —, 38 Sup. Ct. Rep. 230, affirming 89 Wash. 161, 154 Pac. 133.

A judgment for the plaintiff was sustained in an action based on the Federal Employers' Liability Act for the death of an engineer as the result of the explosion

of the boiler of an oil burning locomotive which was equipped with an improper type of crown sheet stay bolts having large button heads, and for which the defendant failed to provide safety fusible plugs, and also permitted scale to accumulate on the crown sheet. *Great Northern R. Co. v. Donaldson*, 246 U. S. 121, 62 L. ed. —, 38 Sup. Ct. Rep. 230, affirming 89 Wash. 161, 154 Pac. 133.

The evidence in an action under the Federal Employers' Liability Act for the death of an engineer, by the explosion of an oil burning locomotive boiler, as the result of the alleged negligence of the defendant in using crown sheet bolts having large button heads exposing an unnecessarily large surface to the flames, held not to show that the government boiler inspectors had approved either large or small bolt heads in such locomotives. *Great Northern R. Co. v. Donaldson*, 246 U. S. 121, 62 L. ed. —, 38 Sup. Ct. Rep. 230, affirming 89 Wash. 161, 154 Pac. 133.

**Clothing Catching on Bolt.**

The Federal Boiler Inspection Act has no application to an action for injuries received by a switchman in consequence of his clothing catching on the jagged end of a bar or brace which extended slightly above the footboard of a switch engine. *Miller v. Chicago, Burlington & Quincy R. Co.*, — Minn. —, 187 N. W. 117.

**Assumed Risk.**

The Federal Boiler Inspection Act is a statute enacted for the safety of employees, within the meaning of section 4 of the Federal Employers' Liability Act providing that servants shall not be deemed to assume the risks of their employment where the violation by a carrier of any statute enacted for the safety of employees contributes to the injury or death of a servant. *Great Northern R. Co. v. Donaldson*, 246 U. S. 121, 62 L. ed. —, 38 Sup. Ct. Rep. 230, affirming 89 Wash. 161, 154 Pac. 133.

**B. Actions.**

For previous decisions see same section Federal Ry. Digest, Vol. I, p. 8.

Orders of Director General of Railroads respecting venue of actions. See Government Operation of Railways.

\*For text of act see Federal Ry. Digest, Vol. I, No. 2, p. 362.



**Instructions.**

An instruction in an action under the Federal Employers' Liability Act, to the effect that an employee did not assume the risk of injury from the use of a locomotive having a boiler which was not in the condition of safety required by the Federal Boiler Inspection Act, held more favorable to the defendant than the law required in an action for the death of an engineer from the explosion of the boiler. *Great Northern R. Co. v. Donaldson*, 246 U. S. 131, 62 L. ed. —, 38 Sup. Ct. Rep. 230, affirming 89 Wash. 161, 154 Pac. 133.

An instruction in an action under the Federal Employers' Liability Act to the effect that an employee was not guilty of contributory negligence in using a locomotive having a boiler which did not satisfy the Federal Boiler Inspection Act, was more favorable to the defendant than the law required. *Great Northern R. Co. v. Donaldson*, 246 U. S. 131, 62 L. ed. —, 38 Sup. Ct. Rep. 230, affirming 89 Wash. 161, 154 Pac. 133.

An instruction was properly refused when to the effect that if a railway com-

pany was negligent in the construction and maintenance of a locomotive boiler, an engineer assumed the risk of injury by continuing to use it with knowledge of its condition and the danger of using the same; but that he could not be charged with assuming such risk if the defendant violated some Federal statute; that the defendant was not liable for injuries caused by adopting an improper type of crown sheet bolts, or in failing to install fusible plugs in a locomotive boiler, even though the defendant's negligence caused the explosion of the boiler and the death of the engineer, if he was familiar with the type of construction, or the particular form of negligence involved, and knew the dangers likely to arise therefrom, or in the exercise of reasonable care he should have known of them previous to his injury. *Great Northern R. Co. v. Donaldson*, 246 U. S. 131, 62 L. ed. —, 38 Sup. Ct. Rep. 230, affirming 89 Wash. 161, 154 Pac. 133.

**III. CRIMINAL LIABILITY.**

(No decisions.)

## CARRIAGE OF PERSONS

- I. IN GENERAL.
- II. FARES AND TICKETS.
- III. PASSES.
  - A. In General.
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- IV. OBTAINING TRANSPORTATION IN VIOLATION OF LAW.
  - A. In General.
  - B. Expulsions.
  - C. Injury or Death.

### I. IN GENERAL.

See generally same section Federal Ry. Digest, Vol. I, No. 3, pp. 7-11 and No. 4, pp. 4-5.

#### Unjust Discriminations.

##### —Making Unscheduled Stop.

The Act Regulating Commerce prohibits a carrier extending to a person any privilege or facility in the interstate transportation of passengers except such as are specified in the tariffs, such as contracting to stop a train at an unscheduled station. *May v. Seaboard Air Line R. Co.*, — S. C., — 96 S. E. 482.

#### Liability Under Carmack Amendment for Injury to Passenger.

The Carmack Amendment does not apply to the transportation or injury of persons, but deals exclusively with the shipment of property. *Chicago, Rock Island & Pac. R. Co. v. Maucher*, — U. S., — 43 L. ed., — 39 Sup. Ct. Rep. 108, affirming 100 Neb. 237, 159 N. W. 422.

An initial carrier which sells a ticket for interstate transportation over several connecting lines, including a bus transfer company, is liable under the Carmack Amendment for injuries sustained by a passenger through the negligence of the latter company. *Gray v. Colorado & Southern R. Co.*, — Tex. Civ. App., — 204 S. W. 347.

Where a carrier sells a ticket for interstate transportation over several connecting lines, the subsequent carriers are answerable under the Carmack Amendment only for their own negligence. *Gray v. Colorado & Southern R. Co.*, — Tex. Civ. App., — 204 S. W. 347.

### II. FARES AND TICKETS.

See also same section Federal Ry. Digest, Vol. 1, No. 3, p. 7, and Vol. II, p. 5.

#### Establishing Excursion Rates.

##### —Posting.

Under the rule of the Interstate Commerce Commission adopted October 12, 1915, amending Rule 52, it is not necessary that notice of the establishment of an excursion rate of fare be posted in two public and conspicuous places in the waiting rooms where tickets, for such excursion are sold, since it is sufficient if the tariff thereof is on file at stations. *Mississippi Cent. R. Co. v. Graham*, — Miss., — 80 So. 66.

### III. PASSES.

See also same section Federal Ry. Digest, Vol. I, No. 3, pp. 8-9, No. 4, pp. 4-5, and Vol. II, p. 8.

#### A. In General.

##### Nature.

A pass issued for the free interstate transportation of the wife of a railway employee is a gratuity. *Clark v. Southern R. Co.*, — Ind. App., — 119 N. E. 539.

#### Stating Conditions of Pass in Schedules and Tariffs.

The Act Regulating Commerce does not require that the terms and conditions of a free pass issued to the wife of an employee for interstate transportation, or that any rule or regulation governing its issue, shall be made a part of the schedules of rates, fares and charges filed with the Interstate Commerce Commission. *Clark v. Southern R. Co.*, — Ind. App., — 119 N. E. 539.

#### B. Contracts to Issue.

See also same section Federal Ry. Digest, Vol. I, No. 3, p. 8, and Vol. II, p. 6.

(No new decisions.)

#### C. To Whom Issued.

See generally same section Federal Ry. Digest, Vol. I, No. 3, p. 9, No. 4, p. 8, and Vol. II, p. 7.

#### Wife of Employee.

The Act Regulating Commerce permits an interstate carrier to issue a free pass for the interstate transportation of the wife of an employee. *Clark v. Southern R. Co.*, — Ind. App., — 119 N. E. 539.

**D. Limitation of Liability.**

See also same section Federal Ry. Digest, Vol. I, No. 3, p. 9, and Vol. II, p. 8.

**Effect of State Laws.**

Neither the Act Regulating Commerce nor the Carmack Amendment preclude the application to a pass issued for the interstate transportation of the wife of a railway employee, of a state statutory or constitutional prohibition against contracts limiting the liability of carriers. *Clark v. Southern R. Co.*,—Ind. App.—, 119 N. E. 539.

A state statute making void all limitations of a carrier's liability contained in tickets or passes unless printed in type of a designated size, applies to a free pass issued for the interstate transportation of the wife of an employee. *Clark v. Southern R. Co.*,—Ind. App.—, 119 N. E. 539.

A condition of a free pass issued for the interstate transportation of the wife of a railway employee limiting the liability of the carrier, is void under a state constitutional and statutory prohibition against such contracts. *Clark v. Southern R. Co.*,—Ind. App.—, 119 N. E. 539.

**Caretakers of Live Stock.****—Limitation of Time for Action for Injury.**

A condition of a live stock contract for the free interstate transportation of a caretaker without charge other than that paid for transporting the cattle, that no action for injuries accruing out of the contract of shipment shall be maintained unless brought within six months includes an action for personal injuries to the caretaker, and is valid. *Achen v. Atchison, Topeka & Santa Fe R. Co.*,—Kan.—, 175 Pac. 980.

The fact that in a contract for the free interstate transportation of a caretaker of live stock without charge other than that paid for transporting the cattle, contains an unenforceable provision releasing

the carrier from liability for its own negligence, does not destroy the entire contract, so as to invalidate a provision relating to the time within which an action for injury to the caretaker must be commenced. *Achen v. Atchison, Topeka & Santa Fe R. Co.*,—Kan.—, 175 Pac. 980.

An action for injuries sustained by a caretaker while accompanying an interstate shipment of live stock without payment of fare other than the charges paid for transporting the cattle, is within a condition of the contract of shipment that no action for injuries accruing or arising out of the contract shall be maintained unless brought within six months. *Achen v. Atchison, Topeka and Santa Fe R. Co.*,—Kan.—, 175 Pac. 980.

**E. Improper Use of Passes.**

See same section Federal Ry. Digest, Vol. I, No. 3, p. 10.

(No new decisions.)

**IV. OBTAINING TRANSPORTATION IN VIOLATION OF LAW.**

See also same section Federal Ry. Digest, Vol. I, No. 3, pp. 10-11.

**A. In General.**

(No new decisions.)

**B. Expulsion.**

See also same section Federal Ry. Digest, Vol. I, No. 3, p. 10.

(No new decisions.)

**C. Injury or Death.**

See also same section Federal Ry. Digest, Vol. I, No. 3, p. 11.

(No new decisions.)