

Borgnis and others v. The Falk Company

147 Wis. 327 (1911)

In this case, the Wisconsin Supreme Court reversed a ruling of the Milwaukee County Circuit Court. The majority opinion was written by Chief Justice John B. Winslow. Justices John Barnes and Roujet D. Marshall wrote concurring opinions.

In this case the Wisconsin Supreme Court unanimously upheld the constitutionality of the Workers Compensation Act of 1911.

The respondents in the case (Borgnis, et al) were employed in supervisory positions at Falk Co., a Milwaukee manufacturing company. Falk argued that although workplace safety conditions needed to be improved, the Act should not be extended to include people who were, like Borgnis, working in “non-hazardous trades.” The Court disagreed.

Adding 32 sections to the Wisconsin Statutes, the Workers Compensation Act outlined, Chief Justice Winslow wrote:

(A) way by which employer and employed may, if they so choose, escape entirely from that very troublesome and economically absurd luxury known as personal injury litigation and resort to a system by which every employee not guilty of willful misconduct may receive at once a reasonable recompense for injuries accidentally received in his employment under certain fixed rules, without a lawsuit and without friction.

Justice Marshall agreed on the value of the new law, writing:

May it (the legislation) be the beginning of a well rounded out constitutional system making every one who consumes any product of labor for hire pay his proportionate amount of the cost of the creation representing the personal injury misfortunes of those whose hands have enable him to secure the objects of human desire...

Among other things the Act stated that all injured parties must have an examination by a physician, upon the employer’s request. The Act also clearly spelled out the definition of an employee.

Winslow stated that the Workers Compensation Act was a legislative response to a public demand to meet or remedy a problem brought on by modern industrialism. Marshall said the Legislature had intended to induce employers to voluntarily “become parties to the new system designed to better conserve human life and human happiness.” The Court’s role, the justices emphasized, was simply to determine if any provisions of the Act violated the Constitution.