

### **Contracts--Infants--Army and Navy--War Risk Insurance--Change of Status (United States of America v. Augie Crook Williams, 302 U.S. 46 (1937))**

St. John's Law Review

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CONTRACTS—INFANTS—ARMY AND NAVY—WAR RISK INSURANCE—CHANGE OF STATUS.—In 1919, plaintiff's son, a 17-year-old boy, desiring to enlist in the United States Navy for the period of his minority, procured the consent of his parents to such enlistment, as required by statute. Across said consent the parents wrote a clause providing that such consent was given upon condition that the boy obtain and carry war risk insurance in the sum of \$10,000, naming his mother, plaintiff herein, as beneficiary. On the day of his enlistment the son accordingly took out such insurance directing defendant to deduct the premiums from his pay, his parents having released their claims thereto. In 1920, the son, in writing, without plaintiff's consent, and during his minority, requested that his insurance be terminated. Thereafter, defendant made no deductions from his pay on account of premiums. In 1921, the boy was assigned to a vessel which left for the southern oceans. The ship, its officers and the crew were never heard of again and the Navy Department declared all aboard deceased. Plaintiff made demand for payment under the policy and defendant refused such payment and plaintiff sued. The plaintiff alleged: (1) the condition written across the consent and accepted by the recruiting officer constituted a binding agreement that the enlistment was subject to it; (2) the rescission of the insurance by the deceased during his minority constituted a contract, and as such is itself capable of being rescinded by the infant, or, in case of death of the infant during infancy, by his personal representatives. *Held*, judgment for defendant. *United States of America v. Augie Crook Williams*, 302 U. S. 46, 58 Sup. Ct. 81 (1937).

The statute providing for the consent of parents prior to the enlistment of minors under the age of 18 years did not confer upon or leave with the parents any right to condition their consent; nor did it clothe the naval recruiting officer with authority to bind the defendant by the acceptance of the consent with the condition endorsed thereon.<sup>1</sup> Consequently, the defendant was not bound by the condition. The United States is neither bound nor estopped by acts of its officers or agents in entering into an agreement to do or cause to be done what the law does not sanction or permit.<sup>2</sup> Public policy demands this rule.

War risk insurance was made available for the benefit of all those in active military service for the protection of themselves and their dependents.<sup>3</sup> The plaintiff contends that her son's attempted rescission during his minority was at best a voidable contract, itself

<sup>1</sup> 34 U. S. C. A. § 161. " \* \* \* minors between the age of fourteen and eighteen years shall not be enlisted for the naval service without the consent of their parents or guardians".

<sup>2</sup> *Hart v. United States*, 95 U. S. 316, 24 L. ed. 479 (1877); *Pine River Logging Co. v. United States*, 186 U. S. 279, 22 Sup. Ct. 920 (1901); *Utah Power & Light Co. v. United States*, 243 U. S. 389, 37 Sup. Ct. 387 (1917); *Wilber Nat. Bank v. United States*, 294 U. S. 120, 55 Sup. Ct. 362 (1935).

<sup>3</sup> WAR RISK INS. ACT (1917) § 400, 40 STAT. 409.

subject to rescission by the infant or, in the event of his death prior to attaining his majority, by his personal representative. That this is a well-known principle of law cannot be denied.<sup>4</sup> The law, however, distinguishes between the rights and duties of infants in civil life and those enlisted in the military service. An enlistment is more than a mere contract. It effects a change of status,<sup>5</sup> the infant becoming emancipated from the control of his parents, and, so long as he remains in the service, is amenable to the military law.<sup>6</sup> The Congress intended under the Act and its amendments to extend to minors as well as adults who served in the armed forces of the United States all of the rights and privileges of the Act, and to subject them to all of the conditions and limitations contained therein.<sup>7</sup> The age at which persons shall be deemed competent to do any acts or perform any duties depends wholly upon the Legislature.<sup>8</sup> The insurance policy provided that it was subject in all respects to the provisions of the Act creating it, of any amendments thereto, and of all regulations thereunder all of which, together with the application, formed the contract of insurance.<sup>9</sup> The Secretary of the Treasury was granted power under Section 13 of the Act to make and change regulations governing the administration of the law and pursuant to such authority determined that the contract of insurance shall lapse and terminate upon written request for cancellation from any policy holder.<sup>10</sup> By virtue of his change of status the rescission of the policy by the emancipated minor was valid and binding and the judgment for plaintiff was rightfully reversed.

M. F.

CONTRACT OF SALE—STATUTE OF FRAUDS—ACCEPTANCE AND RECEIPT BY VENDEE IN POSSESSION.—Plaintiff let an apartment to defendant and in addition to the apartment the lease included, among other furnishings, three pairs of draperies valued at \$150. While defendant was still in possession of the draperies, he orally asked plaintiff if he would sell the draperies and plaintiff consented by saying: "Very well, the draperies are yours." On the day designated for payment of the purchase price defendant refused to perform whereupon plaintiff brought this action for breach of contract. Defendant

<sup>4</sup> *Myers v. Hurley Motor Co., Inc.*, 273 U. S. 18, 47 Sup. Ct. 265 (1926); *Mutual Life Ins. Co. v. Schiavone*, 71 F. (2d) 980 (App. D. C. 1934).

<sup>5</sup> *In re Grimley*, 137 U. S. 147, 11 Sup. Ct. 54 (1890); *In re Morrisey*, 137 U. S. 157, 11 Sup. Ct. 57 (1890).

<sup>6</sup> *United States v. Reaves*, 126 Fed. 127 (C. C. A. 5th, 1903); *In re Scott*, 144 Fed. 79 (C. C. A. 9th, 1906).

<sup>7</sup> *Von Der Lippi-Lipski v. United States*, 4 F. (2d) 168 (App. D. C. 1925).

<sup>8</sup> *Wasserman v. Feeney*, 121 Mass. 93 (1876).

<sup>9</sup> *White v. United States*, 270 U. S. 175, 46 Sup. Ct. 274 (1926); *Lynch v. United States*, 292 U. S. 571, 54 Sup. Ct. 840 (1934).

<sup>10</sup> Treasury Decision No. 48, Sept. 29, 1919.