

Construction and the Law

Famous Construction Cases: US v. Spearin and the Spearin Doctrine

By Michael Bosse



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In this edition, I am starting a practice wherefrom time to time I will use this column to highlight famous construction cases in history. We hear a lot about famous legal cases but very few times do people talk about famous construction cases.

The first famous construction case comes from 1918, from the United States Supreme Court. *United States v. Spearin*, which can be found 248 U.S. 132 (1918). In this case, the Court created the Spearin Doctrine, which holds that an owner provides an implied warranty to a general contractor that the plans and specifications provided, if followed, will be adequate for the successful construction of the project.

First, some context: 1918 saw many things, from the Spanish Flu to the end of World War I. Members of the Romanov family were executed, and Nelson Mandela was born. Hawaii and Alaska were not yet part of the United States. We are talking almost 100 years ago.

Now to the case: Spearin contracted with the Brooklyn Navy Yard to build a dry dock for \$757,800 in accordance with plans and specifications which the government had prepared for the contractor to use on the project. A 6-foot brick sewer intersected the site selected, which was necessary to divert and relocate before work on the drydock could begin. The specifications that the government provided to Spearin provided the dimensions, material selections and the location of the portion of the sewer that needed to be substituted, along with details about adjoining sewers. Spearin performed the work to the specifications, and the government accepted the work and concluded it was done in a satisfactory fashion.

A year after the relocation of the 6-foot sewer, there was a sudden heavy downpour of rain that occurred at high tide, which forced water into the sewer, and internal pressure broke the sewer in several places, and the dry dock excavation was completely flooded. After investigation, it was discovered that there was a dam from 5 to 5.5 feet high in an adjoining 7-foot sewer that no one knew about that had caused water to be diverted to the sewer that Spearin had relocated. The dam in the 7-foot sewer was not shown on any city maps, although the sewer was clearly part of the city's sewer system. The government's specifications and plans that it provided to Spearin did not include the dam inside the sewer either. Instead, on

the plans, the 7-foot sewer was shown, but it was marked as unobstructed.

Spearin informed the government that, given this event, the sewers were "a menace to the work" and that they would not resume operations until the government either assumed responsibility for the existing damage or made such changes to the sewer system to remove the danger. The government, for their part, insisted that the responsibility for remedying the existing conditions rested with Spearin. After a year and a half more of investigation and letter writing back and forth without a resolution, the government terminated the contract with Spearin, and completed the dry dock with a new contractor and radically changed and enlarged plans.

Spearin had been paid \$130,000 but was owed another \$80,000, which the government refused to pay. Spearin filed suit in the Court of Claims and the court ruled in Spearin's favor. On appeal to the United States Supreme Court, the Court decided the case and created what is now known as the Spearin Doctrine.

The Court said that a contract has a duty to build a project according to the plans and specifications provided by the owner. If a contractor such as Spearin does so, the contractor will not be responsible for consequences on the project that are a result of faulty plans and specifications. The Court stated that the insertion by the government of details regarding the character, dimensions and location of the sewer created an implied warranty from the owner to the general contractor that if the specifications were complied with, the sewer system would be adequate.

The Court also concluded that this implied warranty by the owner is not overcome by

general clauses requiring the contractor to examine the site, check the plans, or to assume responsibility for the work until completion and acceptance. The Court further held that the breach of this warranty justified Spearin in refusing to resume work until the government assumed responsibility for the damage. The Court stated, "He was not obligated to restore the sewer and proceed, at his peril, with the construction of the dry dock. When the government refused to assume the responsibility, he might have terminated the contract himself, but he did not. When the government annulled the contract without justification, it became liable for all damages resulting from its breach."

The Spearin doctrine continues to stand for the proposition that general contractors who are provided with plans and specifications from owners have an implied warranty as to the adequacy of those plans and specifications for the project. For instance, the Maine Supreme Court cited Spearin in *Paine v. Spottiswoode*, 612 A.2d 235 (Me. 1992), stating that "ordinarily, a contractor who completes a construction project in a workmanlike manner and in strict compliance with plans furnished by the owner will not be held liable for damages resulting from defects in the owner's specifications." In that case, however, the Maine Supreme Court made clear that in order to take advantage of the Spearin Doctrine, the contractor has to do its work in a workmanlike fashion.

Stay tuned for more famous cases in future columns. In the meantime, please feel free to contact me with any comments on this or other columns, or what you would like to see discussed in future issues.

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