

January 1943

Off the Record

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Recommended Citation

A. H. White, Off the Record, 20 Dicta 271 (1943).

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but associations taxable in the same way as corporations and at the same tax rates.

The right to limit personal liability in connection with a partnership is likewise in doubt. While some cases indicate that limited partnerships should not be classed as corporations for purposes of tax, others indicate the contrary. The prevailing tendency of the times is to tax more widely with each passing year. Partnerships providing for limited personal liability, in my opinion, will be construed in the near future (even if they are not at present) as the equivalent of corporations for tax purposes.

Despite all of the varying factors above mentioned (and we have only scratched the surface on the possible questions involved) substantial tax savings may be effected in many instances by discontinuing the corporate form of doing business wherever this is logical and practicable and continuing operations thereafter as a partnership.

Off the Record

BY A. H. WHITE*

FOREWORD

Many compilations of "Stories for All Occasions" have been published. The following, however, is in nowise competition in that field, but rather a record of some amusing incidents in my forty-two years' association with courts and lawyers. Such relations began when I was seventeen years old, since which time, except for a period of about five years, I have been a deputy clerk or clerk of some court, the last thirty-two years of such service being in the Supreme Court of Colorado.

This is not even a local record for long service, for Mr. Charles W. Bishop served as clerk of the United States district court in Denver for more than forty-six years, besides fifteen years of service in that court in another capacity.

Mr. James Perchard was clerk of Colorado's court of appeals and its supreme court for some thirty-eight years. No clerks were ever more capable, faithful and efficient, or more popular with the patrons of their offices than these gentlemen, and each served until death overtook him.

Some of these stories are quite true, though embellished somewhat; others have some truth in them, while others have no truth at all, but persist as characteristic of the persons to whom they are attached.

*Formerly Clerk of the Supreme Court of Colorado.

I have told many of them so often that some of my friends have insisted that I make a record of them. If they bring pleasant memories to some members of the bar, my efforts will have been fully rewarded.

No mention is made of attorneys from the Western Slope, for I did not know them so well, nor was I thrown in their company so much.

I.

Some may think "sitdown strikes" in labor disputes are something new, but such is not the case in Colorado. They were practiced away back when Hon. James B. Orman was governor. Labor troubles had become serious in the Telluride mining district, and some citizens had petitioned the governor to call out the state militia. This is something a governor always hates to do, so Governor Orman sent Lieut. Governor David Coates to investigate and report on conditions as he found them. Lieut. Governor Coates journeyed to Telluride and after surveying the situation wired Governor Orman something like this: "The miners are in the peaceful possession of the Smuggler-Union mill."

In this connection I must repeat one of Mr. L. F. Twitchell's choice stories. I think he was one of the most delightful storytellers I ever heard. He always spoke in a low, soft voice, but you could tell from the twinkle in his eye when a choice story was forthcoming.

At the time of the Telluride strike Montrose was not much of a village. There was little water for irrigation but plenty of alkali on the 'dobe flats about. Mr. Twitchell had the honor of being the "Mayor of Montrose." The striking Telluride miners, more in the spirit of frolic than anything else, I suppose, commandeered a locomotive and a few cars and started on an excursion over the little narrow gauge railroad. When they reached Montrose they turned loose and were in for having a big time and a lot of fun. The mayor at once ordered all saloons closed. Soon the town marshal came to Mayor Twitchell with wounded pride and hurt feelings, saying the visitors had insulted him by pulling his whiskers. Mayor Twitchell sympathizing with the marshal, and promising to stop such indignities at once, caused the following notice to be posted on the town hall door. "Pulling the marshal's whiskers will not be tolerated. L. F. Twitchell, Mayor."

Then the serious proposition was to get the train away from the strikers. The engineer insisted that the water was getting low in the boiler and the strikers consented to him uncoupling the engine and running it down to the water tank. Well, the engineer just kept on going. By the time they got him back they had had their party, were tired, the fun was over and they were probably glad to be hauled back to Telluride.

Mr. Twitchell delighted in telling this story on his law partner, Mr. Frank C. Goudy, the father of Justice Frank Burris Goudy of our supreme court.

In the 'eighties when Gunnison was booming many thought it destined to become the "Pittsburgh of the West." It was a wide-open mining town. A man was shot in a gambling room adjacent to a saloon. Feeling ran high at the trial. Special counsel was employed on each side, Mr. Thomas M. Patterson for the prosecution and Mr. Thomas Macon for the defendant, or it might have been the other way 'round. Mr. Goudy, as district attorney, was examining the jury. A man was called whom he knew to be a professional gambler. After the usual formal questions, Mr. Goudy asked the man what business he was in. The man replied saying he was a speculator. Mr. Goudy asked in what particular field did he speculate. The answer was that he speculated with cards. Mr. Goudy pressed his questions further until the man admitted he was a professional gambler. Instead of asking that the prospective juror be excused, Mr. Goudy continued his questioning by saying, "Isn't it a fact that you are a member of the Illinois bar and practiced law in that state before coming to Colorado?" The man replied, "Now Frank, what's the use of bringing that up against a fellow?"

II.

Mr. Charles R. Brock was a Kentuckian, possessed great art as a story teller, and this is one of his good ones.

He and Mr. L. F. Twitchell were trying a water case to the court, Judge Charles Cavender presiding. It was a most important case and those able attorneys were neither asking nor giving quarter. Mr. Twitchell cited a case which, if applicable, would about put Mr. Brock out of court. Judge Cavender, as was his habit, was leaning back in his chair at perfect ease, seemingly paying no attention to the proceedings. He sat up promptly. Mr. Brock said the citation was purely dictum and bore no relation to the subject matter of the case at bar and should not be controlling in the matter. Judge Cavender, speaking sharply, asked, "Who wrote the opinion?" Mr. Twitchell said, "Mr. Justice Bailey." Judge Cavender said, "Give me that book. Mort Bailey was too lazy to ever write dictum."

This is another of Mr. Brock's stories. It might be entitled "Ask Jim Perchard."

During President Cleveland's first term he appointed as Secretary of the Interior, Judge L. Q. L. Lamar, for whom the town of Lamar, Colorado, was named. Later, Judge Lamar was elevated to the U. S. Supreme Court.

A friend of Judge Lamar had his first case in the United States Supreme Court and asked the clerk concerning some points of practice and procedure. To be doubly sure, he later asked Judge Lamar about docketing his case. Judge Lamar's suggestions did not agree with those of the clerk. The lawyer was quite embarrassed and confessed that he had consulted the clerk, who had advised him differently. Judge Lamar said, "Do what the clerk says. He knows a damned sight more about the practice than I do."

(Concluded in November issue.)

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