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Recent Trial Court Decisions

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the strike was unimpaired. A truce was agreed on between the strikers and the Governor, embodying the cessation of picketing. The truce was short-lived and picketing was resumed. The Governor then appointed special officers acting as the law enforcement department to enforce the anti-picketing statute. This group, acting in conjunction with local officers, arrested every known leader of the I. W. W. encouraging the strike, placed them in jail, and held them without bail. The effect was readily apparent. Without leadership the strikers in the southern fields began to return to work. On November 10th a Petition for a Writ of Habeas Corpus was filed in the United States District Court at Denver on behalf of the prisoners but up until November 18th the defendants were still in jail and no step farther toward the goal of freedom, except that it then became known that charges had been filed against the defendants and that it was possible for them to secure their release on bond. The habeas corpus proceedings were then dismissed on motion of the petitioners.

In the southern field it was a condition somewhat analogous to that described in the case of *In re Debs, 158 U. S. 564, 597*, quoting from the testimony of one of the defendants before the United States Strike Commission: "As soon as the employees found that we were arrested and taken from the scene of action they became demoralized and that ended the strike. It was not the soldiers that ended the strike; it was not the old brotherhoods that ended the strike. Our men were in a position that never would have been shaken under any circumstances if we had been permitted to remain upon the field among them. Once we were taken from the scene of action and restrained from sending telegrams or issuing orders or answering questions, * * * our headquarters were temporarily demoralized and abandoned and we could not answer any messages. The men went back to work and the ranks were broken and the strike was broken—not by the army, and not by any other power, but simply and solely by the action of the United States courts in restraining us from discharging our duties as officers and representatives of our employees."

We have sought to give an unbiased review of the legal and illegal steps taken in the strike. It is only through the constant and impartial maintenance of the constitutional rights of all men, employers and employees, rich and poor, that we can hope to preserve the just faith in a constitutional form of government. Might never made right, although it has often disguised itself in that cloak, to be later exposed and disgraced as an imposter.

Recent Trial Court Decisions

(Editor's Note.—It is intended in each issue of the Record to note interesting current decisions of all local Trial Courts, including the United States District Court, State District Courts, the County Court, and the Justice Courts. **The co-operation of the members of the Bar is solicited in making this department a success. Any attorney having knowledge of such a decision** is requested to phone or mail the title of the case to Victor Arthur Miller, who will digest the decision for this department. The names of the Courts having no material for the current month will be omitted, due to lack of space.)

DIVISION 5

JUDGE CHARLES SACKMAN

People vs. Painless Parker Dentist

Facts: Quo warranto to obtain writ of ouster against the defendant, a California corporation, doing business in Denver to prevent it from practising dentistry through employees and agents who are duly licensed in this state.

The corporation has not and cannot get a license to practice dentistry.

Demurrer is interposed to complaint.

Held: Demurrer sustained.

Reasoning: A license to practise dentistry is not a franchise as that word is used in the usurpation statute. The licensing act is simply a regulatory provision under the policy powers of the state.

As long as the persons performing the actual operation are licensed, public interest stops at that point and hence there is no public interest involved as is contemplated by our usurpation statute.

Note:

Judge Charles C. Sackman wishes to call the attention of members of the Bar to the following points of law which arise quite frequently and are often overlooked.

First, in suits for the determination of interest in lands of deceased persons under statutory proceedings where the sheriff is a party, even though only a nominal party without pecuniary interest, for example, successor in trust, the coroner must make the service on all the parties, including the sheriff.

See:

General Film Co. vs. McAfee, Sheriff, 58 Colo. 344.
Wise, et al. vs. Toner, 65 Colo. 420.

Second, in proceedings for the determination of heirship and interest in lands, the statute provides that where known parties to the action reside out of the state, but their address is known they must be served by mail. The statute further provides that the proceeding shall be set ahead six weeks and attorneys often forget that where the service is made by mail the proceeding should be set far enough ahead to allow for six weeks plus sufficient time for the service by mail to be completed.

1925 Session Laws, Chap. 180, Page 542 further provides that the hearing need not be set in open court, but may be set by any Judge in the District in chambers.

Slack Season

"Say, Jedge, Yo Honah," announced a very large and indignant colored woman as she dragged her scared ex-husband into the courtroom, "dis no 'count man ain' paid one cent ob alimony fo' nigh onto seben months."

"What's the matter, Sam?" inquired the judge. "Have you been out of work?"

"Yessuh," was the reply. "Ah ain' been able to fin' mah dice."