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So We Have Argued

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Citizenship and Americanization—Chairman, O. B. Herigstad, Minot; Vice Chairman, H. F. Horner, Fargo; Vice Chairman, A. Benson, Bottineau; Vice Chairman, G. P. Lindell, Washburn.

COURTS NOTE VALUE OF THE DOLLAR

In discussing the subject of excessive verdicts, some of our courts have recently given expression to statements that indicate that they are no longer following legal precedents blindly. Members of the profession should take note of this trend.

1. "At a period when the purchasing power of the dollar has, in language of the day, been 'cut in half,' the value of the sum awarded here is not to be estimated in the numerical quantum of the recompense, but in its comparative ability to furnish the necessities of life."—*Bowes vs. Public Service Ry. Co.*

2. "In recent years there has been a noticeable increase in the size of verdicts in personal injury cases. The courts approve of verdicts today which would have been unhesitatingly set aside as excessive ten or fifteen years ago. Measured in money, the earning capacity of most men has increased; measured by its purchasing power, the value of a dollar has decreased. No immediate change in the situation is in sight. It is only right that these well known facts should be taken into consideration."—*Quinn vs. C. M. & St. P. Ry. Co.*, 202 *N. W.* 275.

3. "We must, as courts in other jurisdictions have done in passing upon similar questions as that involved herein, take judicial notice of the fact that the value of the dollar has materially changed from what it was some ten or fifteen years ago. Whether it is 'cut in half' as intimated by the excerpt from *Bowes vs. Public Service Co.*, or not, it is universally admitted that it has materially decreased in value from what it was a few years ago. There has been a corresponding increase in wages and salaries as well as in the cost of living in all walks of life. The sum of ten thousand dollars when measured by its present purchasing power is far less than what it formerly was. A verdict, therefore, in this amount ($10,000) for personal injuries may well be sustained by the courts of today, when formerly it would have been the duty to set it aside as excessive."—*O'Meara vs. Hayden and Henderson*, 75 *Cal.* 801 (1928).

SO WE HAVE ARGUED

Professor John Dickinson of Princeton, dealing with the subject of Administrative Law and the Fear of Bureaucracy, has this to say in the October issue of the American Bar Association Journal:

"The most direct and simple method of court review of administrative determinations is by use of the writ of certiorari, in some jurisdictions called the writ of review. This is obviously applicable only where the administrative action is of a definitely 'quasi-judicial' nature so that there is a record upon which the writ can operate. Its use amounts *pro tanto* to an implied abandonment of the separation of powers doctrine, since certiorari proceedings are substantially in the nature of an appeal from the administrative agency to the courts. The use of the writ has accordingly met with opposition, and in the Federal jurisdiction remains narrowly restricted (*Degge vs. Hitchcock*, 229 *U. S.* 162). On the other hand, the writ is increasingly employed in

many state jurisdictions as the normal and most convenient procedure for reviewing the determinations of public service commissions, industrial accident boards and similar agencies."

We have argued that the writ of review was not only the "normal and most convenient procedure," but that it is the only equitable and satisfactory method of handling the situation in so far as it relates to the Workmen's Compensation Bureau, and that the right of review should be broad and not restricted. At present we have only a limited right of appeal (not review) in which the procedure before the court is entirely different from the procedure before the administrative body.

U. S. SUPREME COURT ACT

The new Federal Jurisdictional Act, which passed early in 1925, was referred to by Chief Justice Taft about a year later in the following statement: "The theory is that where there is a trial court and one (intermediate) appellate court, the litigants, so far as doing justice to them is concerned, should be satisfied with the decision of the appellate court, and that that decision should be brought to the Supreme Court only when the principle to be settled by the Supreme Court will be useful to the public in settling general law."

The act has been in force about three years and has resulted in expediting the work of the Supreme Court to a very large extent. Whereas the Court was some 500 cases in arrears on its docket when the law was passed, that number has now been reduced to less than 200, and it is expected that the close of the next term will find the Court caught up with all current business.

It is interesting to note that of the 859 cases disposed of at the last term only 95 were reversals.

EXCLUSIVE PRIVILEGE CONTRACTS

A Kentucky taxicab company, holding a contract with a railroad company granting exclusive privileges in its station grounds in Kentucky, was interfered with by a Kentucky taxicab company in carrying out of that exclusive contract. As the Kentucky decisions appeared to hold that such a contract was invalid, the first company reorganized as a Tennessee corporation, renewed its contract, and then brought suit against the Kentucky corporation in Federal Court. The U. S. Supreme Court (three justices dissenting) held: A railroad company lawfully may grant exclusive privileges in its station grounds to a transfer company. If not prohibited by a statutory or constitutional provision of the state wherein it is made such grant will be upheld by a federal court, even though the same would be held invalid by the state court under its view of the common law. Obtaining jurisdiction of a federal court by incorporating in another state in order to effect diversity of citizenship is not collusive.

CORRECTION

In printing the names of the members of the committee that is to have charge of the work of directing the publication of the new digest the name of A. W. Cupler was substituted for that of C. L. Young. The committee consists of T. R. Bangs, F. T. Cuthbert, C. L. Young and L. E. Birdzell. The motion calling for the appointment of the committee authorized the committee to appoint additional members.