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The Rule-Making Power

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intendent, the laborer became the employee of the town.—Kittle vs. Kinderhook, 212 N. Y. Supp. 410. (N. Y. Nov. 1925).

Rule that "loss" of 80 per cent of vision shall constitute total loss of eye does not apply where claimant only had 50 per cent vision and had this reduced to 20 per cent by an accident. The loss must be 80 per cent to make the rule apply.—Przekop vs. Ramapo Corp., 212 N. Y. Supp. 426. (N. Y. Nov. 1925).

Where an injury results from a fall caused by an attack of epilepsy such injury is not compensable under Workmen's Compensation Law—Marion Foundry Co. vs. Redd, 241 Pac. 175. (Okla. Nov. 1925) .

Claimant must prove that disability results from accident and not from natural causes, and testimony of physician that heat strokes might have superinduced an apoplectic stroke does not meet the requirement to entitle claimant to compensation.—Gausman vs. Pearson Co., 131 Atl. 247. (Penn. Nov. 1925).

Workman employed by two parties who is injured while on way from one place of employment to the other is not entitled to compensation as for injury in course of employment.—Boatright vs. Georgia Cas. Co., 277 S. W. 802. (Tex. Nov. 1925).

THE RULE-MAKING POWER

Three distinct propositions appear to underlie the English judicature acts passed in 1873 and later: First, making rules of judicial procedure is a task for judges rather than a hurried legislative committee. Second: Use will reveal in new pleadings or forms of procedure defects which should have a readier cure than direct legislation will afford. Third: However fully the rules of statutory procedure may be in touch with the current needs of the day, the system will fossilize unless the courts themselves are authorized or empowered to adapt their procedure readily to new conditions. That is to say, no code can be perfect and therefore there should be perpetual provision for its amendment on suggestions from the judges who are applying it, and who are in the best of all situations to observe its defects.

The growing interest in the system in this country quite naturally suggests an inquiry whether it would be suited to American conditions. In this connection must be noted particularly the greater stability of the judicial office in England. We have reached the stage, however, where it will scarcely be necessary to theorize upon the adaptability of the system to this country. It appears quite certain now that the present Congress will grant to the supreme court of the United States the power to make rules governing the practice in cases at law in the federal courts. And this affords the only ready means of assuring uniform practice in such cases throughout the nation. Success of the system in these courts, therefore, seems reasonably certain.

But five of the states—Colorado, Virginia, Connecticut, Delaware and Washington—also have adopted the system, the two last named taking the step within the year. While the acts making the change are not uniform that enacted in the state of Washington will sufficiently indicate the general nature of the legislation. It provides in substance that the supreme court shall have the power to prescribe from time to time the forms of writs and all other process, the mode and manner of framing and filing pleadings and proceedings, of giving notice and serving writs or process of all kinds, of taking and obtaining evidence, of entering orders and judgments, and generally to regulate and prescribe by rule the forms for and the kind and character of the pleading, practice and procedure to be used in all suits, actions, appeals and proceedings of whatever nature by the supreme court, superior courts and justices of the peace of the state, the court having regard in prescribing such rules to the simplification of the system of pleading, practice and procedure in such courts to promote the speedy determination of litigation on the merits. It is provided that when and as the rules authorized shall be promulgated, all laws in conflict therewith shall be and become of no force and effect.

A movement which has gathered so much momentum elsewhere cannot be disregarded by our Bar. It is our duty to inquire into its merits. In arriving at a final judgment the results of the operation of the system in the states in which it has been adopted should serve as a material aid.

A QUESTION ANSWERED

In a recent issue of one of our North Dakota daily papers appeared an editorial under the heading "What Is It?" which read as follows:

"A Bar Association committee in a certain western state recently reported to the parent body that steps should be taken to prevent automobile associations from maintaining lawyers who would give free legal advice to club members. Such practice was 'unethical,' it was reported. Bar Associations love to pose as bodies gathered together to improve the standards of that Bar and to protect the public from unscrupulous and dishonest attorneys. But this sounds as though a Bar Association were nothing but a glorified and slightly grasping group, out for the ultimate penny. Just what is a Bar Association, anyhow?"

One of the members of the Committee on Correct Public Information of the North Dakota Association replied to the editorial. As the reply met with the approval of the Committee, a portion of it is here re-printed, to-wit:

"The particular Bar Association referred to in the editorial may or may not have acted wisely in recommending steps to prevent automobile associations from maintaining lawyers to give free legal advice to members. That is a debatable question, just as the question of the extent to which a trust company may go in giving legal advice, drafting wills and similar documents is debatable. Free or cheap legal advice, like the 'cure-all' and the 'yellow journal', is not very good as a rule. The American Bar Association and the North Dakota State Bar Association