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Unauthorized Practice of Law: First and Fourteenth Amendments Give Union the Right to Hire Attorney on Salary to Represent Workmen's Compensation Claims of Members (United Mine Workers of America, District 12 v. Illinois Bar Association, et al., 88 S.Ct. 353)

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venting federal invasion of the state legislative function and avoiding unnecessary federal-state friction. In addition, the Rule represents a more perfect attempt at cooperative judicial federalism since this concern for state sovereignty is implemented through a hopefully efficient and simple proceeding. Because the Rule contemplates that the declaratory judgment action will be instituted directly in the Montana Supreme Court, many of the delays incident to ordinary abstention orders can probably be avoided. Since the new Rule cannot be invoked without the concurrence of the federal court, the parties to the action, and the Montana Supreme Court, there is little danger it will be used except where the issue of state law is crucial to the case and the state court determination can be made without undue delay.[55]

CONCLUSION

The Montana Rule represents a unique experiment in cooperative federalism. It should serve as an aid to the federal courts in discharging their obligation under *Erie* to follow state law in diversity cases. While the Rule presents some constitutional complexities and practical perplexities, most of the objections neglect the existing problems of "absention" and of authoritatively determining state law in federal litigation. The new procedure represents a bold step forward in the solution of these problems. It is presently difficult to ascertain the variety of situations which may lend themselves to the Rule's application. To a large extent, this will be determined by the ingenuity of counsel and the cooperation of the federal and Montana courts.

LAURENCE E. ECK

UNAUTHORIZED PRACTICE OF LAW — FIRST AND FOURTEENTH AMENDMENTS GIVE UNION THE RIGHT TO HIRE ATTORNEY ON SALARY TO REPRESENT WORKMEN'S COMPENSATION CLAIMS OF MEMBERS. The Illinois court enjoined the United Mine Workers of America from continuing a plan by which the union hired an attorney on a salary to represent members and their dependents in claims under the Illinois Workmen's Compensation Act. The union agreed not to interfere with the attorney. Members submitted forms to the attorney reporting the accident, and the full amount of any settlement was paid directly to the member or his dependents. *Held,*

court. It might be noted, however, that if there is no Montana law on a point in 1968, there is little chance of an abundance of state cases on this point in the future.

[55]On the other hand, from the express language of Rule I an argument might be made that after the certificate from the federal court has issued, the Montana Supreme Court has no discretion to refuse rendering a judgment unless there is another ground for determination of the case or if the question for adjudication is not clearly briefed or argued.

judgment vacated. Freedom of speech, assembly, and petition guaranteed by the First and Fourteenth Amendments to the United States Constitution give the union the right to hire an attorney on a salary to represent union members. The plan does not constitute unauthorized practice of law. *United Mine Workers of America, District 12 v. Illinois Bar Association, et al.*, 88 S.Ct. 353 (1967).

DEVELOPMENT OF THE PROBLEM

Cases concerning the unauthorized practice of law can be divided into two groups: those in which the attorney's qualifications to practice law are called into question, and those which involve a properly licensed and qualified attorney who has engaged in a method of practicing law which may be termed "unauthorized." The attorney employed by the union in *United Mine Workers v. Illinois State Bar*[1] was properly qualified, but the arrangement was termed "unauthorized" by Illinois courts because the attorney was employed, not to represent the union, but to represent individual members of the union.

Until recently, courts in nearly all jurisdictions have prohibited employment contracts between an attorney and a social or business organization for the representation of individual members or employees of the organization.[2] The usual ground for invalidating such practices is that the attorney is engaged in solicitation by having business channeled to him through the exclusive recommendations of a third party. Such solicitation violates the American Bar Association's canons 35 and 47.[3]

[1]Hereafter referred to as *Mine Workers* or instant case.

[2]For example, *see* People *ex rel.* Chicago Bar Association v. Chicago Motor Club, 362 Ill. 50, 199 N.E. 1 (1935); American Automobile Association v. Merrick, 117 F.2d 23 (D.C. Cir. 1940); Cleveland Bar Association v. Fleck, 172 Ohio St. 467, 178 N.E.2d 782 (1961), *cert. denied*, 369 U.S. 861 (1962); Rhode Island Bar Association v. Automobile Service Association, 55 R.I. 122, 179 A. 139 (1935).

[3]Canon 35 was adopted in 1928 and amended in 1933. Canon 47 was adopted in 1937. The tentative draft of the revised canons of professional ethics is scheduled to appear in the spring of 1968. To what extent canons 35 and 47 will be changed is not known at the time of this writing, but the instant case will doubtless be an influence in favor of their revision. As presently stated, canons 35 and 47 read as follows:

> Canon 35. Intermediaries.
>
> The professional services of a lawyer should not be controlled or exploited by any lay agency, personal or corporate, which intervenes between client and lawyer. A lawyer's responsibilities and qualifications are individual. He should avoid all relations which direct the performance of his duties by or in the interest of such intermediary. A lawyer's relation to his client should be personal, and the responsibility should be direct to the client. Charitable societies rendering aid to the indigents are not deemed such intermediaries.
>
> A lawyer may accept employment from any organization, such as an association, club or trade organization, to render legal services in any matter in which the organization, as an entity, is interested, but this employment should not include the rendering of legal services to the members of such an organization in respect to their individual affairs.
>
> Canon 47. Aiding the Unauthorized Practice of Law.
>
> No lawyer shall permit his professional service, or his name, to be used in aid of, or to make possible, the unauthorized practice of law by any lay agency, personal or corporate.

The case against an attorney being hired by an association to represent individual members of the association was strengthened in 1950 when the American Bar Association's Standing Committee on Unauthorized Practice of Law considered the question in general and interpreted the canons as precluding such arrangements.[4] The Committee was asked whether a corporation or union may hire an attorney for the purpose of having him available, as part of his duties, to advise and assist employees or members in their personal problems, "such as the drawing of wills, deeds, or leases for their dwellings, claims against third parties for injuries to person or property, etc."[5] The Committee answered that such an arrangement is a clear violation of canon 35 because the attorney is not rendering legal services to the organization *as an entity.*

> The professional services of a lawyer should not be controlled or exploited by any lay agency, personal or corporate, which intervenes between client and lawyer. If such were permissible, it would permit the corporation or lay agency to do that which the lawyer could not do; namely, the solicitation of business.[6]

Within the last five years, two decisions of the United States Supreme Court have led to re-examination of the ethical policies of the canons in terms of the legal right of individuals to band together to further their own interests.[7] The first was *NAACP v. Button*[8] and the second, *Brotherhood of Railroad Trainmen v. Virginia ex rel. Virginia State Bar.*[9]

In *NAACP v. Button,* the Court considered the custom of the NAACP to pay attorneys of its legal section on a per diem basis to represent individual members of the organization in court proceedings aimed at protecting the member's civil rights. Some of those represented by NAACP attorneys had requested counsel, but it was more common for NAACP to solicit and urge aggrieved Negroes to allow the attorneys to help them. The Court held that such a practice was protected by the constitutional right to associate to pursue legitimate aims,[10] and that no compelling state interest had been shown to justify an infringement of that right. Three factors influenced the decision of the Court: (1) there was no monetary stake to tempt the attorney toward disloyalty to the client; (2) the civil rights litigation in which the NAACP was engaged was vital; and (3)

[4]ABA Committee on Anauthorized Practice of Law, Opinions, No. A (1950), reported in 36 A.B.A.J. 677 (1950).

[5]*Id.* It should also be noted that the Committee considered the source of the attorney's remuneration for such services unimportant. Whether he is paid by salary, retainer, or even paid at all does not matter; the services are rendered "because of the attorney's employment by the corporation [or union], and the vice is that there is a divided allegiance." *Id.* at 684.

[6]*Id.* at 684.

[7]U.S. CONST., amend. I: "Congress shall make no law . . . abridging . . . the right of the people peaceably to assemble, and to petition the government for a redress of grievances."

[8]NAACP v. Button, 371 U.S. 415 (1963).

[9]Brotherhood of Railroad Trainmen v. Virginia *ex rel.* Virginia State Bar, 377 U.S. 1 (1964).

[10]*NAACP v. Button, supra* note 8, at 437.

there was a scarcity of lawyers willing to undertake such litigation.[11] Justices Harlan, Clark, and Stewart dissented on the ground that the litigation program of the NAACP fell within an area of activity which a state may constitutionally regulate. They insisted that canons 35 and 47, which the Virginia Supreme Court had adopted in 1938 as rules of court, should control.

Cases involving labor union plans have come before the courts frequently since it is the nature of unions to foster group activity in aid of the individual. One court considering a labor union case after *Button* distinguished *Button* on the ground that it applied to litigation seeking the constitutionally protected ends of the civil rights movement and held that the state restriction of union counsel plans did not violate the Fourteenth Amendment.[12] But in 1964 the United States Supreme Court in *Brotherhood of Railroad Trainmen v. Virginia* tipped the balance between ethical policies and associational rights the other way. The Court applied the *Button* doctrine and held that it was proper for the Brotherhood to recommend particularly qualified lawyers, even if this resulted in channeling all Union members to them.

The Brotherhood's plan was not new. In 1883 Brotherhood was formed to promote the welfare of trainmen and their families in a dangerous occupation.[13] It was natural for railroad workers to combine their strength and efforts in the Brotherhood in order to provide insurance and financial assistance to injured members and to seek safer working conditions. Railroad workers were the moving forces that brought about the passage of the Safety Appliance Act in 1893 and the Federal Employer's Liability Act of 1908. But simply having these federal statutes on the books was not enough to assure that the workers would receive the full benefits of the compensatory damages Congress intended they should have. Injured workers often fell prey to quick settlement of a persuasive claims adjuster or to lawyers who were either incompetent to try these lawsuits against experienced railroad counsel or too willing to settle for a quick dollar. Under the Brotherhood's plan the nation was divided into sixteen regions. A lawyer or a firm in each region with a reputation for honesty and skill in representing plaintiffs in railroad personal injury litigation was selected to act as Regional Counsel. When a worker was injured or killed, the secretary of his local lodge would go to him or to his dependents and recommend that a lawyer be consulted before the claim was settled, and that in the Brotherhood's judgment the best lawyer to consult was the counsel selected by it for that area. In 1958, when the Illinois Supreme Court considered the program,[14] the union attorneys were required to charge a contingent fee established by the union, advance all costs related

[11] *Id.* at 443.

[12] Columbus Bar Association v. Potts, 175 Ohio St. 101, 191 N.E.2d 728 (1963).

[13] *Trainmen v. Virginia, supra* note 9, at 2-3. In 1888 the odds against a railroad brakeman dying a natural death were almost four to one, and the average life expectancy of a switchman in 1893 was seven years.

[14] In re Brotherhood of Railroad Trainmen, 13 Ill.2d 391, 150 N.E.2d 163 (1958).

to the disposition of the claim, finance the union's legal aid department, and compensate local lodge members who investigated accidents and urged injured members to consult the regional counsel. Although the Illinois court did not enjoin the program, it did restrict its scope by holding that the union could not have any financial connection with the attorney, nor could it fix the fees to be charged.[15] The union then revised the plan to eliminate any financial connection between the union and attorney; but the revised plan was still enjoined in Virginia on the ground that it resulted in channeling substantially all of the workers' claims to lawyers chosen by the union.[16]

In holding that the Trainmen's plan did not constitute the unauthorized practice of law, the United States Supreme Court found that Virginia had broad powers to regulate the practice of law, but such powers were not broad enough to foreclose constitutional rights.[17]

> A State could not, by invoking the power to regulate the professional conduct of attorneys, infringe in any way the right of individuals or the public to be fairly represented in lawsuits. . . . The State can no more keep these workers from using their cooperative plan to advise one another than it could use more direct means to bar them from resorting to the courts to vindicate their legal rights.[18]

The factors which induced the Supreme Court's holding in *Button* were absent in *Trainmen*.[19] *Trainmen* involved only a referral plan without any financial connection between union and attorney, but a dictum in *Trainmen* pointed clearly to the issue involved in the instant case:

> It is interesting to note that in Great Britain unions do not simply recommend lawyers to members in need of advice; they retain counsel, paid by the union, to represent members in personal lawsuits, a practice similar to that which we upheld in *NAACP v. Button*.[20]

MINE WORKERS V. ILLINOIS BAR

The practice involved in the instant case has had a long history. At the United Mine Worker's 1913 Convention, one year after enactment of the Illinois Workmen's Compensation Act, it was reported that abuses of the Act had already developed: "the interests of the members were being juggled and even when not, they were required to pay forty or fifty percent of the amounts recovered in damage suits for attorney's

[15] *Id.* at 397-398, 167, 168.

[16] Virginia State Bar v. Brotherhood of Railroad Trainmen (Richmond, Va. Ch., Jan. 29, 1962).

[17] *Trainmen v. Virginia, supra* note 9, at 6.

[18] *Id.* at 7. It is interesting to note that on remand the Richmond Chancery Court revised its original decree so as to conform with the Supreme Court's holding, but it interpreted the holding as protecting only the right to advise and recommend, not solicitation and commercialization. Virginia State Bar v. Railroad Trainmen, 33 U.S. Law Week 2387 (Richmond, Va. Ch., Jan. 15, 1965). However, the Virginia Supreme Court of Appeals rejected this interpretation, finding that the United States Supreme Court had not made any distinction between recommendations and solicitation, and that consequently both were protected. Brotherhood of Railroad Trainmen v. Virginia *ex rel.* Virginia State Bar, 207 Va. 182, 149 S.E.2d 265 (1966).

[19] *See* text at note 11, *supra.*

[20] *Trainmen v. Virginia, supra* note 9, at 7.

fees."[21] In response to this situation the union established its Legal Department by hiring one attorney on a salary to represent members and their dependents in claims under the Illinois Workmen's Compensation Act.[22] Once he is hired, the terms of the attorney's employment are that he will receive no interference from the union or any of its officers. Union members are provided with accident forms which are to be filled out and sent to the union's Legal Department.[23] From these forms the attorney prepares his case and sends the claim to the Industrial Commission. Ordinarily, he does not discuss the claim with the member, but members understand that he is available for conferences at certain times. During pre-hearing negotiations, he presents what he believes the claim to be worth to the attorney for the respondent company and attempts to settle. If the opposing counsel agree on a settlement, the union attorney contacts the injured member to advise him of the offer. If the member accepts the offer, the transaction is usually complete without personal contact between attorney and client. If, however, opposing counsel do not reach agreement or the member rejects the offer, a hearing is held before the Industrial Commission.

An injunction against the Mine Worker's arrangement was granted by the Circuit Court of Sangamon County. The Illinois Supreme Court affirmed,[24] interpreting *Button* as protecting "litigation that can be characterized as a form of political expression,"[25] and *Trainmen* as protecting only referral plans. The United States Supreme Court disagreed, saying.

> We do not think our decisions in *Trainmen* and *Button* can be so narrowly limited. We hold that the freedom of speech, assembly, and petition guaranteed by the First and Fourteenth Amendments gives petitioner the right to hire attorneys on a salary basis to assist its members in the assertion of their legal rights.[26]

Even though there is a financial connection between the union and attorney in *Mine Workers,* the majority of the court argued that the temptation to sacrifice the client's best interests was no greater than in *Trainmen.*[27] In both cases there was no indication that the interests of the union and the member ever actually diverged in an actual lawsuit, and the interests of the member-client were always fully subserved by the union plan. Thus, any diminution in high standards of legal ethics was not sufficiently great to allow infringement of constitutional rights.

The Illinois State Bar Association argued that the union could achieve

[21] *Instant case* at 354.

[22] The present attorney is paid $12,400 per year. He handled more than 400 claims per year for the union, has a private practice other than Mine Worker's representation, and was an Illinois state senator.

[23] Although the forms do not specifically request the attorney to file a claim on behalf of the injured member, the attorney presumes that the forms constitute such a request.

[24] *United Mine Workers v. Illinois State Bar,* 35 Ill.2d 112, 219 N.E.2d 503 (1966), *cert. granted* 386 U.S. 941 (1967).

[25] *Instant case* at 355.

[26] *Id.* at 355-356.

[27] *Id.* at 357.

its goals by referring members to a specific lawyer or lawyers, and then reimburse the members out of a common fund for legal fees paid. The American Bar Association, in an informal opinion, had approved such an arrangement.[28] But the Court held that since the Illinois Supreme Court had interpreted *Trainmen* to prohibit a financial connection of any kind between the union and such attorneys, "it cannot seriously be argued that this alternative arrangement would be held proper under the laws of Illinois."[29] On this point Justice Harlan, the single dissenter in *Mine Workers,* disagreed, saying,

> The Illinois Supreme Court in this case repeated its statement in a prior case that a union may properly make known to its members the names of attorneys it deems capable of handling particular types of claims. Such union notification would serve to assure union members of access to competent lawyers.[30]

Justice Harlan further argued that the instant case puts the Supreme Court more deeply than ever in the business of supervising the practice of law in the various states. In the absence of "demonstrated arbitrary or discriminatory regulation," he felt that states should be left free to govern their own Bars without federal interference. Justice Harlan would have affirmed the decision of the Illinois Supreme Court because (1) there was no arbitrary or discriminatory state regulation involved, (2) abuses of the attorney-client relationship were foreseeable under the union plan, and (3) an acceptable alternative was available which would achieve the union's goals as well as the present plan.

THE TEST FOR "UNAUTHORIZED PRACTICE"

The Supreme Court has used various tests at different times to determine whether the requisite state interest is sufficient to justify regulation of constitutionally protected rights. It has applied the "clear and present danger" test,[31] the "bad tendency" test,[32] and the "absolute" test.[33] But by far the most common test, and the one used in *Button, Trainmen,* and *Mine Workers,* is the "balancing" test. Specifically in theses cases, the balance is between associational rights guaranteed by the First and Fourteenth Amendments and the state's interest in promoting and maintaining high standards of professional ethics. In *Trainmen* the Court said that the state regulation of constitutionally protected conduct is permissible if a sufficiently compelling state interest is shown.[34] Thus, the issue

[28]American Bar Association, Standing Committee on Professional Ethics, 86 A.B.A. Reports 198 (1961).

[29]*Instant case* at 357.

[30]*Id.* at 359 (dissenting opinion). Justice Harlan cited *United Mine Workers v. Illinois State Bar, supra* note 24, and noted that the earlier Illinois decision referred to was *In re Brotherhood of Railroad Trainmen, supra* note 14.

[31]Schenck v. United States, 249 U.S. 47 (1919).

[32]Gitlow v. New York, 268 U.S. 652 (1925).

[33]Barenblatt v. United States, 360 U.S. 109, 141 (1959, J. Black, dissenting).

[34]*Trainmen v. Virginia, supra* note 9, at 1, 6, 8. It is interesting to note that although Mr. Justice Black is considered an absolutist with respect to First Amendment rights, he delivered the opinion of the Court in *Trainmen* and appears there to have adopted the "balancing" approach.

presented to the Court in *Mine Workers* becomes: Whether a union's practice of hiring an attorney on salary to represent its members in Workmen's Compensation cases diminishes the ethical standards of the legal profession to such an extent as to outweigh the individual right to associate with others to assert legal rights.

In his dissent in *Mine Workers,* Justice Harlan balanced the scales against associational rights and in favor of the policies expressed in canons 35 and 47. There are two basic arguments in favor of this view: demise of the attorney-client relationship and commercialization of the legal profession. The fact that the attorney in *Mine Workers* does not discuss the accident with the client prior to filing a claim with the Industrial Commission shows that the demise of the attorney-client relationship is an actual result of the union's arrangement rather than a theoretical possibility. The arrangement does not promote responsible representation since the lack of a personal attorney-client relationship increases the likelihood that the attorney will overlook important facts bearing on the case. Viewed in another perspective, since the attorney receives the same salary regardless of the adequacy of the settlement, he might lack the incentive to devote extra effort to obtain a better settlement for his client.

Commercialization of the legal profession may also result from the union's arrangement. The attorney becomes an employee of the union, mechanically settling a large number of similar claims against one or two mining companies in the district. Furthermore, the union has an opportunity to capitalize on these legal services by assessing its members a greater amount than it pays to the attorney or advertising such legal services as an inducement for joining the union. A serious abuse could also result if the union began to exchange individual injury claims in satisfaction for general employee grievances against the employer. In return for the employer's agreement to provide better working conditions, for example, the union might agree to see that the union attorney does not push the prosecution of a specific injury claim. Such practices would clearly degrade the legal profession and impair the public's confidence in it.

To the majority in *Mine Workers,* abuse of the union's arrangement was a "distant possibility of harm" which does not justify a "complete prohibition of the Trainmen's efforts to aid one another in assuring that each injured member would be justly compensated for his injuries."[35] There are two basic arguments in favor of the balance struck by the majority of the Court: The plan extends competent legal service to those who otherwise may be without it; and the associational freedoms involved are protected by the Constitution. Implicit in the Court's holding in *Mine Workers* is the primary duty of the legal profession to serve the public. While it is true that the union's program in hiring an attorney violates canons 35 and 47, it is consistent with the purpose of the legal profession

[35] *Instant case* at 356.

to provide counsel to all who need it.[36] More central to the majority's position, however, is the interest in protecting First Amendment freedoms from even indirect restraints.

> The First Amendment would be a hollow promise if it left government free to destroy or erode its guarantees by indirect restraints so long as no law is passed that prohibits free speech, press, petition, and assembly as such. We have therefore repeatedly held that laws which actually affect the exercise of these vital rights cannot be sustained merely because they were enacted for the purpose of dealing with some evil within the State's legislative competence, or even because the laws do in fact provide a helpful means of dealing with such an evil.[37]

For the majority the balance was between First Amendment freedoms and "distant possibilities of harm." The majority justifies such a position by pointing out that "not one single instance of abuse, of harm to clients, or any actual disadvantage to the public or to the profession" has resulted in the many years the program has been in operation.[38]

CONCLUSION

The holding of the Supreme Court in *Mine Workers* places a union in an imposing and influential position as the employer of an attorney whose function is to represent the personal claims of its individual members. Although the record does not show any abuse of the Mine Worker's plan, serious abuses are foreseeable under such a system. The Supreme Court has gone beyond the referral arrangement it upheld in *Trainmen* and opened a new door to the authorized practice of law by a qualified attorney. If a union can hire an attorney to represent the personal claims of its members, should another voluntary association, such as an automobile club, be allowed to do the same? Is there any limitation on the type of personal claim which such an attorney could undertake? If a voluntary association can hire an attorney to represent its members, can a corporation hire an attorney to represent its employees?

The *Button, Trainmen,* and *Mine Workers* decisions have included within the scope of authorized practice of law arrangements which were previously unauthorized. Since a new balance must be struck whenever the competing interests are significantly different, the future scope of unauthorized practice of law remains uncertain. If the ABA's revised canons of professional ethics are to set a realistic guideline, they must take two competing factors into account: (1) the constitutional right of individuals to band together to seek legal redress, and (2) methods of practicing law which will insure public confidence in the legal system. In the meaning of the present canon 35, a lawyer is engaged in solicitation of business when business is channeled to him through the exclusive recommendations of a lay intermediary. The methods of practicing law in *Button, Trainmen,*

[36]Judge Traynor argues this position in his dissenting opinion in Hildebrand v. California State Bar, 36 Cal.2d 504, 533, 225 P.2d 508, 519 (1950).

[37]*Instant case* at 356. Perhaps the "absolutist" ring of this language is due to the fact that Justice Black delivered the opinion of the Court.

[38]*Id.* at 357.

and *Mine Workers* fall within this definition, yet they have been upheld by the Supreme Court. Since these methods of practicing law are constitutionally protected, does it follow that they are ethical? Will they help to increase public confidence in the legal profession? The Supreme Court has not specifically answered these questions in the affirmative; rather, it has said that such methods cannot be prohibited. It is clear, nevertheless, that the trend is to narrow "unauthorized" practice of law by a qualified attorney, and the canons of professional ethics must be revised to set realistic guidelines for the future scope of authorized practice.

JAMES P. MURPHY, JR.

INCOME TAXATION — INCORPORATED PROFESSIONAL GROUP TREATED AS A CORPORATION FOR FEDERAL TAX PURPOSES.—On November 1, 1965, taxpayer, an attorney, became owner of 10 per cent of the stock in the incorporated[1] law firm for which he worked. Subsequently he filed a claim for a tax refund on that portion of the 10 per cent of the corporation's net earnings for the last two months of 1965 which had not been paid to him in salary during those two months.[2] The United States argued that, despite a corporate charter, a Treasury Regulation defined such a corporation to be a partnership and consequently all earnings had to be taxed directly to the individual.[3] The District Court *held*: (1) Treasury Regulations providing that professional organizations, incorporated or unincorporated, could not be taxed as a corporation unless the corporate characteristics were such that the organization more nearly resembled a corporation than a partnership were an invalid exercise of a nondelegable legislative function. (2) Even if the Treasury Regulations were valid, the professional organization more nearly resembled a corporation than a partnership. *Empey v. United States,* 272 F.Supp. 851 (D.Colo. 1967).

For the purposes of federal taxation all business organizations are classified as either partnerships[4] or corporations.[5] Consequently, the definitions of these terms must necessarily be broad enough to accommodate those organizations which are neither strictly a partnership nor a corporation. A partnership includes ". . . a syndicate, group, pool, joint venture, or other *unincorporated organization.*"[6] A corporation in-

[1]Rule 265, Colo. R. of Civ. Proc.

[2]The report of the instant case does not contain a summary of facts. Such a summary may be found in 27 J. Tax. at 270.

[3]Treas. Reg. § 301.7701-2 (1965).

[4]INT. REV. CODE of 1945, § 7701 (a)(2).

[5]INT. REV. CODE of 1954, § 7701 (a)(3).

[6]INT. REV. CODE of 1954, *supra* note 4 (emphasis added).