

DAUGHERTY INJUNCTION IS FORMALLY ENTERED

Defense Seeks Consent of Government Counsel for an Appeal Direct to Supreme Court.

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CHICAGO, Sept. 25.—Formal proceeding through which Federal Judge James Wilkerson entered the drastic temporary injunction obtained by Attorney General Daugherty against the striking railroad shopmen occurred today. The proceeding was perfunctory, as Donald R. Richberg, attorney for the strike leaders, declined to interest himself in the form of the order, since, he said, the union was subject to the "injunction as a whole." Effect was given to the injunction without modification of the provisions regarded by the unions as placing a ban on free speech, free press and free assemblage.

In waiving the right to be heard as to the form of the order, Mr. Richberg told the Court he was "unable to suggest any form of order which would be effective to give legal sanction to the exercise of an authority which we respectfully urge is not within the power of the Court.

"To call this proceeding in its method and result 'due process of law,' to justify the denial of constitutional rights of the defendants by this judicial finding based on ex-parte affidavits, seems to me to disregard the fundamental principles of our system of laws, as well as to exercise a power specifically denied the Federal courts," he said. "An act of Congress was passed in order to prevent the very deprivation of liberty and property which is here accomplished.

"It appears that no one of the named defendants (shop craft leaders) is even charged with the commission of any unlawful act, and I am unable to ascertain positively from a careful study of the opinion of the Court just what unlawful acts are found to have been done by any of the defendants in furtherance of an unlawful conspiracy.

"Apparently, however, the Court has found there is proof of an unlawful conspiracy in 'the large number of unlawful acts shown to have been committed, the most of them by unknown parties,' and that the defendants are presumed to have knowledge that these things were done."

While they did not concern themselves with the form of the order, defense attorneys did make a conventional plea for dismissal of the Government's petition for an injunction. This Judge Wilkerson denied.

In the interest of clearness, Judge Wilkerson made some changes in the wording of the original order, in several paragraphs adding the phrase "with intent to further said conspiracy."

Mr. Richberg said he had hope of gaining the consent of Government counsel to a plan under which an appeal could be taken at once direct to the United States Supreme Court, thus avoiding the expenditure of time and money on lower courts.

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