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Letter, Addressed to Phillip Callery from John T. Clarkson, 1923

John T. Clarkson

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Clarkson, John T., "Letter, Addressed to Phillip Callery from John T. Clarkson, 1923" (1923).
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John T. Clarkson
General Counsel
PHONE 113

United Mine Workers
of America



Fred C. Huebner
Asst. Gen. Counsel
PHONE 1113

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Albia, Iowa, June 29, 1923.

Mr. Phil H. Callery,
Pittsburg, Kansas,

Dear Mr. Callery:

In Re: Cases pending in the Federal
Court v. Kansas Industrial Court.

I am advised that you have a motion pending to consolidate cases which you have pending in Judge Polick's Court v. Kansas Industrial Court with the one wherein I represent Smith et als vs. the Kansas Industrial Court. In view of the decision rendered of recent date by the Supreme Court of the United States, wherein the court has taken all of the teeth out of the so called Kansas Industrial Court law by holding that the law which proposed to confer power upon the Kansas Industrial Court to fix a wage scale is unconstitutional, I am of the opinion that it leaves nothing further to try in our cases. In other words, it has been my opinion that the law making body of the State of Kansas has the power to create a board conferring inquisitional power upon such board and that such board may use its good offices for conciliation in labor controversies, but we have contended in common with you and your associates that the law making body of the State of Kansas exceeded its constitutional power when it undertook to confer power upon the industrial court to make a wage scale and then make it a criminal offense for two or more to agree that they would not abide by such scale or refuse to work therefore. The decision as rendered by Chief Justice Taft, speaking for the court, supported our contention and in view of that fact, I am of the opinion that there is nothing to try in our cases, and if that be true, they may as well be dismissed. However, in view of the fact that you have a motion pending to consolidate cases, we do not care to dismiss if in your opinion there is any benefit to be derived from a trial of the cases. And if it be your opinion that we should try the case, I would be pleased to meet you in Kansas City for a conference in the

near future so that we may prepare ourselves for the hearing at the coming term of court. I can better spare the time for the conference in the near future than I could later on in the season.

Will you kindly let me hear from you with reference thereto at your earliest convenience, and oblige

Yours very truly,

John T. Clarkson.

JTC:S