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Thus

7 C.J.S. Asylums and Institutional Care Facilities § 1

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A COMPLETE RESTATEMENT OF THE ENTIRE
AMERICAN LAW
AS DEVELOPED BY
ALL REPORTED CASES

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The Editorial Staff
of
WEST PUBLISHING CO.

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Kept to Date by Cumulative Annual Pocket Parts

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PREFACE

Replacement Volumes 7 and 7A evidence the continuing effort of the publishers to maintain the integrity and usefulness of the C.J.S. set by adequately reflecting new case law and statutory developments occurring over a period of time. The titles dealt with in this recompilation include Associations, Assumpsit, Asylums and Institutional Care Facilities, Attachment, Attorney and Client, Attorney General, and Auctions and Auctioneers.

The revised and expanded discussion of the title Attachment aptly illustrates the growth and evolution of new legal concepts in an area which had previously been regarded as well settled. These changes largely stem from decisions of the Supreme Court of the United States imposing due process of law restrictions on the remedy of attachment. As indicated in this work, the courts have in recent years substantially modified the procedure in attachment by imposing a requirement that defendant be given notice and an opportunity to be heard in opposition to seizure before property is taken on attachment except in extraordinary circumstances which justify postponement of notice and hearing, as where attachment is necessary to protect the public against immediate harm or to secure jurisdiction in a state court. A further development, fully considered in text and notes, is the adoption of an alternate standard for compliance with constitutional requirements, that of permitting postponement of notice and hearing if the interest of the defendant in avoiding arbitrary or mistaken seizure is protected by other sufficient procedural devices.

The revised discussion of the title Attorney and Client should be of particular interest to the legal profession. New developments which have been featured include unified or integrated state bar organizations; changes in requirements for admission to practice; and what constitutes practice of law for which authority is required.

A new chapter has been added dealing with standards of professional conduct, including ethical guides, restrictions on advertising, and protection of clients. Full coverage is given to the many new decisions on the subject of what constitutes misconduct warranting discipline, suspension or disbarment; and there is a considered treatment of the law concerning the duties and liabilities of attorneys, including avoidance of conflicts of interest, liability to the client for negligence or malpractice, and liability to adverse parties.

The chapter relating to compensation features new law dealing with compensation for services under assignment as counsel by the court, contingent fee contracts, and allowances of compensation from funds in court under the common fund doctrine.

These new volumes are based on a study of all the cases on the subject. As in other volumes, the text is supported by reference to cases from all jurisdictions and illustrative notes. Each section is prefaced by a convenient capsule summary of the law, and library reference to the relevant key number of the West Digest

PREFACE

System affords access to related cases. To simplify the task of locating the rule of law being researched, each title contains a detailed prefatory analysis which is followed by a table of the sections of the former C.J.S. title corresponding to the new sections of the new revised title. In addition, there is a complete index for each title appearing in the recompilation. The thoroughness of coverage of the law will be assured by the publication of annual pocket parts containing later decisions annotated to page and note number, and new text material for developments in the law not previously treated.

A table of corresponding sections follows each title in this volume indicating where matter discussed was covered in former Volume 7.

The Publisher

January, 1980

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7 C.J.S.

I. INTRODUCTION

§ 1. Scope of Title

The subjects covered in this title are the practice of law in any rank or branch of the profession; admission to practice, and privileges, disabilities, and liabilities incident to the office conferred; and licenses and license fees and privileges and occupation taxes. The title also includes the regulation of professional conduct, the relation between attorney and client, and their mutual rights, duties, and liabilities.

Subjects which are covered in other titles and not treated in this title include admissions and declarations by attorneys;¹ the practice of law by corporations;² the representation of particular classes of persons;³ the privilege of professional communications;⁴ and attorneys as public officers.⁵

§ 2. Definitions

Attorney, in its broad sense signifies an agent, but in general use is construed as meaning attorney at law; a

client is one who seeks advice of an attorney or retains him to prosecute or defend a suit.

Research Note

Practice of law, as defined by the courts, is discussed infra § 29 et seq.

Library References

Attorney and Client ⇨ 14.

The word "attorney" signifies, in its broadest sense, a substitute or agent;⁶ one who is appointed or authorized to act in the place of or for another.⁷ The word is not necessarily limited to an attorney in fact,⁸ nor does it necessarily refer to an attorney at law;⁹ but when not coupled with any qualifying expression, the word is usually construed as meaning attorney at law.¹⁰

An attorney at law is an officer in a court of justice who is employed by a party in a cause to manage the same for him.¹¹ An attorney at law is different from an attorney in fact by definition and by general customary treatment.¹² A "lawyer" is defined as one skilled in the law;¹³

1. See C.J.S. Evidence.
2. See C.J.S. Corporations.
3. See C.J.S. titles Corporations; Husband and Wife; Infants; Insane Persons, and other specific topics.
4. See C.J.S. titles Witnesses, and Discovery.
5. See C.J.S. titles Attorney General; Clerks of Courts; District and Prosecuting Attorneys; Judges; and Officers and Public Employees.
6. Ga.—Lawyers Title Ins. Corp. v. Noland Co., 230 S.E.2d 102, 140 Ga.App. 114.
- Mich.—*Corpus Juris Secundum* quoted in Fletcher v. Board of Ed. of School Dist. Fractional No. 5, Brighton & Genoa Tps., Livingston County, 35 N.W.2d 177, 180, 323 Mich. 343.
- Neb.—State ex rel. Hunter v. Kirk, 276 N.W. 380, 133 Neb. 625.
- N.H.—Ricker's Pet., 29 A. 559, 66 N.H. 207, 208, 24 L.R.A. 740.
- N.Y.—*Corpus Juris Secundum* cited in People v. Miller, 259 N.Y.S.2d 647, 650, 23 A.D.2d 144.
- Word "agent" as including attorneys see C.J.S. Agency § 4.
7. Mich.—Fletcher v. Board of Ed. of School Dist. Fractional No. 5, Brighton & Genoa Tps., Livingston County, 35 N.W.2d 177, 323 Mich. 343.
- N.J.—Kaufman v. Jurczak, Ch., 139 A. 716.

Representative

The word "attorney" is sometimes used to convey idea of an unprofessional agent appointed to act as another's representative.

N.Y.—Application of Sposato, 43 N.Y.S.2d 426, 180 Misc. 933.

8. La.—Clark v. Morse, 16 La. 575.

Md.—Eichelberger v. Sifford, 27 Md. 320, 329.

9. N.Y.—People v. Miller, 259 N.Y.S.2d 647, 23 A.D.2d 144.

10. N.Y.—Application of Sposato, 43 N.Y.S.2d 426, 180 Misc. 933.

Vt.—In re Morse, 126 A. 550, 98 Vt. 85, 36 A.L.R. 527.

Term applied

While in England it may be otherwise, in the United States the general designation of attorney is applied to all who follow the profession of law, although different terms are used in some jurisdictions.

U.S.—In re Paschal, Tex., 10 Wall. 483, 19 L.Ed. 992.

Vt.—Weed Sewing Mach. Co. v. Boutelle, 56 Vt. 570, 48 Am.R. 821.

Distinction between attorney and counselor

An attorney is a person authorized to appear and represent a party in the written proceedings in any action, suit, or proceeding, in any stage thereof, and an attorney, other than one who represents

the party in the written proceedings, may also appear for and represent a party in court, or before a judicial officer, in which case he is known, in the particular action, suit, or proceeding, as counselor only.

Or.—Caples v. Ditchburn, 169 P. 510, 87 Or. 264.

11. N.C.—Glade Springs Bank v. McEwen, 76 S.E. 222, 160 N.C. 414, 421.

"Public attorney"

A "public attorney", as distinguished from "private attorney", is attorney at law and officer of court of law, who is legally qualified and can be selected by any client to prosecute or defend action in any court.

N.Y.—Application of Sposato, 43 N.Y.S.2d 426, 180 Misc. 933.

12. Cal.—People By and Through Dept. of Public Works v. Malone, 42 Cal.Rptr. 888, 232 C.A.2d 531.

13. S.D.—Danforth v. Egan, 119 N.W. 1021, 23 S.D. 43, 51, 139 Am.S.R. 1030, 20 Ann.Cas. 418.

"Legal skill" as respects practice of law is that kind of skill which is acquired by reason of knowledge in and of law which comes from study, education, and frequently from experience in law, and is that kind of skill in law which lawyer thus acquires as distinguished from knowledge possessed by average person of average intelligence and knowledge.

and the term is synonymous with "attorney."¹⁴ Therefore, anyone advertising himself as a lawyer holds himself out to be an attorney, an attorney at law, or counselor at law.¹⁵

If one appears before any court in the interest of another and moves the court to action with respect to any matter before it of a legal nature, such person appears as an "advocate", as that term is generally understood.¹⁶ The phrase "as an advocate in a representative capacity," as used in the statute regulating the practice of law, implies a representation distinct from officer or other regular administrative corporate employee representation.¹⁷

In England and her colonies a "barrister" is a person entitled to practice as an advocate or counsel in the superior courts.¹⁸ A "solicitor" is a person whose business it is to be employed in the care and management of suits depending in courts of chancery.¹⁹ In the great majority of the states of the Union, where law and equity are both administered by the same court, it has naturally come about that the two offices of attorney at law and solicitor in chancery have practically been consolidated, although in the federal equity practice the term "solicitor" is in

general use; but in some states the office of solicitor in chancery is a distinct and separate office from that of attorney at law.²⁰

A client is one who applies to a lawyer or counselor for advice and direction in a question of law, or commits his cause to his management in prosecuting a claim or defending against a suit in a court of justice;²¹ one who retains the attorney, is responsible to him for his fees, and to whom the attorney is responsible for the management of the suit;²² one who communicates facts to an attorney expecting professional advice.²³ Clients are also called "wards of the court" in regard to their relationship with their attorneys.²⁴

§ 3. Nature of Right to Practice

While it has been broadly stated that the right to practice law is not a natural or constitutional right, but is in the nature of a privilege or franchise, the practice of law is not a matter of grace but of right for one who is qualified by his learning and moral character.

Library References

Attorney and Client ⇐14.

The right to practice law is not a natural or constitutional right.²⁵ Nor is the right to practice

Ohio.—Gustafson v. V. C. Taylor & Son, 4 Ohio Supp. 355, affirmed 35 N.E.2d 435, 138 Ohio St. 392.

14. Colo.—People v. Taylor, 138 P. 762, 56 Colo. 441.

Mo.—Corpus Juris Secundum cited in In re Page, 257 S.W.2d 679, 684.

15. Mo.—In re Page, 257 S.W.2d 679.

16. Mo.—Automobile Club of Mo. v. Hoffmeister, App., 338 S.W.2d 348.

Attorney is advocate

Cal.—Norton v. Hines, 123 Cal.Rptr. 237, 49 C.A.3d 917.

Counsel or counselor

(1) The word "counsel" means an advocate, counselor, or pleader; one who assists his client with advice and pleads for him in open court.

Tex.—Harkins v. Murphy, 112 S.W. 136, 51 Tex.Civ.App. 568.

(2) A counselor is an advocate or barrister; a member of legal profession whose special function is to give counsel or advice as to legal aspects of judicial controversies or their preparation and management, and to appear in court for conduct of trials, or argument of causes or presentation of motions, or any other legal business that takes him into the presence of the court.
Black L. D.

Admiralty practice; ecclesiastical courts

(1) In admiralty practice, counsel eo nomine were not known, functions of counsel in courts of common law and equity being performed in civil and maritime courts by advocates.

U.S.—Sturgis v. The Joseph Johnson, D. C.N.Y., 23 F.Cas.No.13,576a.

(2) "Advocate" is another denomination of proctor.

U.S.—Sturgis v. The Joseph Johnson, D. C.N.Y. 23 F.Cas.No.13,576a.

(3) A proctor is an attorney in admiralty and ecclesiastical courts.

U.S.—Jacob L. D., cited in Thorne v. Victoria, D.C.N.Y., 23 F.Cas.No.13,988.

N.Y.—Kent Jewelry Corp. v. Kiefer, 113 N.Y.S.2d 12.

17. Tenn.—Haverty Furniture Co. v. Foust, 124 S.W.2d 694, 174 Tenn. 203.

18. Sweet L. D.

19. N.J.—In re Raisch, 83 N.J.Eq. 82, 87.

Subject to scrutiny of court

A solicitor, as an officer of the court, is charged with those duties and responsibilities which traditionally belong to his office, and is at all time subject to the scrutiny of a court of chancery and amenable to its discipline.

N.J.—Lane v. Rushmore, 198 A. 872, 123 N.J.Eq. 531, affirmed 4 A.2d 55, 125 N. J.Eq. 310, certiorari denied 59 S.Ct. 1033, 307 U.S. 636, 83 L.Ed. 1518.

20. Del.—In re Hoffecker, Ch., 60 A. 981. N.J.—In re Raisch, 90 A. 12, 83 N.J.Eq. 82.

21. Kan.—Corpus Juris Secundum cited in State v. Schmitt, 258 P.2d 228, 233, 174 Kan. 581.

Miss.—McCreary v. Hoopes, 25 Miss. 428, 429.

Ohio.—Goodman v. Provident Credit Co., 3 Ohio Supp. 104.

22. N.Y.—McFarland v. Crary, 6 Wend. 297, 312.

Need for professional help

A client is one who needs professional help and who ultimately pays for the same.

Ohio.—Toulmin v. Becker, App., 124 N.E. 2d 778.

23. Mo.—Cross v. Riggins, 50 Mo. 335, 337.

24. D.C.—Spilker v. Hankin, 188 F.2d 35, 88 U.S.App.D.C. 206.

25. U.S.—Corpus Juris Secundum cited in Applicaton of Levy, C.A.Tex., 214 F. 2d 331, 334, reversed on other grounds 75 S.Ct. 569, 348 U.S. 978, 99 L.Ed. 762.

Ariz.—In re Greer, 81 P.2d 96, 52 Ariz. 385—In re Gibbs, 278 P. 371, 35 Ariz. 346—In re Miller, 244 P. 376, 29 Ariz. 582.

Ark.—McKenzie v. Burris, 500 S.W.2d 357, 255 Ark. 330, 61 A.L.R.3d 250.

Fla.—Fuller v. Watts, 74 So.2d 676.

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Ga.—Sams v. 225 Ga. 497, 916, 397 U.S. Juris Secum Clinkscales, 843.

Corpus J. Cushway v. 736, 120 Ga. 90 S.Ct. 1705 rehearing de 938, 26 L. State, 166 S.I Hawaii.—Petiti 44 Haw. 597, 294, 44 Haw.

Ind.—In re H 245 Ind. 483, 665, 379 U.S. Harrison, 10 —Beamer v. 221 Ind. 232- 261, 200 Ind.

Iowa.—Corpus In re Meldru Iowa 777—Ir 217 Iowa 3.

Kan.—Sowers Kan. 630—Ir 129 Kan. 853.

La.—In re Dil Rosborough, Md.—Fellner v

City, 131 A.2 Mich.—Ayres v 303 Mich. 588

Nev.—Petition 78 Nev. 102.

N.Y.—In re Pe 595, reargum 252 N.Y. 572.

N.C.—Corpus Baker v. Va N.C. 260—S Club, 184 S.E

Or.—In re Wei 1.

Vt.—In re Mon 199—In re H 322.

W.Va.—Corpus West Virgini S.E.2d 420, 4

26. Ark.—McH 2d 357, 255 A Cal.—In re In Examination Law, 33 P.2d

Fla.—Holland 142 Fla. 459.

Ga.—Sams v. Ga. 497, cert 397 U.S. 91.

Juris Secund Clinkscales, 843.

law an unqualified or an absolute right²⁶ or a right de jure.²⁷ It is not an inherent,²⁸ vested,²⁹ or a personal³⁰ right, but it is a per-

mit or license,³¹ or, as stated in numerous decisions, a privilege or franchise,³² which is be-

- Ga.—Sams v. Olah, 169 S.E.2d 790, 798, 225 Ga. 497, certiorari denied 90 S.Ct. 916, 397 U.S. 914, 25 L.Ed.2d 94—**Corpus Juris Secundum** quoted in Gordon v. Clinkscales, 114 S.E.2d 15, 19, 215 Ga. 843.
- Corpus Juris Secundum** quoted in Cushway v. State Bar, 170 S.E.2d 732, 736, 120 Ga.App. 371, certiorari denied 90 S.Ct. 1705, 398 U.S. 910, 26 L.Ed.2d 71, rehearing denied 90 S.Ct. 2256, 399 U.S. 938, 26 L.Ed.2d 810.
- Hawaii.—Petition of Avery, 358 P.2d 709, 44 Haw. 597, rehearing denied 359 P.2d 294, 44 Haw. 611.
- Ind.—In re Holovachka, 198 N.E.2d 381, 245 Ind. 483, certiorari denied 85 S.Ct. 665, 379 U.S. 974, 13 L.Ed.2d 565—In re Harrison, 109 N.E.2d 722, 231 Ind. 665—Beamer v. Waddell, 45 N.E.2d 1020, 221 Ind. 232—In re McDonald, 164 N.E. 261, 200 Ind. 424.
- Iowa.—**Corpus Juris Secundum** cited in In re Meldrum, 51 N.W.2d 881, 884, 243 Iowa 777—In re Cloud, 250 N.W. 160, 217 Iowa 3.
- Kan.—Sowers v. Wells, 95 P.2d 281, 150 Kan. 630—In re Casebier, 284 P. 611, 129 Kan. 853.
- La.—In re Dileo, 307 So.2d 362—State v. Rosborough, 94 So. 858, 152 La. 945.
- Md.—Fellner v. Bar Ass'n of Baltimore City, 131 A.2d 729, 213 Md. 243.
- Mich.—Ayres v. Hadaway, 6 N.W.2d 905, 303 Mich. 589.
- Nev.—Petition of Chachas, 369 P.2d 455, 78 Nev. 102.
- N.Y.—In re Peters, 166 N.E. 337, 250 N.Y. 595, reargument denied 170 N.E. 148, 252 N.Y. 572.
- N.C.—**Corpus Juris Secundum** cited in Baker v. Varser, 82 S.E.2d 90, 95, 240 N.C. 260—Seawell v. Carolina Motor Club, 184 S.E. 540, 209 N.C. 624.
- Or.—In re Weinstein, 42 P.2d 744, 150 Or. 1.
- Vt.—In re Monaghan, 167 A.2d 81, 122 Vt. 199—In re Haddad, 173 A. 103, 106 Vt. 322.
- W.Va.—**Corpus Juris Secundum** cited in West Virginia State Bar v. Earley, 109 S.E.2d 420, 430, 144 W.Va. 504.
26. Ark.—McKenzie v. Burris, 500 S.W. 2d 357, 255 Ark. 330, 61 A.L.R.3d 250.
- Cal.—In re Investigation of Conduct of Examination for Admission to Practice Law, 33 P.2d 829, 1 C.2d 61.
- Fla.—Holland v. Flournoy, 195 So. 138, 142 Fla. 459.
- Ga.—Sams v. Olah, 169 S.E.2d 790, 225 Ga. 497, certiorari denied 90 S.Ct. 916, 397 U.S. 914, 25 L.Ed.2d 94—**Corpus Juris Secundum** quoted in Gordon v. Clinkscales, 114 S.E.2d 15, 19, 215 Ga. 843.
- Hill v. Bartlett, 192 S.E.2d 427, 126 Ga.App. 833—**Corpus Juris Secundum** quoted in Cushway v. State Bar, 170 S.E.2d 732, 736, 120 Ga.App. 371, certiorari denied 90 S.Ct. 1705, 398 U.S. 910, 26 L.Ed.2d 71, rehearing denied 90 S.Ct. 2256, 399 U.S. 938, 26 L.Ed.2d 810.
- Ill.—In re Donaghy, 83 N.E.2d 560, 402 Ill. 120—People v. Baker, 142 N.E. 554, 311 Ill. 66, 31 A.L.R. 737.
- Iowa.—In re Cloud, 250 N.W. 160, 217 Iowa 3.
- Minn.—In re Smith, 19 N.W.2d 324, 220 Minn. 197.
- N.M.—Schware v. Board of Bar Examiners of New Mexico, 291 P.2d 607, 60 N.M. 304.
- S.C.—In re Anderson, 177 S.E.2d 130, 255 S.C. 56—Norris v. Alexander, 142 S.E. 2d 214, 246 S.C. 14.
- S.D.—State ex rel. Rice v. Cozad, 16 N.W.2d 484—In re Hosford, 252 N.W. 843, 62 S.D. 374—In re Egan, 218 N.W. 1, 52 S.D. 394.
- W.Va.—**Corpus Juris Secundum** cited in West Virginia State Bar v. Earley, 109 S.E.2d 420, 430, 144 W.Va. 504.
27. Ga.—Sams v. Olah, 169 S.E.2d 790, 225 Ga. 497, certiorari denied 90 S.Ct. 916, 397 U.S. 914, 25 L.Ed.2d 94—Yarbrough v. State, 166 S.E.2d 35, 119 Ga. App. 46—**Corpus Juris Secundum** quoted in Gordon v. Clinkscales, 114 S.E.2d 15, 19, 215 Ga. 843.
- Corpus Juris Secundum** quoted in Cushway v. State Bar, 170 S.E.2d 732, 736, 120 Ga.App. 371, certiorari denied 90 S.Ct. 1705, 398 U.S. 910, 26 L.Ed.2d 71, rehearing denied 90 S.Ct. 2256, 399 U.S. 938, 26 L.Ed.2d 810.
- Wash.—In re Ellis, 203 P. 957, 118 Wash. 484.
- W.Va.—**Corpus Juris Secundum** cited in West Virginia State Bar v. Earley, 109 S.E.2d 420, 430, 144 W.Va. 504.
28. D.C.—Brooks v. Laws, 208 F.2d 18, 92 U.S.App.D.C. 367.
- Fla.—Petition of Florida State Bar Ass'n, 186 So. 280, 134 Fla. 851.
- La.—In re Dileo, 307 So.2d 362.
- N.Y.—New York County Lawyers' Ass'n v. Dacey, 283 N.Y.S.2d 984, 28 A.2d 161, reversed on other grounds, 234 N.E.2d 459, 21 N.Y.2d 694, 287 N.Y.S.2d 422.
- Application of New York County Lawyers Ass'n, 156 N.Y.S.2d 651, 4 Misc.2d 728, affirmed In re Roel, 160 N.Y.S.2d 982, 3 A.D.2d 742, affirmed 144 N.E.2d 24, 3 N.Y.2d 224, 165 N.Y.S.2d 31, appeal dismissed 78 S.Ct. 535, 355 U.S. 604, 2 L.Ed.2d 524.
29. La.—In re Dileo, 307 So.2d 362.
- Mont.—Petition of Morris, 575 P.2d 37—Application of President of Montana Bar Ass'n, 518 P.2d 32, 163 Mont. 523.
30. Tex.—Hankamer v. Templin, 187 S.W.2d 549, 143 Tex. 572.
- Benefit of public**
Licensure to practice law is not for benefit of individual member of profession but rather for benefit of public.
- Okl.—State ex rel. Oklahoma Bar Ass'n v. Booth, 441 P.2d 405.
31. Minn.—In re Smith, 19 N.W.2d 324, 220 Minn. 197.
- S.D.—State ex rel. Rice v. Cozad, 16 N.W.2d 484.
32. U.S.—**Corpus Juris Secundum** cited in Application of Levy, C.A.Tex., 214 F.2d 331, 334, reversed on other grounds 75 S.Ct. 569, 348 U.S. 978, 99 L.Ed. 762.
- Ala.—Simpson v. Alabama State Bar, 311 So.2d 307, 294 Ala. 52—Birmingham Bar Ass'n v. Phillips & Marsh, 196 So. 725, 239 Ala. 650—City of Birmingham v. Wilkinson, 194 So. 548, 239 Ala. 199.
- Cal.—Townsend v. State Bar of California, 291 P. 837, 210 Cal. 362.
- Conn.—Application of Dodd, 42 A.2d 36, 131 Conn. 702.
- Fla.—Fuller v. Watts, 74 So.2d 676—Petition of Florida State Bar Ass'n, 186 So. 280, 134 Fla. 851.
- Ga.—Sams v. Olah, 169 S.E.2d 790, 225 Ga. 497, certiorari denied 90 S.Ct. 916, 397 U.S. 914, 25 L.Ed.2d 94—Yarbrough v. State, 166 S.E.2d 35, 119 Ga. App. 46—**Corpus Juris Secundum** quoted in Gordon v. Clinkscales, 114 S.E.2d 15, 19, 215 Ga. 843.
- Corpus Juris Secundum** quoted in Cushway v. State Bar, 170 S.E.2d 732, 736, 120 Ga.App. 371, certiorari denied 90 S.Ct. 1705, 398 U.S. 910, 26 L.Ed.2d 71, rehearing denied 90 S.Ct. 2256, 399 U.S. 938, 26 L.Ed.2d 810.
- Hawaii.—Petition of Avery, 358 P.2d 709, 44 Haw. 597, rehearing denied 358 P.2d 294, 44 Haw. 611.
- Idaho.—In re Edwards, 266 P. 665, 45 Idaho 676.
- Ill.—In re Anastaplo, 121 N.E.2d 826, 3 Ill.2d 471, certiorari denied and appeal dismissed 75 S.Ct. 439, 348 U.S. 946, 99 L.Ed. 1243—In re Donaghy, 83 N.E.2d 560, 402 Ill. 120—People ex rel. Chicago Bar Ass'n v. Goodman, 8 N.E.2d 941, 366 Ill. 346, 111 A.L.R. 1, certiorari denied 58 S.Ct. 49, 302 U.S. 728, 82 L.Ed. 562, rehearing denied 58 S.Ct. 138, 302 U.S. 777, 82 L.Ed. 601.
- Ind.—In re Holovachka, 198 N.E.2d 381, 245 Ind. 483, certiorari denied 85 S.Ct. 665, 379 U.S. 974, 13 L.Ed.2d 565—In re Harrison, 109 N.E.2d 722, 231 Ind. 665—Beamer v. Waddell, 45 N.E.2d 1020, 221 Ind. 232—In re McDonald, 164 N.E. 261, 200 Ind. 424.
- Iowa.—Committee on Professional Ethics and Conduct of Iowa State Bar Ass'n v. Kinion, 206 N.W.2d 726—**Corpus Juris**

stowed upon certain persons, primarily for the benefit of society, upon such terms and conditions as the state may fix.³³ Thus, a membership in the bar and right to engage in the practice of law is a privilege burdened with conditions.³⁴

The practice of law, however, is not a matter of grace or favor,³⁵ and it has been held that it is not a privilege;³⁶ but it is a right for one who is qualified by learning and moral character.³⁷ Generally, the right to practice law is not property³⁸ or a property right,³⁹ although in some

Secundum cited in *In re Meldrum*, 51 N.W.2d 881, 884, 243 Iowa 777—*In re Cloud*, 250 N.W. 160, 217 Iowa 3.
 Kan.—*Sowers v. Wells*, 95 P.2d 281, 150 Kan. 630—State ex rel. *Boynnton v. Perkins*, 28 P.2d 765, 138 Kan. 899—*In re Casebier*, 284 P. 611, 129 Kan. 853.
 La.—*In re Dileo*, 307 So.2d 362—State v. *Rosborough*, 94 So. 858, 152 La. 945.
 Meunier v. *Bernich*, App., 170 So. 567.
 Mass.—*In re Carver*, 112 N.E. 877, 224 Mass. 169.
 Mich.—*Ayres v. Hadaway*, 6 N.W.2d 905, 303 Mich. 589.
Green v. Hart, 205 N.W.2d 306, 44 Mich.App. 259.
 Minn.—*In re Smith*, 19 N.W.2d 324, 220 Minn. 197—Petition for Integration of Bar of Minnesota, 12 N.W.2d 515, 216 Minn. 195.
 Nev.—*In re Scott*, 292 P. 291, 53 Nev. 24, rehearing denied 296 P. 1113.
 N.J.—*Cape May County Bar Ass'n v. Ludlam*, 211 A.2d 780, 45 N.J. 121.
 N.Y.—*People ex rel. Karlin v. Culkun*, 162 N.E. 487, 248 N.Y. 465, 160 A.L.R. 851.
People v. McGuinness, 6 N.Y.S.2d 593, 168 Misc. 849.
In re Wysell, 198 N.Y.S.2d 456, 10 A.D.2d 199—*People v. Herk*, 44 N.Y.S.2d 444.
 N.C.—*Corpus Juris Secundum* cited in *Baker v. Varsler*, 32 S.E.2d 90, 95, 24 N.C. 260.
 Ohio.—*Land Title Abstract & Trust Co. v. Dworken*, 193 N.E. 650, 129 Ohio St. 23.
 Or.—*In re Weinstein*, 42 P.2d 744, 150 Or. 1—*In re Crum*, 204 P. 948, 103 Or. 296.
 S.D.—State ex rel. *Rice v. Cozad*, 16 N.W.2d 484—*In re Brown*, 264 N.W. 521—*In re Hosford*, 252 N.W. 843, 62 S.D. 374—*In re Egan*, 218 N.W. 1, 52 S.D. 394.
 Tex.—*Hankamer v. Templin*, 187 S.W.2d 549, 143 Tex. 572.
State v. Arnett, Civ.App., 385 S.W.2d 452, error refused no reversible error.
 Vt.—*In re Morse*, 126 A. 550, 98 Vt. 85, 36 A.L.R. 527.
 Va.—*Richmond Ass'n of Credit Men v. Bar Ass'n of City of Richmond*, 189 S.E. 153, 167 Va. 327.
 Wash.—*In re Little*, 244 P.2d 255, 40 Wash.2d 421.
 W.Va.—*Corpus Juris Secundum* cited in *West Virginia State Bar v. Earley*, 109 S.E.2d 420, 430, 144 W.Va. 504—*In re Adkins*, 98 S.E. 888, 83 W.Va. 673.
 Wis.—*Lathrop v. Donohue*, 102 N.W.2d 404, 10 Wis.2d 230, affirmed 81 S.Ct. 1828, 367 U.S. 820, 6 L.Ed.2d 1191, re-

hearing denied 82 S.Ct. 23, 368 U.S. 871, 7 L.Ed.2d 72.
 Wyo.—*Corpus Juris Secundum* cited in *Application of Stone*, 288 P.2d 767, 768, 74 Wyo. 389, mandamus denied 77 S.Ct. 71, 352 U.S. 815, 1 L.Ed.2d 68.
Exclusive franchise
 Practicing lawyer is not holder of exclusive "franchise" and entire membership of bar does not have any exclusive franchise to practice law.
 Ind.—*Hulbert v. Mybeck*, 44 N.E.2d 830, 220 Ind. 530.
Proof of fitness
 Attorney is officer of court, exercising privilege or franchise, not as a matter of right, but on proof of fitness.
 Vt.—*In re Monaghan*, 167 A.2d 81, 122 Vt. 199.
Of nature of public trust
 Right to practice law not only presupposes in its possessor integrity, legal standing, and attainment, but also exercise of special privilege, highly personal and partaking of the nature of a public trust.
 Cal.—*In re Lavine*, 41 P.2d 161, 2 Cal.2d 324, modified on other grounds and rehearing denied 42 P.2d 311, 2 Cal.2d 324.
Personal privilege
 Privilege to practice law is personal to holder of such privilege.
 W.Va.—*West Virginia State Bar v. Earley*, 109 S.E.2d 420, 144 W.Va. 504.
Grant or withdrawal
 The practice of law is a privilege in which the public has vital interest and which may be granted or withdrawn as the circumstances require.
 Fla.—*Holland v. Flournoy*, 195 So. 138, 142 Fla. 459.
 33. *Ariz.*—*In re Greer*, 81 P.2d 96, 52 Ariz. 385.
 Ind.—*In re Holovachka*, 198 N.E.2d 381, 245 Ind. 483, certiorari denied 85 S.Ct. 665, 379 U.S. 974, 13 L.Ed.2d 565.
 N.Y.—*Menin v. Menin*, 359 N.Y.S.2d 721, 79 Misc. 285.
 34. *U.S.*—*Theard v. U. S., La.*, 77 S.Ct. 1274, 354 U.S. 278, 1 L.Ed.2d 1342—*Yeiser v. Dysart*, 45 S.Ct. 399, 267 U.S. 540, 69 L.Ed. 775.
 Mont.—*Petition of Morris*, 575 P.2d 37—*Application of President of Montana Bar Ass'n*, 518 P.2d 32, 163 Mont. 523.
 N.J.—*In re Rothman*, 97 A.2d 621, 12 N.J. 528.
 N.Y.—*Kraushaar v. LaVin*, 42 N.Y.S.2d 857, 181 Misc. 508.

Chenango Valley Sand & Gravel Co. v. Paddelford, 13 N.Y.S.2d 1006.
 35. *U.S.*—*Baird v. State Bar of Arizona*, Ariz., 91 S.Ct. 702, 401 U.S. 1, 27 L.Ed.2d 639—*Schwartz v. Board of Bar Examiners of State of New Mexico*, N.M., 77 S.Ct. 752, 353 U.S. 232, 1 L.Ed.2d 796, 64 A.L.R.2d 288.
 Ariz.—*Application of Levine*, 397 P.2d 205, 97 Ariz. 88.
 Ark.—*McKenzie v. Burris*, 500 S.W.2d 357, 255 Ark. 330, 61 A.L.R.3d 250.
 Nev.—*Petition of Schaengold*, 422 P.2d 686, 83 Nev. 65—*Application of Kellar*, 401 P.2d 616, 81 Nev. 240.
 Vt.—*In re Monaghan*, 222 A.2d 685, 126 Vt. 53.
 36. *Ariz.*—*Application of Ronwin*, 555 P.2d 315, 113 Ariz. 357, certiorari denied *Ronwin v. Special Committee on Examinations and Admissions of Arizona Supreme Court*, 97 S.Ct. 1178, 430 U.S. 907, 51 L.Ed.2d 583, certiorari denied, *Ronwin v. Supreme Court of Arizona*, 99 S.Ct. 102—*Application of Klahr*, 433 P.2d 977, 102 Ariz. 529.
 Cal.—*Hallinan v. Committee of Bar Examiners of State Bar*, 55 Cal.Rptr. 228, 421 P.2d 76, 65 C.2d 447.
 37. *U.S.*—*Baird v. State Bar of Arizona*, Ariz., 91 S.Ct. 702, 401 U.S. 1, 27 L.Ed.2d 639.
 Ariz.—*Application of Ronwin*, 555 P.2d 315, 113 Ariz. 357, certiorari denied *Ronwin v. Special Committee on Examinations and Admissions of Arizona Supreme Court*, 97 S.Ct. 1178, 430 U.S. 907, 51 L.Ed.2d 583, certiorari denied, *Ronwin v. Supreme Court of Arizona*, 99 S.Ct. 102—*Application of Klahr*, 433 P.2d 977, 102 Ariz. 529—*Application of Levine*, 397 P.2d 205, 97 Ariz. 88.
 Nev.—*Petition of Schaengold*, 422 P.2d 686, 83 Nev. 65.
Procedural due process
 Claim for admission to the bar is one of "right" entitled to protections of procedural due process.
 Cal.—*Hallinan v. Committee of Bar Examiners of State Bar*, 55 Cal.Rptr. 228, 421 P.2d 76, 65 C.2d 447.
 38. *Idaho.*—*In re Edwards*, 266 P. 665, 45 Idaho 676.
 Kan.—*In re Casebier*, 284 P. 611, 129 Kan. 853.
 39. *Mich.*—*Ayres v. Hadaway*, 6 N.W.2d 905, 303 Mich. 589.
Green v. Hart, 205 N.W.2d 306, 44 Mich.App. 259.

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7 C. J. S.

cases it has been held to be a property right.⁴⁰ The right to practice is not in any sense a "contract,"⁴¹ or a "privilege or immunity,"⁴² within the constitutional meaning of those terms. The right cannot be assigned or inherited, but must be earned by hard study and good conduct,⁴³ and it is not a reward for good behavior.⁴⁴ The right to practice does not mandate a licensee to act as an attorney every time he acts.⁴⁵

§ 4. Nature and Duties of Office

An attorney is an officer of the court with an obligation

Minn.—Petition for Integration of Bar of Minnesota, 12 N.W.2d 515, 216 Minn. 195.

Mont.—Petition of Morris, 575 P.2d 37—Application of President of Montana Bar Ass'n, 518 P.2d 32.

N.Y.—People v. Herk, 44 N.Y.S.2d 444.

S.D.—In re Hosford, 252 N.W. 843, 62 S. D. 374.

40. Conn.—Application of Dodd, 42 A.2d 36, 131 Conn. 702.

Ky.—Hobson v. Kentucky Trust Co. of Louisville, 197 S.W.2d 454, 303 Ky. 493.

N.M.—Schware v. Board of Bar Examiners of New Mexico, 291 P.2d 607, 60 N.M. 304.

N.Y.—Menin v. Menin, 359 N.Y.S.2d 721, 79 Misc.2d 285.

Letters patent

Right to practice law is a property right, existing by virtue of letters patent.

N.J.—Unger v. Landlords' Management Corporation, 168 A. 229, 114 N.J.Eq. 68.

41. Kan.—In re Casebier, 284 P. 611, 129 Kan. 853.

42. U.S.—Bradwell v. Illinois, Ill., 16 Wall. 130, 21 L.Ed. 442.

La.—Meunier v. Bernich, App., 170 So. 567.

Md.—In re Taylor, 48 Md. 28, 30 Am.R. 451.

Wash.—State v. Rossman, 101 P. 357, 53 Wash. 1, 21 L.R.A.N.S. 821, 17 Ann. Cas. 625.

As a privilege or immunity within meaning of constitution see C.J.S. Constitutional Law § 458.

Practice in state courts

Right to practice law in state courts is not a privilege granted under federal Constitution.

U.S.—In re Bogart, D.C.N.Y., 386 F.Supp. 126.

Fla.—In re Russell, 236 So.2d 767.

43. Fla.—In re Clifton, 155 So. 324, 115 Fla. 168.

Kan.—In re Casebier, 284 P. 611, 129 Kan. 853.

N.Y.—In re Trybom's Estate, 6 N.Y.S.2d 29, 168 Misc. 484.

Vt.—In re Monaghan, 167 A.2d 81, 122 Vt. 199—In re Morse, 126 A. 550, 98 Vt. 85, 36 A.L.R. 527.

44. Vt.—In re Milne, 365 A.2d 133, 134 Vt. 416.

45. N.Y.—Brunswick Corp. v. Aetna Cas. & Sur. Co., 269 N.Y.S.2d 30, 49 Misc.2d 1018, modified on other grounds 278 N. Y.S.2d 459, 27 A.D.2d 182.

46. Cal.—In re Galusha, 195 P. 406, 184 Cal. 697.
In re Cate, App., 273 P. 617, supplementing opinions 270 P. 968, and 271 P. 356.

Fla.—In re Clifton, 155 So. 324, 115 Fla. 168.

Ga.—Sams v. Olah, 169 S.E.2d 790, 225 Ga. 497, certiorari denied 90 S.Ct. 916, 397 U.S. 914, 25 L.Ed. 94—Corpus Juris Secundum quoted in Gordon v. Clinkscals, 114 S.E.2d 15, 19, 215 Ga. 843.
Hill v. Bartlett, 192 S.E.2d 427, 126 Ga.App. 833.

Kan.—Martin v. Davis, 357 P.2d 782, 187 Kan. 473, appeal dismissed 82 S.Ct. 1, 368 U.S. 25, 7 L.Ed.2d 5, rehearing denied 82 S.Ct. 376, 368 U.S. 945, 7 L.Ed. 2d 341—In re Cox, 188 P.2d 652, 164 Kan. 160—In re Hanson, 5 P.2d 1088, 134 Kan. 165.

Mass.—In re Keenan, 47 N.E.2d 12, 313 Mass. 186.

Mich.—Ayres v. Hadaway, 6 N.W.2d 905, 303 Mich. 589.

Minn.—In re Greathouse, 248 N.W. 735, 189 Minn. 51.

Mo.—In re Sizer, App., 134 S.W.2d 1085—In re Lacy, 112 S.W.2d 594, 234 Mo. App. 71—In re H—S—, App., 69 S. W.2d 325.

Neb.—State ex rel. Sorensen v. Goldman, 255 N.W. 32, 127 Neb. 340.

N.J.—State v. Rush, 217 A.2d 441, 46 N.J. 399, 21 A.L.R.3d 804.

Federal bar

Member of the federal bar is not an "officer of the United States."

D.C.—Laughlin v. Clephane, D.C., 77 F. Supp. 103.

Client having governmental powers

Attorney's official status on behalf of client with governmental powers does not make him a "public official" within a statute relating to holding over of the office.

ATTORNEY & CLIENT §§ 3-4

to the courts and the public as well as to his clients, and his duty is to facilitate the administration of justice.

Library References

Attorney and Client ⇐14.

An attorney does not hold an office or public trust, in the constitutional or statutory sense of that term,⁴⁶ and strictly speaking, he is not an officer of the state or of a governmental subdivision thereof.⁴⁷ Rather, as held in many decisions, he is an officer of the court,⁴⁸ before

N.Y.—People ex rel. Dawson v. Knox, 247 N.Y.S. 731, 231 App.Div. 490, affirmed 196 N.E. 582, 267 N.Y. 565.

47. U.S.—Phillips v. Singletary, D.C.S.C. C., 350 F.Supp. 297—Peake v. Philadelphia County, Pa., D.C.Pa., 280 F.Supp. 853—Weyandt v. Mason's Stores, Inc., D.C.Pa., 279 F.Supp. 283—Kregger v. Posner, D.C.Mich., 248 F.Supp. 804—Pugliano v. Staziak, D.C.Pa., 231 F. Supp. 347—Rhodes v. Meyer, D.C.Neb., 225 F.Supp. 80, affirmed 334 F.2d 709, certiorari denied 85 S.Ct. 263, 379 U.S. 915, 13 L.Ed.2d 186, motion denied 258 F.Supp. 546, affirmed 418 F.2d 1309, certiorari denied 90 S.Ct. 1382, 397 U.S. 1049, 25 L.Ed.2d 662.

Ala.—In re Griffith, 178 So.2d 169, 278 Ala. 344, certiorari denied 86 S.Ct. 548, 382 U.S. 988, 15 L.Ed.2d 475.

Fla.—Petition of Florida State Bar Ass'n, 40 So.2d 902.

Not an officeholder

U.S.—Application of Griffiths, Conn., 93 S.Ct. 2851, 413 U.S. 717, 37 L.Ed.2d 910, on remand 309 A.2d 689.

48. U.S.—Theard v. U. S., La., 77 S.Ct. 1274, 354 U.S. 278, 1 L.Ed.2d 1342.

Saier v. State Bar of Mich., C.A. Mich., 293 F.2d 756, certiorari denied 82 S.Ct. 388, 368 U.S. 947, 7 L.Ed.2d 343.

Daniel v. Penrod Drilling Co., D.C. La., 393 F.Supp. 1056—In re Cohen, D. C.N.Y., 370 F.Supp. 1166—Phillips v. Singletary, D.C.S.C., 350 F.Supp. 297—Peake v. Philadelphia County, Pennsylvania, D.C.Pa., 280 F.Supp. 853—U. S. v. Estep, D.C.Tex., 151 F.Supp. 668, affirmed 251 F.2d 579—U. S. v. Garden Homes, Inc., D.C.N.H., 144 F.Supp. 644—Corpus Juris Secundum cited in Virgin Islands Bar Ass'n v. Dench, D. C.Virgin Islands, 124 F.Supp. 257, 258—U. S. v. Jackson, D.C.Mich., 55 F.Supp. 517.

Ala.—Simpson v. Alabama State Bar, 311 So.2d 307, 294 Ala. 52—In re Griffith, 178 So.2d 169, 278 Ala. 344, certiorari denied 86 S.Ct. 548, 382 U.S. 988, 15 L. Ed.2d 475—Hamilton v. State, 116 So.2d 906, 270 Ala. 184, certiorari denied 80 S.Ct. 1638, 363 U.S. 852, 4 L.Ed.2d 1737—In re Willis, 5 So.2d 716, 242 Ala. 284.

§ 4 ATTORNEY & CLIENT

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Alaska—Jackson v. State, 413 P.2d 488.
 Ariz.—In re Greer, 81 P.2d 96, 52 Ariz. 385—State v. Superior Court of Maricopa County, 5 P.2d 192, 39 Ariz. 242.
 State v. Zumwalt, 439 P.2d 511, 7 Ariz.App. 348.
 Cal.—People v. Mattson, 336 P.2d 937, 51 C.2d 777.
 Ruszovan v. Ruszovan, 74 Cal.Rptr. 507, 268 C.A.2d 902—People v. Norman, 60 Cal.Rptr. 609, 252 C.A.2d 381, certiorari denied 88 S.Ct. 1819, 391 U.S. 923, 20 L.Ed.2d 661.
 Colo.—People v. Tognoni, 448 P.2d 612, 167 Colo. 480.
 Conn.—Heiberger v. Clark, 169 A.2d 652, 148 Conn. 177.
 Densmore v. Eyles, Super., 342 A.2d 62, 32 Conn.Supp. 519.
 D.C.—Spilker v. Hankin, 188 F.2d 35, 88 U.S.App.D.C. 206—Booth v. Fletcher, 101 F.2d 676, 69 App.D.C. 351, certiorari denied, 59 S.Ct. 835, 307 U.S. 628, 83 L. Ed. 1511.
 Laughlin v. Clephane, 77 F.Supp. 103.
 Fla.—State ex rel. Florida Bar v. Calhoun, 102 So.2d 604—State ex rel. Florida Bar v. Evans, 94 So.2d 730—State ex rel. Carter v. Beggs, 51 So.2d 423—Petition of Florida State Bar Ass'n, 40 So.2d 902.
 Ga.—Kellar v. State, 175 S.E.2d 654, 226 Ga. 432—Sams v. Olah, 169 S.E.2d 790, 225 Ga. 497, certiorari denied 90 S.Ct. 916, 397 U.S. 914, 25 L.Ed.2d 94—Corpus Juris Secundum quoted in Gordon v. Clinkscales, 114 S.E.2d 15, 19, 215 Ga. 843.
 Young v. Champion, 236 S.E.2d 783, 142 Ga.App. 687.
 Ill.—People ex rel. Conn v. Randolph, 219 N.E.2d 337, 35 Ill.2d 24, 18 A.L.R.3d 1065—In re Anastaplo, 163 N.E.2d 429, 18 Ill.2d 182, affirmed 81 S.Ct. 978, 366 U.S. 82, 6 L.Ed.2d 135, rehearing denied 82 S.Ct. 21, 368 U.S. 869, 7 L.Ed.2d 69—In re Alschuler, 58 N.E.2d 563, 388 Ill. 492—In re Both, 33 N.E.2d 213, 376 Ill. 177.
 People v. Buster, 222 N.E.2d 31, 77 Ill.App.2d 224.
 Ind.—Harrison v. State, 106 N.E.2d 912.
 Kitch v. Moslander, 50 N.E.2d 933, 114 Ind.App. 74—King v. Ransburg, 39 N.E.2d 822, 111 Ind.App. 523, rehearing denied 40 N.E.2d 999, 111 Ind.App. 523.
 Iowa.—In re Cloud, 250 N.W. 160, 217 Iowa 3.
 Kan.—Martin v. Davis, 357 P.2d 782, 187 Kan. 473, appeal dismissed 82 S.Ct. 1, 368 U.S. 25, 7 L.Ed.2d 5, rehearing denied 82 S.Ct. 376, 368 U.S. 945, 7 L.Ed.2d 341—State ex rel. Anderson v. Stice, 348 P.2d 833, 186 Kan. 69, certiorari denied 81 S.Ct. 59, 364 U.S. 823, 5 L.Ed.2d 52—Price v. Brodrick, 325 P.2d 387, 183 Kan. 71.
 Ky.—Warner v. Com., 400 S.W.2d 209, certiorari denied 87 S.Ct. 108, 385 U.S. 858, 17 L.Ed.2d 85, and 87 S.Ct. 178, 385 U.S. 885, 17 L.Ed.2d 112—In re Horen, 184 S.W.2d 74, 298 Ky. 841—In re Stump, 114 S.W.2d 1094, 272 Ky. 593.
 La.—De Blanc v. De Blanc, App., 18 So. 2d 619.
 Me.—Barnes v. Walsh, 72 A.2d 813, 145 Me. 107.
 Md.—Lifshutz v. State, 204 A.2d 541, 236 Md. 428, certiorari denied 85 S.Ct. 1087, 380 U.S. 953, 13 L.Ed.2d 971—Woodell v. State, 162 A.2d 468, 223 Md. 89—Baker v. Otto, 22 A.2d 924, 180 Md. 53.
 Mass.—In re Keenan, 47 N.E.2d 12, 313 Mass. 186—Berman v. Coakley, 137 N.E. 667, 243 Mass. 348—In re Carver, 112 N.E. 877, 224 Mass. 169.
 Mich.—White v. Sadler, 87 N.W.2d 192, 350 Mich. 511—Johnson v. Di Giovanni, 78 N.W.2d 560, 347 Mich. 118—Ann Arbor Bank v. Weber, 61 N.W.2d 84, 338 Mich. 341.
 People v. Matish, 175 N.W.2d 348, 21 Mich.App. 238, reversed on other grounds 184 N.W.2d 915, 384 Mich. 568—Karabatian's Estate v. Hnot, 170 N.W.2d 166, 17 Mich.App. 541.
 Minn.—In re Lord, 97 N.W.2d 287, 255 Minn. 370—Corpus Juris Secundum cited in Hoppe v. Klapperich, 28 N.W.2d 780, 791, 224 Minn. 224, 173 A.L.R. 819—In re Lee's Estate, 9 N.W.2d 245, 214 Minn. 448.
 Miss.—Mississippi Power Co. v. Stribling, 3 So.2d 807, 191 Miss. 832—In re Redmond, 82 So. 513, 120 Miss. 536.
 Mo.—In re Conner, 207 S.W.2d 492, 357 Mo. 270—Leimer v. Hulse, 178 S.W.2d 335, 352 Mo. 451, certiorari denied 65 S.Ct. 60, 323 U.S. 744, 89 L.Ed. 596, rehearing denied 65 S.Ct. 113, 323 U.S. 814, 89 L.Ed. 647—In re Sizer, 134 S.W.2d 1085.
 McFarland v. George, App., 316 S.W.2d 662.
 Mont.—State v. District Court of First Judicial Dist. in and for Lewis and Clark County, 191 P. 772, 58 Mont. 276.
 Neb.—State ex rel. Nebraska State Bar Ass'n v. Butterfield, 111 N.W.2d 543, 177 Neb. 645—State ex rel. Sorensen v. Goldman, 255 N.W. 32, 127 Neb. 340.
 N.H.—In re Silverstein's Case, 236 A.2d 488, 108 N.H. 400—Welanko's Case, 112 A.2d 50, 99 N.H. 413.
 N.J.—State v. Rush, 217 A.2d 441, 46 N.J. 399, 21 A.L.R.3d 804.
 Marino v. Cocuzza, 81 A.2d 181, 14 N.J.Super. 16—In re Stroming's Will, 79 A.2d 492, 12 N.J.Super. 217.
 N.M.—Meeker v. Walraven, 380 P.2d 845, 72 N.M. 107, certiorari denied 84 S.Ct. 73, 375 U.S. 829, 11 L.Ed.2d 60 rehearing denied 84 S.Ct. 191, 375 U.S. 917, 11 L.Ed.2d 157.
 N.Y.—People ex rel. Karlin v. Culklin, 162 N.E. 487, 248 N.Y. 465, 60 A.L.R. 851.
 Matter of Sugarman, 380 N.Y.S.2d 12, 51 A.D.2d 170.
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 N.C.—State v. Locklear, 241 S.E.2d 65, 294 N.C. 210—Corpus Juris Secundum cited in Baker v. Varser, 82 S.E.2d 90, 95, 240 N.C. 260—Perkins v. Sykes, 63 S.E.2d 133.
 N.D.—Matter of Fosaaen, 234 N.W.2d 867—Simon v. Chicago, Milwaukee & St. P. Ry. Co., 177 N.W. 107, 45 N.D. 251.
 Ohio.—Cincinnati Bar Ass'n v. Leggett, 199 N.E.2d 590, 176 Ohio St. 281, 27 O. O.2d 196.
 In re McBride, 132 N.E.2d 113, 164 Ohio St. 419, certiorari denied 76 S.Ct. 1030, 351 U.S. 965, 100 L.Ed. 1485.
 Beach v. Beach, 74 N.E.2d 130, 79 Ohio App. 397.
 Okl.—State ex rel. Com'rs of Land Office v. Jones, 176 P.2d 992, 198 Okl. 223—In re Shoemaker, 31 P.2d 928, 168 Okl. 77.
 Wyatt v. Wolf, Cr., 324 P.2d 548.
 Or.—In re Crum, 204 P. 948, 103 Or. 296—State v. Edmunson, 204 P. 619, 103 Or. 243.
 Pa.—Childs v. Smeltzer, 171 A. 883, 315 Pa. 9—Miller v. Knabb, 5 Pa.Co. 636.
 R.I.—Rhode Island Bar Ass'n v. Automobile Service Ass'n, 179 A. 139.
 Tenn.—Robinson v. Air Draulics Engineering Co., 377 S.W.2d 908, 214 Tenn. 30.
 Ingle v. Kivett, 201 S.W.2d 545, 30 Tenn.App. 1.
 Tex.—Lyons v. Paul, 321 S.W.2d 944, error refused no reversible error—In re Laughlin, 265 S.W.2d 805, appeal dismissed Laughlin v. Wilson, 75 S.Ct. 84, 348 U.S. 859, 99 L.Ed. 677.
 Martinez v. State, 318 S.W.2d 66, 167 Tex.Cr.R. 97.
 Texas Employers' Ins. Ass'n v. Cloud, Civ.App., 120 S.W.2d 903, error dismissed.
 Utah.—Ruckenbrod v. Mullins, 133 P.2d 325, 102 Utah 548, 144 A.L.R. 839.
 W.Va.—West Virginia State Bar v. Earley, 109 S.E.2d 420, 144 W.Va. 504.
 Wis.—State ex rel. Fitas v. Milwaukee County, 221 N.W.2d 902, 65 Wis.2d 130—Petition of Board of Law Examiners, Examination of 1926, 210 N.W. 710, 191 Wis. 359—Langen v. Borkowski, 206 N.W. 181, 188 Wis. 277, 43 A.L.R. 622.
Arm of state
 An attorney is an officer of the court, and as such, an officer and arm of the state.
 U.S.—Virgin Islands Bar Ass'n v. Dench, D.C.Virgin Islands, 124 F.Supp. 257.
Defense counsel
 Ohio.—State v. Wentz, 359 N.E.2d 446, 49 Ohio App.2d 96, 3 O.O.3d 157.
Cooperation from court
 As member of bar, attorney is an officer of the court charged with certain duties, and in discharge of those duties he may ask for reasonable cooperation and assistance of court organization, and may have reasonable access to files and records and to parts of court building

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which attorney's material He is, designat es, and : does not nate wh used, or parts of be used. U.S.—La 90 U.S Lawyer f Attorney court wh U.S.—Ka lization Reciproci Attorney tionship reciproca their prop ognized a Tex.—In Tex. 44 49. U.S.— Const. certiora 86, 4 C.A.Ill., D.C.—Bro S.App.I F.2d 676 nief 59 1511. Mich.—Ay 303 Mich Ohio.—In Ohio St 1030, 35 50. Ala.— Ala. 496 N.J.—Cane 167, 57 I 51. N.J.— A.2d 167 52. U.S.— F.2d 312, 402 U.S. 53. U.S.— 705, mot versed o Corpus Islands I Islands, Fla.—Olive 548—In Fla. 168, Ga.—Sams Ga. 497, 397 U.S. Juris Se Clinksca 843. Hill v. Ga.App.

which he has been admitted to practice.⁴⁹ An attorney is not the court⁵⁰ or one of its ministerial officers,⁵¹ or a law enforcement officer.⁵² He is, however, in a sense an officer of the

state, with an obligation to the courts and to the public no less significant than his obligation to his clients.⁵³ Thus, an attorney occupies a dual position which imposes dual obligations.⁵⁴

designated for use of counsel, trial of cases, and for certain other purposes, but he does not have the right or power to designate what portions of building shall be so used, or to direct manner in which other parts of building not so designated may be used.

U.S.—Laughlin v. Reynolds, 196 F.2d 863, 90 U.S.App.D.C. 414.

Lawyer for litigant

Attorney never ceases to be officer of court when serving as lawyer for litigant. U.S.—Katriss v. Immigration and Naturalization Service, C.A., 562 F.2d 866.

Reciprocal relationship

Attorney is officer of court, and relationship between court and attorneys is reciprocal, each having certain rights in their proper spheres which should be recognized and respected by the other.

Tex.—In re Norton, 191 S.W.2d 713, 144 Tex. 445.

49. U.S.—Gray v. Joseph J. Brunetti Const. Co., C.A.N.Y., 266 F.2d 809, certiorari denied 80 S.Ct. 74, 361 U.S. 86, 4 L.Ed.2d 69—Phipps v. Wilson, C.A.Ill., 186 F.2d 748.

D.C.—Brooks v. Laws, 208 F.2d 18, 92 U.S.App.D.C. 367—Booth v. Fletcher, 101 F.2d 676, 69 App.D.C. 351, certiorari denied 59 S.Ct. 835, 307 U.S. 628, 83 L.Ed. 1511.

Mich.—Ayres v. Hadaway, 6 N.W.2d 905, 303 Mich. 589.

Ohio.—In re McBride, 132 N.E.2d 113, 164 Ohio St. 419, certiorari denied 76 S.Ct. 1030, 351 U.S. 965, 100 L.Ed. 1485.

50. Ala.—Cobb v. State, 35 So.2d 86, 250 Ala. 496.

N.J.—Cancellieri v. De Modica, 155 A.2d 167, 57 N.J.Super. 598.

51. N.J.—Cancellieri v. De Modica, 155 A.2d 167, 57 N.J.Super. 598.

52. U.S.—Daut v. U. S., C.A.Ariz., 405 F.2d 312, certiorari denied 91 S.Ct. 1624, 402 U.S. 945, 29 L.Ed.2d 114.

53. U.S.—U. S. v. Stringer, 124 F.Supp. 705, motion denied 225 F.2d 676, reversed on other grounds 233 F.2d 947—Corpus Juris Secundum cited in Virgin Islands Bar Ass'n v. Dench, D.C.Virgin Islands, 124 F.Supp. 257, 258.

Fla.—Olive v. State, 179 So. 811, 131 Fla. 548—In re Clifton, 155 So. 324, 115 Fla. 168.

Ga.—Sams v. Olah, 169 S.E.2d 790, 225 Ga. 497, certiorari denied 90 S.Ct. 916, 397 U.S. 914, 25 L.Ed.2d 94—Corpus Juris Secundum quoted in Gordon v. Clinkscales, 114 S.E.2d 15, 19, 215 Ga. 843.

Hill v. Bartlett, 192 S.E.2d 427, 126 Ga.App. 833.

Ill.—People ex rel. Chicago Bar Ass'n v. Green, 187 N.E. 811, 353 Ill. 638—People v. Johnson, 176 N.E. 278, 344 Ill. 132.

People ex rel. Hopf v. Barger, 332 N.E.2d 649, 30 Ill.App.3d 525.

Iowa.—Corpus Juris Secundum cited in In re Ryan, 294 N.W. 566, 567, 229 Iowa 339.

Kan.—In re Cox, 188 P.2d 652, 164 Kan. 160—In re Hanson, 5 P.2d 1088, 134 Kan. 165.

Mass.—In re Opinion of the Justices, 194 N.E. 313.

Minn.—Hoppe v. Klapperich, 28 N.W.2d 780, 224 Minn. 224, 173 A.L.R. 819.

Mo.—In re H—S—, App., 69 S.W.2d 325.

N.Y.—People ex rel. Dawson v. Knox, 247 N.Y.S. 731, 231 App.Div. 490, affirmed 196 N.E. 582, 267 N.Y. 565.

In re Strandburg's Estate, 247 N.Y.S. 194, 138 Misc. 732, modified on other grounds 248 N.Y.S. 164, 138 Misc. 859.

N.C.—Baker v. Varser, 82 S.E.2d 90, 240 N.C. 260.

Wis.—In re Jaeger's Will, 259 N.W. 842, 218 Wis. 1, 99 A.L.R. 738—Petition of Board of Law Examiners, Examination of 1926, 210 N.W. 710, 191 Wis. 359—Langen v. Borkowski, 206 N.W. 181, 188 Wis. 277, 43 A.L.R. 622—Hanson v. Temple, 185 N.W. 225, 175 Wis. 349.

Public officer

In some jurisdictions by virtue of statutes, an attorney at law is a public officer.

Or.—State v. Goldstein, 220 P. 565, 109 Or. 497.

Quasi state or public officer

Ga.—Claxton v. Johnson County, 20 S.E. 2d 606, 194 Ga. 43.

Kan.—State ex rel. Anderson v. Stice, 348 P.2d 833, 186 Kan. 69, certiorari denied 81 S.Ct. 59, 364 U.S. 823, 5 L.Ed.2d 52.

N.J.—Daly v. Watson, Ch., 190 A. 320, affirmed 190 A. 323, 121 N.J.Eq. 250.

Nature of duty or obligation

(1) An attorney labors under duty of maintaining the respect due to courts.

Ky.—Casteel v. Sparks, 226 S.W.2d 533, 312 Ky. 99.

(2) An attorney is required in his conduct before court and in statements to court to act with candor and fairness.

U.S.—Gardner v. Darling Stores Corp., D.C.N.Y., 138 F.Supp. 160, affirmed 242 F.2d 3.

(3) One who is admitted to practice as an attorney at law, both by virtue of his oath of office and customs and traditions of the legal profession, owes to the courts the highest duty of fidelity.

Minn.—In re Lord, 97 N.W.2d 287, 255 Minn. 370.

(4) Accepting employment entails duty to courts and faithful performance of services, and it is a dereliction of duty for an attorney to abandon a cause on appeal and fail to favor the court with a brief.

Cal.—Larimer v. Smith, 19 P.2d 825, 130 Cal.App. 98.

(5) The obligation of a lawyer to the courts, and the public is no ordinary one, and demands honor the most punctilious in the discharge of all of the lawyer's professional duties.

Or.—In re Smith, 134 P.2d 956, 171 Or. 151.

(6) Attorneys have a duty to know that the contents of reports and documents are true and correct, and a presentation is a representation that this duty has been performed.

U.S.—U. S. v. Ford, D.C.Mont., 9 F.2d 990.

Ky.—Sparks v. Commonwealth, 8 S.W.2d 397, 225 Ky. 334.

(7) Conduct of attorneys in permitting their names to be signed to a brief which they did not read has been held highly improper.

N.J.—In re Glauberman, 152 A. 650, 107 N.J.Eq. 384.

Special responsibility

An attorney bears a special responsibility which is placed on him by reason of being licensed to practice law.

Mich.—Maljak v. Murphy, 177 N.W.2d 228, 22 Mich.App. 380, affirmed 188 N.W.2d 539, 385 Mich. 210.

Vital public interest

(1) The relation of attorney and client is affected by vital public interest which is predicated on trust and confidence.

Fla.—State v. Snyder, 187 So. 381, 136 Fla. 875.

(2) An "attorney at law" must act with all good fidelity to his clients and to the court, and the public has a vital interest in his integrity.

Mass.—In re Keenan, 47 N.E.2d 12, 313 Mass. 186—Berman v. Coakley, 137 N.E. 667, 243 Mass. 348.

54. U.S.—Daniel v. Penrod Drilling Co., D.C.La., 393 F.Supp. 1056.

N.M.—Abbott v. Sherman Mines, 71 P.2d 1037, 41 N.M. 531.

N.C.—Smith v. Bryant, 141 S.E.2d 303, 264 N.C. 208—Perkins v. Sykes, 63 S.E. 2d 133, 233 N.C. 147.

Wis.—State ex rel. Dudek v. Circuit Court for Milwaukee County, 150 N.W. 2d 387, 34 Wis.2d 559, 35 A.L.R.3d 377.

Dual trust

Conn.—State v. Jackson, 294 A.2d 517, 162 Conn. 440, certiorari denied Jackson

§ 4 ATTORNEY & CLIENT

His first duty is to the courts and the public, not to the client,⁵⁵ and wherever the duties to his client conflict with those he owes as an officer of the court in the administration of justice, the former must yield to the latter.⁵⁶

The office of attorney is indispensable to the administration of justice and is intimate and

peculiar in its relation to, and vital to the well-being of, the court.⁵⁷ An attorney has a duty to aid the court in seeing that actions and proceedings in which he is engaged as counsel are conducted in a dignified and orderly manner, free from passion and personal animosities, and that all causes brought to an issue are tried and decided on their merits only,⁵⁸ to aid the court

v. Connecticut, 93 S.Ct. 198, 409 U.S. 870, 34 L.Ed.2d 121—State Bar Ass'n of Conn. v. Connecticut Bank & Trust Co., 140 A.2d 863, 145 Conn. 222, 69 A.L.R.2d 394.

55. U.S.—U. S. v. Frank, D.C.N.J., 53 F. 2d 128, reversed on other grounds Loughlin v. U. S., 57 F.2d 1080, and reversed on other grounds *Pearse v. U. S.*, 59 F.2d 518—In re Kelly, D.C.Mont., 243 F. 696.

Fla.—Petition of Florida State Bar Ass'n, 186 So. 280, 134 Fla. 851.

Neb.—State ex rel. Nebraska State Bar Ass'n v. Jensen, 105 N.W.2d 459, 171 Neb. 1, certiorari denied 81 S.Ct. 905, 365 U.S. 870, 5 L.Ed.2d 860.

N.D.—State v. Stokes, 243 N.W.2d 372.

Wis.—Petition of Board of Law Examiners, Examination of 1926, 210 N.W. 710, 191 Wis. 359.

Duty not looked on lightly

Attorneys as officers of court have duty to maintain respect due court which duty should exceed that imposed upon the public generally and which duty should not be looked upon lightly and cannot be shirked under guise of representing interest of a party litigant.

Va.—Holt v. Com., 136 S.E.2d 809, 205 Va. 332, reversed on other grounds 85 S.Ct. 1375, 381 U.S. 131, 14 L.Ed.2d 290.

56. La.—State v. Woodville, 108 So. 309, 161 La. 125.

Minn.—Hoppe v. Klapperich, 28 N.W.2d 780, 224 Minn. 224, 173 A.L.R. 819.

Wis.—State v. Barto, 232 N.W. 553, 202 Wis. 329—Langen v. Zorkowski, 206 N.W. 181, 188 Wis. 277, 43 A.L.R. 622.

57. Alaska.—Jackson v. State, 413 P.2d 488.

Cal.—Floro v. Lawton, 10 Cal.Rptr. 98, 187 C.A.2d 657—Chula v. Superior Court in and for Orange County, 240 P.2d 398, 109 C.A.2d 24.

D.C.—Booth v. Fletcher, 101 F.2d 676, 69 App.D.C. 351, certiorari denied, 59 S.Ct. 835, 307 U.S. 628, 83 L.Ed. 1511.

Fla.—State ex rel. Florida Bar v. Calhoon, 102 So.2d 604.

Ga.—Sams v. Olah, 169 S.E.2d 790, 225 Ga. 497, certiorari denied 90 S.Ct. 916, 397 U.S. 914, 25 L.Ed.2d 94—*Corpus Juris Secundum* quoted in Gordon v. Clinkscales, 114 S.E.2d 15, 19, 215 Ga. 843.

Hill v. Bartlett, 192 S.E.2d 427, 126 Ga.App. 833.

Ind.—Harrison v. State, 106 N.E.2d 912, 231 Ind. 147.

Kan.—In re Cox, 188 P.2d 652, 164 Kan. 160.

Ky.—In re Horen, 184 S.W.2d 74, 298 Ky. 841.

Md.—Baker v. Otto, 22 A.2d 924, 180 Md. 53.

Mass.—In re Keenan, 47 N.E.2d 12, 313 Mass. 186.

Minn.—In re Lee's Estate, 9 N.W.2d 245, 214 Minn. 448.

Miss.—Mississippi Power Co. v. Stribling, 3 So.2d 807, 191 Miss. 832.

Mo.—Esmar v. Haeussler, 106 S.W.2d 412, 341 Mo. 33, transferred to 115 S.W.2d 54, 234 Mo.App. 217.

Neb.—State ex rel. Nebraska State Bar Ass'n v. Butterfield, 111 N.W.2d 543, 172 Neb. 645.

N.C.—Baker v. Varser, 82 S.E.2d 90, 240 N.C. 260.

Ohio.—Cincinnati Bar Ass'n v. Leggett, 199 N.E.2d 590, 176 Ohio St. 281, 27 O.O.2d 196.

W.Va.—West Virginia State Bar v. Earley, 109 S.E.2d 420, 144 W.Va. 504.

Wis.—In re Maresh's Will, 187 N.W. 1009, 177 Wis. 194.

Instrument or agency

(1) Member of bar, as officer of court, is instrument or agency to advance ends of justice.

U.S.—Theard v. U. S., La., 77 S.Ct. 1274, 354 U.S. 278, 1 L.Ed.2d 1342.

(2) Admission to the practice of law is membership in an ancient and honorable profession that has for its goal the furtherance of the administration of justice, and the attorney is an instrument for the achievement of such noble purpose.

Mo.—McFarland v. George, App., 316 S.W.2d 662.

58. U.S.—U. S. v. Frank, D.C.N.J., 53 F.2d 128, reversed on other grounds Loughlin v. U. S., 57 F.2d 1080 and reversed on other grounds in part *Pearse v. U. S.*, 59 F.2d 518.

Hertz v. U. S., C.C.A.Minn., 18 F.2d 52.

Cal.—Daily v. Superior Court in and for Monterey County, 40 P.2d 936, 4 C.A.2d 127—Falloon v. Superior Court of Los Angeles County, 248 P. 1057, 79 Cal.App. 149—Furlong v. White, 196 P. 903, 51 Cal.App. 265.

Ill.—People v. Gorman, 178 N.E. 880, 349 Ill. 432—People v. Burr, 147 N.E. 47,

316 Ill. 166, *People v. Czarnecki*, 109 N.E. 14, 268 Ill. 278.

Ind.—In re McDonald, 164 N.E. 261, 200 Ind. 424.

Ky.—In re Sutt, 137 S.W.2d 398, 281 Ky. 724—In re Stump, 114 S.W.2d 1094, 272 Ky. 593.

Me.—Ellis v. Emerson, 147 A. 761, 128 Me. 379.

Mont.—State v. District Court of First Judicial Dist. in and for Lewis and Clark County, 191 P. 772, 58 Mont. 276—In re O'Keefe, 175 P. 593, 55 Mont. 200.

N.J.—Raimondi v. Bianchi, 134 A. 866, 100 N.J.Eq. 238.

N.Y.—People ex rel. Karlin v. Culkin, 162 N.E. 487, 248 N.Y. 465, 160 A.L.R. 851.

Okl.—In re Kelley, 28 P.2d 564, 167 Okl. 142.

Utah.—Van Cott v. Wall, 178 P. 42, 53 Utah 282.

Wis.—Petition of Board of Law Examiners, Examination of 1926, 210 N.W. 710, 191 Wis. 359—Langen v. Borkowski, 206 N.W. 181, 188 Wis. 277, 43 A.L.R. 622.

Same duty in civil and criminal cases

N.Y.—In re Palmieri, 162 N.Y.S. 799, 176 A.D. 58, reversed on other grounds 117 N.E. 1078.

Dislike for judge

Although possessing a personal dislike for the presiding judge, attorneys are under an obligation to uphold the dignity of the court.

Cal.—Platnauer v. Superior Court in and for Sacramento County, 163 P. 237, 32 Cal.App. 463.

Management of prosecution

Profession includes much more than the mere management of the prosecution and the defense of litigated cases.

Pa.—Commonwealth v. Wheeler, 73 Pa. Super. 164.

Default judgment

Attorney should not take default judgment, unless after communicating with opponent he is satisfied default was intentional.

N.Y.—Marcus v. Simotone & Combined Sound & Color Films, 237 N.Y.S. 509, 135 Misc. 228.

Informing court of infancy of litigant

Intentional neglect to inform the court of the infancy of the litigant is a breach of attorney's duty to the court.

R.I.—Keenan v. Flanagan, 147 A. 617, 50 R.I. 321.

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59. Ala.— v. Swain N.Y.—Zauling Co., 492.

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in seeing that justice is done;⁵⁹ and to aid any effort under the court's direction to root out corruption and fraud.⁶⁰ An attorney has also the duty to devote his ability, skill, and diligence along ethical and professional lines to the interests of his client,⁶¹ and to refrain from entering into any alliance or incurring any obligation connected with the litigation in which he is engaged as counsel that would place him in a position where his personal interests would be adverse to those of his client.⁶²

§ 5. Term and Tenure of Office in General

Admission of a person to the bar is for life unless such right is revoked upon good cause shown. Change of resi-

dence to another jurisdiction may forfeit the right to practice.⁶³

Library References

Attorney and Client ⇨ 14, 34.

As a general rule, an admission to the bar is for life unless the attorney is removed,⁶⁴ and temporary abandonment of the legal profession as an immediate means of livelihood, and a failure for a time to exercise the rights and privileges granted, is not a destruction of the right or privilege to a subsequently renewed practice.⁶⁵ However, the right to practice law is not an absolute right, but a privilege only, as discussed supra § 3, and is not irrevocable;⁶⁶

59. Ala.—Alabama Great Southern R. Co. v. Swain, 28 So.2d 714, 248 Ala. 535.
N.Y.—Zaulich v. Thompkins Square Holding Co., 200 N.Y.S.2d 550, 10 A.D.2d 492.
Tenn.—Ingle v. Kivett, 201 S.W.2d 545, 30 Tenn.App. 1.
Duty not to conceal material facts
Tex.—Lyons v. Paul, Civ.App., 321 S.W.2d 944, error refused no reversible error.
Bound to do no falsehood
N.H.—In re Silverstein's Case, 236 A.2d 488, 108 N.H. 400.
60. N.Y.—In re Becker, 241 N.Y.S. 369, 229 App.Div. 62, appeal dismissed In re Levy, 174 N.E. 461, 255 N.Y. 223.
61. Cal.—Chula v. Superior Court in and for Orange County, 240 P.2d 398, 109 C.A.2d 24—Falloon v. Superior Court of Los Angeles County, 248 P. 1057, 79 Cal.App. 149—Furlong v. White, 196 P. 903, 51 Cal.App. 265—Platnauer v. Superior Court in and for Sacramento County, 163 P. 237, 32 Cal.App. 463.
Ill.—People v. Johnson, 176 N.E. 278, 344 Ill. 132—People v. Charone, 123 N.E. 291, 288 Ill. 220.
Mass.—In re Keenan, 47 N.E.2d 12, 313 Mass. 186.
Minn.—Hoppe v. Klappervich, 28 N.W.2d 780, 224 Minn. 224, 173 A.L.R. 819—In re Lee's Estate, 9 N.W.2d 245, 214 Minn. 448.
Okla.—In re Kelley, 28 P.2d 564, 167 Okl. 142.
R.I.—Farkas v. Sadler, 375 A.2d 960.
S.C.—Norris v. Alexander, 142 S.E.2d 214, 246 S.C. 14.
Wis.—Langen v. Borkowski, 206 N.W. 181, 188 Wis. 277, 43 A.L.R. 622.
Duty of attorney
(1) Duty of an attorney to his client demands nothing more than an honest effort to secure justice for such client, and does not permit or excuse a resort to deception to procure for a client even that to which the attorney honestly believes his client entitled.
S.D.—In re Wilmarth, 172 N.W. 921, 42 S.D. 76.
(2) It is the attorney's duty, without flattery or scurrility, to present his view of the law, irrespective of an adverse ruling of the court.
Or.—Phipps v. City of Medford, 158 P. 666, 81 Or. 119, denying rehearing 156 P. 787, 81 Or. 119.
(3) Within ethical limits, an attorney owes his entire devotion to his client's interest.
Colo.—Mutter v. Burgess, 290 P. 269, 87 Colo. 580.
(4) One of attorney's most valuable functions is to persuade client to take course which, to attorney, in light of his experience, appears to be wisest.
U.S.—Devers v. People of State of Cal., C.A.Cal., 422 F.2d 1263, certiorari denied 90 S.Ct. 2214, 399 U.S. 913, 26 L.Ed.2d 570.
(5) Duty to exercise utmost good faith, honesty, integrity, fairness, and fidelity in relation with client see infra § 234.
Persistent in presenting points
Although a lawyer in discharging his duty to a client be persistent in presenting his points, he is within his rights, so long as his language is not indecorous, whether he be right or wrong.
Cal.—Platnauer v. Superior Court in and for Sacramento County, 163 P. 237, 32 Cal.App. 463.
62. Utah.—McWhirter v. Donaldson, 104 P. 731, 36 Utah 293.
Acquiring interest adverse to client see infra § 238.
Representing adverse interests see infra § 150 et seq.
63. Summary quoted in: Wash.—State ex rel. Foster v. Washington State Bar Ass'n, 162 P.2d 261, 264, 23 Wash.2d 800, 160 A.L.R. 1366.
64. Ala.—In re Alonzo, 223 So.2d 585, 284 Ala. 183, certiorari denied Alonzo v. Board of Com'rs of Alabama State Bar, 90 S.Ct. 486, 396 U.S. 992, 24 L.Ed.2d 454.
Ariz.—In re Van Bever, 101 P.2d 790, 55 Ariz. 368.
Nev.—In re Watson, 286 P.2d 254, 71 Nev. 227.
N.Y.—People v. McGuinness, 6 N.Y.S.2d 593, 168 Misc. 849.
Tex.—Corpus Juris Secundum cited in Forrester v. State, Civ.App., 459 S.W.2d 698, 701, error refused no reversible error.
65. Wis.—In re Pierce, 207 N.W. 966, 189 Wis. 441.
66. Fla.—Lambdin v. State, 9 So.2d 192, 150 Fla. 814.
Ga.—Sams v. Olah, 169 S.E.2d 790, 225 Ga. 497, certiorari denied 90 S.Ct. 916, 397 U.S. 914, 25 L.Ed.2d 94.
Ind.—Baker v. Keisker, 142 N.E.2d 432, 236 Ind. 617.
La.—Louisiana State Bar Ass'n v. Theard, 72 So.2d 310, 225 La. 98, appeal denied Theard v. Louisiana State Bar Ass'n, 75 S.Ct. 54, 348 U.S. 832, 99 L.Ed. 656.
Miss.—Mississippi State Bar Ass'n v. Wade, 167 So.2d 648, 250 Miss. 625—Petition for Poole, 76 So.2d 850, 222 Miss. 678.
N.Y.—In re Cohen, 195 N.Y.S.2d 990, 9 A.D.2d 436, affirmed 166 N.E.2d 672, 7 N.Y.2d 488, 199 N.Y.S.2d 658, affirmed Cohen v. Hurley, 81 S.Ct. 954, 366 U.S. 117, 6 L.Ed.2d 156, rehearing denied 83 S.Ct. 1860, 374 U.S. 857, 10 L.Ed.2d 1083, rehearing denied 85 S.Ct. 11, 379 U.S. 870, 13 L.Ed.2d 76.
People v. Speiser, 292 N.Y.S. 481, 162 Misc. 9.
Legislation
Right to practice law under a previously granted license may be revoked under a subsequent act of legislature in exercise of its police power.
Tex.—Bryant v. State, Civ.App., 457 S.W.2d 72, error refused no reversible error.
Maintenance of fitness
(1) One must maintain his fitness and qualifications to continue in enjoyment of the right to practice law.
S.D.—In re Goodrich, 98 N.W.2d 125, 78 S.D. 8.