

Attorneys: Disbarment of Attorneys: Good Moral Character

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Repository Citation

Al Watson, *Attorneys: Disbarment of Attorneys: Good Moral Character*, 12 Marq. L. Rev. 324 (1928).
Available at: <http://scholarship.law.marquette.edu/mulr/vol12/iss4/9>

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NOTES AND COMMENT

Attorneys: Disbarment of Attorneys: Good Moral Character.

Section 1 and 13, article VII, of the Wisconsin Constitution, relative to the impeachment of civil officers and the removal of judges of the Supreme or Circuit Court, are inapplicable in determining the power of the Supreme Court to disbar the judge of the Superior Court of Dane County, in that it would also result in his removal from office as judge, since such Superior Court, which was created by ch. 136 of the Laws of 1917, and amended by ch. 56 of the Laws of 1919 and ch. 7 of the Laws of 1925, is not a constitutional court, so as to bring the judge thereof within the protection of the constitutional provision relative to removal from office. This rule and many others, relative to the disbarment of attorneys and the removal of judges, have been laid down in the case of *In re ———*, 193 Wis., 602, 214 N.W. 379.

This case, the facts, of which are like the setting of a novel, has been the topic of discussion in many of the newspapers in the State. These facts may be found in the official report.

The court discussed at great length and brought out many phases of ethics in the profession. "The power to discipline and disbar attorneys at law is an inherent power of courts." The court further said, "One's morality or lack of morality is revealed by general conduct. One may lack morality in a great many ways. Where this lack of morality has no relation to, and does not affect, his duties and responsibilities as an attorney at law, the delinquencies are generally overlooked by the courts. But where there is lacking honesty, probity, integrity, and fidelity to trusts reposed in him, it matters not whether the lack of such virtues is revealed in transactions with clients, in the conduct of a lawsuit, or essential on the part of those who are to exercise the privileges and in any other business dealing or relation. These qualities are highly essential on the part of those who are to exercise the privileges and responsibilities of members of the bar. When the lack of them becomes apparent, no matter what the character of the deal or transaction that may furnish the evidence, it becomes the duty of the court to purge its roster of an unreliable member. . . . No amount of credulity can exonerate the respondent of a knowledge of the general lawless conditions of that particular neighborhood. To impute to him a lack of that knowledge would be to accuse him of the most childlike simplicity."

The requisite qualification of one holding the office of an attorney at law shall be good moral character, in so far as it relates to the discharge of the duties and responsibilities of an attorney at law is a continuous qualification. If an attorney at law, by or through his acts betrays a lack of moral qualifications demanded of attorneys, it is the duty of the court to strike his name from the roll of its attorneys, notwithstanding the facts that his misconduct might have been when he was a judge, and bore no relations to his duties and responsibilities as a member of the bar. The supreme court has power to suspend attorneys for an indefinite period for disciplinary purposes and as a restraining influence upon others. And that power or duty of the court to disbar an attorney on a showing of a lack of moral

qualifications should not be affected by the fact that the attorney may be a judge or be holding a public office.

The words of Mr. Chief Justice Winslow can best express the purpose for and the reason behind cases such as the one just reported: "Equal and exact justice has been the passionate demand of the human soul since man first wronged his fellowman; it has been the dream of the philosopher, the aim of the lawgiver, the supreme endeavor of the judge, the ultimate test of every government and every civilization. Pain and suffering may be bravely met, poverty and want endured without complaint, the daily round of exacting toil taken up with cheerful heart, but the soul of man in all ages has bitterly cried out against injustice and insistently demanded that it must not be. Every government past and present may be known and properly judged by the quality of the justice administered by its courts. The nearer the approach to ideal and perfect justice in the courts, the nearer the approach to Utopia in the government."

AL WATSON, '28

Automobiles Parking on Highways: Necessary Repairs.

No parking on any public highway! What does this mean? The problem has been before our courts on different occasions and has been partially settled. Now it is definitely and correctly determined by the decision in *Long v. Steffen*.¹ This case was started by a widow as administratrix of the estate of her husband who died from injuries resulting from the collision of the defendant's car with the truck of the deceased. The deceased was driving his truck north on Highway No. 17. The truck became disabled by a flat tire on the left rear wheel and the deceased drove upon the gravel shoulder bordering the concrete so that he could park and repair the tire. He was unable to repair the tire while on the gravel shoulder because there had been frequent rains and the gravel was so saturated as to make it unfit for use. With the aid of some planks, the deceased managed to drive the truck up on the concrete portion of the highway. He parked it to the extreme right hand side of the road and left both the front and rear lights burning. Furthermore, the load on the truck was covered with a white canvass which witnesses state could be easily seen from a distance, and the father of the deceased was on guard to warn approaching cars. The deceased removed the tire and carried it about six feet in front of the truck so that he could repair it by the headlights of the truck. The defendant was also traveling north on this highway and ran into the parked truck with such terrific force that the truck was thrown forward and sideways so as to hit the deceased and then landed twenty-five feet away in an embankment. The defendant claimed to have been blinded by the glare of the headlights of oncoming cars. This presents the question whether the defendant is responsible for the deceased's injuries causing his death or was the deceased guilty of contributory negligence?

Our Supreme Court held in *Schacht v. Quick*² that "a traveler has the right to make reasonable use of the highway for the examination

¹ — Wis. —; 215 N.W. 892.

² 178 Wis. 330; 190 N.W. 89.