

An Ancient and Honorable Profession

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AN ANCIENT AND HONORABLE PROFESSION*

“THE law is an ancient and honorable profession. An attorney at law is an officer of the court, and an inherent part of our judicial system. In the practice of the profession he is charged with a dual function: first, to serve the public in aid of the administration of justice, and, second, to promote the interests of his client. The function first named is the primary function, and the latter in all instances must be subservient to the former, and, wherever the interests of his client are inimical to the public interests, the private interests must yield to that of the public. It will thus be noted that an attorney at law is charged with a delicate but important mission in all of the various transactions in which he is engaged in the practice of his profession. He is required to take a solemn oath before he is admitted. This form of oath is the result of years of painstaking effort on the part of the highest legal minds in the country, to embrace therein, from an ethical standpoint, all of the essential elements of an ideal lawyer. This form of oath was promulgated and approved by the American Bar Association, and substantially adopted by the Legislature of this state and incorporated into the statutes. An examination of this oath will reveal that an applicant for admission to the bar must first either swear or affirm that he will support the Constitution of the United States and that of the State of Wisconsin, and that he will obey the laws, both federal and state. This clearly indicates the legislative intent to charge an attorney with a public function which rises superior to and above that which he assumes towards his client. This oath merely incorporates in a simple and concrete form the obligations of an attorney as they existed before the enactment of the statute, and in effect is declaratory, and not derogatory, of the common law, notwithstanding divergent views entertained upon this subject by some members of the profession. An attorney occupies a fiduciary relationship towards his client. It is one of implicit confidence and of trust; and, in harmony with the vastly increasing complexity of our industrial and commercial interests, such trust and confidence have maintained an equal pace, so that specialization in the various fields of the profession has become necessary and common, resulting, however, in a broader and enlarged dependence of the client upon the lawyer. There is no field of human

* Extracts from opinion of Wisconsin Supreme Court, by Justice Doerfler, in Petition of Board of Law Examiners. 210 N.W. 710, —Wis.—.

activity which requires a fuller realization with respect to a fiduciary relationship than that which exists between the lawyer and his client. Therefore, the law requires of a candidate for admission to the bar not only knowledge and intelligence, but also a high moral character for honesty and integrity, and without honesty and integrity the primary purpose of an attorney at law, by which he is charged to aid in the administration of justice, is liable to be frustrated. It can also be truthfully said that there exists nowhere greater temptations to deviate from the straight and narrow path than in the multiplicity of circumstances that arise in the practice of the profession.

"A candidate who applies for a certificate under the statutes of our state must have arrived at majority, which is a period in his life where character traits are ordinarily fully formed, and, if he is then deficient in character as to integrity and honesty, his shortcomings are liable to prevail during the remainder of his life. The harm which must necessarily result from admitting one so deficient into the profession is so great as to be incalculable, and the baneful results are prone, not only to manifest themselves by a disregard of the interests of clients, but may be reflected in the opinion which the public at large maintains toward the entire profession.

"This opinion is not directed against individuals, but against false principles, with a view, not only that those directly involved in this examination may profit thereby but that it may bring home to those who may present themselves in the future the necessity and importance of coming before the examining board with a full realization of what the court expects from them. A candidate who succeeds by unfair methods in obtaining the certificate, while he may derive a material benefit, is nevertheless a great loser, for he forfeits a thing of the highest value, essential to the well-being of all citizens, viz., the possession of his self-respect, and without self-respect he cannot command the respect of others; and in the final analysis, when a period of life comes which must come to all, if a lawyer has departed himself honorably and faithfully, even though he has failed in attaining great prominence in his profession, and has failed in accumulating large material means, he nevertheless has earned the respect of his fellow citizens, and has preserved his own self-respect.

"An attorney, as has heretofore been said, being an inherent part of the judicial system of our country, which is one of the three departments of our democratic system of government, has it within his power to augment or to detract from the respect which the public has for the very government itself, and no system of government can in the long run be successfully maintained, unless it is so conducted as to command the approval of the great masses of the citizenship."