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Committee Reports

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Committee Reports

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Professional Ethics

THE Committee on Professional Ethics reports the following statements of questions submitted to it in respect of professional conduct and its opinions thereon:

A.

Statement

An attorney has been appointed by the Court to represent a non-resident defendant in a divorce action, the grounds being desertion. The attorney notified the defendant and asked her whether she intended to contest the action. In reply the defendant stated that it was impossible for her to live with the plaintiff, but that she was desirous of receiving some contribution from the husband for the support of their son. She also states that she does not care to submit to the jurisdiction of the Colorado Courts for the reason that the plaintiff might seek the custody of their son. The attorney has attempted to induce the plaintiff to enter into a stipulation which may be filed in Court providing that he will pay a certain amount monthly for the support of his son. The plaintiff has refused to do this. The last letter which the attorney wrote to the defendant was some six months ago, but the defendant has not answered.

In view of the foregoing facts, would it be a breach of duty on the part of the attorney to allow the plaintiff to proceed with his action for divorce without raising the question of the support money and without further notifying the defendant, or informing the Court?

Opinion

The attorney appointed by the court has not authority to appear for

the defendant. His duty is confined to conducting the hearing for the defendant, cross-examining plaintiff's witnesses and securing a fair and impartial hearing. From his statement, in the opinion of the Committee, he has no authority to urge the matter of support but should make known the whole situation to the court. It is, also, a part of his duty to inform the defendant of the situation and the possible consequences of her failure to appear.

B.

Statement

I am informed and believe the information to be correct that at a recent divorce trial in the Denver District Court, one of the lawyers for the defendant, the husband, made an opening statement, which he apparently believed would arouse the anger of the plaintiff, who was the wife of the defendant, his client. As this counsel for the defendant finished his opening statement, he passed behind the plaintiff, who was seated behind her counsel, and leaning down close to her, said in subdued tones, "Did that get your shanty Irish up?" Personally, I think this is more a matter for the Grievance Committee than for your Committee, but as it happens so often, I doubt that the attorney for the plaintiff who heard these remarks would care to take any action. For that reason, I submit it to you and in the event your Committee is of the opinion that this conduct is unethical, I suggest that the opinion be published in the Record as heretofore.

Opinion

The Committee cannot criticize what the attorney said in his opening statement since it does not know what was said. If it referred to mat-

ters competent, relevant and material to the issues of the case it is immaterial whether it would make or was intended to make the plaintiff angry; otherwise it is contrary to Canon 18. But in the opinion of the Committee what the attorney said to the plaintiff was, unless to be excused or explained by something which does not appear, unethical in the extreme.

C.

The President of the Association has requested the opinion of the Committee with regard to the pro-

priety of publication in a newspaper of a simple professional card.

Opinion

There is nothing objectionable in the opinion of the Committee in a card bearing no more than name, profession, office address and telephone number. The publication of such a card is a matter of personal taste but is not *per se* improper. Canon 27.

Respectfully submitted,

EDWARD D. UPHAM, Chairman,

For the Committee.

Recent Trial Court Decisions

(*Editor's Note.*—It is intended in each issue of the Record to note interesting current decisions of all local Trial Courts, including the United States District Court, State District Courts, the County Court, and the Justice Courts. The co-operation of the members of the Bar is solicited in making this department a success. Any attorney having knowledge of such a decision is requested to phone or mail the title of the case to Victor Arthur Miller, who will digest the decision for this department. The names of the Courts having no material for the current month will be omitted, due to lack of space.)

Central Electric Supply Company, Plaintiff, vs. The Cosmopolitan Hotel and Broadway Theatre Company, et al, Defendants, No. 95339, Division 4, District Court, City and County of Denver.

Facts: Colburn on and prior to December 1, 1924 was owner of contract for purchase of real estate consisting of Metropole Hotel and Broadway Theatre building and ground upon which same situate and land adjoining same on North. Under date of Decem-

ber 1, 1924, previous owner of said property executed deed of the property to Colburn and Colburn executed trust deed on said property for \$350,000.00 payable to the previous owner and also mortgage securing \$1,750,000.00 bonds on said property. Under date of December 2, 1924, Colburn executed conveyance of said property to Hotel Company, subject to said encumbrances.

December 11, 1924, additional money on purchase price was paid, part being paid by Hotel Company and part by Mortgage Company, which made the \$1,750,000.00 loan, and all of said deeds and encumbrances were placed in escrow to be delivered on payment of \$200,000.00. December 11, 1924, Hotel Company took possession of property and operated Metropole Hotel. January 5, 1925, work of excavation for building of hotel building on ground to north of old building was commenced and thereafter work of building such hotel building and altering old building was continued until completion. January 29, 1925, the Mortgage Company paid \$200,000.00 additional on purchase price of property and said deeds and encumbrances were deliver-