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Legal Ethics Opinions

Denver Bar Association Record

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My own impression would be that it was unlikely that Thackeray would have read a comparatively obscure essay of Judge Story written a few years previous, and that the original coinage of the phrase by both Story and Thackeray, and possibly, also, by Judge Sharswood, who is said to have used the same phrase in his Introduction to his edition of Blackstone in 1859, was an unlikely coincidence. I would, therefore, infer that there was probably some earlier use of the quotation which has not been definitely located and which may have been merely in the form of an unwritten proverb.

Very respectfully,
OLIVER W. TOLL

The Denver Bar Association Record,
Denver, Colorado.

Gentlemen:

I was interested in reading the sentence imposed by Judge Kirby Benedict, of Taos County, New Mexico, upon Jose Maria Martin, published in the August number of the Bar Association Record.

A sequel to the sentence imposed by Judge Benedict upon the prisoner in 1858 to the effect that Jose Maria Martin escaped from the county jail after sentence, and several years afterward, met his death, in Lincoln County, New Mexico, by falling backward out of a wagon and breaking his neck.

Yours truly,
HARRY C. RIDDLE

Legal Ethics Opinions

No. 1

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

STATEMENT

I am a Denver attorney and would inquire whether in the opinion of your Committee it would be unprofessional for me, at the request of attorneys of another state, to furnish an affidavit to be used in the disbarment proceedings pending against an attorney of that state. Such affidavit would set forth the details of unprofessional conduct of which the accused attorney has been guilty in connection with litigation under his direction against my client in Colorado. The offense to be covered by the affidavit is not itself included among the offenses charged in the disbarment proceeding. But disbarment would probably inure to the benefit of my client by putting a stop to the litigation against it.

OPINION

Assuming that the affidavit in question is sought by persons properly initiating or prosecuting the disbarment proceedings it is the opinion of the Committee that to furnish it would not be unprofessional; and that No. 29 of the Canons of Ethics recommended by the Supreme Court, which provides that

"Lawyers should expose without fear or favor before proper tribunals corrupt or dishonest conduct in the profession," conclusively answers the inquiry.

No. 2

STATEMENT

To the Committee:

I am enclosing three questions which I would appreciate if your Committee would rule upon at its convenience.

- A. Is it ethical for a lawyer to accept a retainer or fee from persons, corporations, or organiza-

tions interested in the result of an election, as compensation for making public addresses or writing communications for publication for the purpose of influencing voters to vote at the election in accordance with the interests or wishes of the lawyer's employer?

- B. If Question A is answered in the affirmative, should the lawyer when making such addresses or writing such communications disclose fully his employment and his employer?
- C. Would it affect the answers to A. or B. of the matter to be voted upon directly affects the interests of a particular business and the lawyer is the regular attorney for that business and not specially employed for the purpose of that campaign?

OPINION

In the opinion of the Committee the answer to Question A is Yes, but this answer should be qualified by the answer to Question B. which is also Yes. To Question C the answer is No.

See Canon 26 of the ethical code recommended by the Supreme Court.

Such advocacy differs in no respect in principle from a lawyer's lobbying for or against a measure before a legislative body. A lawyer "must not prostitute his professional standing by exerting an influence in the guise of good citizenship while concealing the fact that he is employed to promote or to defeat the measure in question."

Jessup, Professional Ideals, 56.

No. 3

STATEMENT

To the Committee on Professional Ethics:

Will you please answer the following questions:

1. Is it ethical for an attorney at law to give free legal advice over the radio?
2. Is it ethical for an attorney at law to give free legal advice through the daily press?
3. Is it ethical for an attorney at law to invite questions over such channels that he will answer gratuitously?
4. Would it make any difference in any of the instances mentioned that the attorney was paid for giving such free advice?
5. Would it be improper advertising in any of the cases mentioned?

OPINION

In the opinion of the Committee Questions 1, 2, 3 and 4 must be answered in the negative, Question 5 in the affirmative.

The practice about which the inquiries are made necessarily involves the advertising that is so subversive of professional ideals. But it is especially objectionable, so far as it consists of advising concerning the legal rights of persons to whom the attorney does not sustain a professional relation.

The Committee does not pass on the propriety of contributions to the newspapers on general legal subjects.

Secretary Hoover announces that we have recovered from the war. True, the five-cent cigar is back, but where is the freelunch counter?—*Minneapolis Journal.*