

INDEX

THE "UNAUTHORIZED PRACTICE OF LAW" CONTROVERSY*

ADJUSTMENT OF CLAIMS

activity of automobile clubs in connection with, 5.

ADMINISTRATIVE LAW

importance of, 92; necessity of more adequate law school training in, urged, 95.

ADMINISTRATIVE TRIBUNALS

appearance of laymen before: 89-97, 106; points of view concerning, 89; absence of restrictions with regard to, 89-91; evils of, 90; experience of federal government with regulation of, 90-91; effect of disbarment on, 91; division of into fields open to lawyers only, and others to any one, 91-92, instability attendant upon this view, suggested, 92; absolute prohibition of and restriction to lawyers only, examined, 92-94; court's power to regulate, 93; reasons for applying different principles to, than are applicable in law courts, 94; proposed consolidation of, in federal government, 94-95; practitioners bar for, 95, standards of, 95, divisions of, 95, method of creating, 95, steps toward, that might be taken immediately, 96.

ADMISSIONS TO THE BAR

quotas for, in relation to un. prac., 130-133.

"AMBULANCE CHASING"

activities of collection agencies compared with, 42; competition of lawyers and laymen in, 100; "overcrowding" of Bar in relation to, 110; clarification of meaning of, set forth, 110.

AMERICAN BAR ASSOCIATION

opinion of Ethics Committee on activity of lawyer employed by associations, 28; canon of, concerning division of commissions or fees with collection agencies, 31, 45; Un. Prac. Committee of, report on real estate instruments, 69, 70-71, relations with Committee of Trust Division of American Bankers Ass'n, 81.

ATTORNEYS

relations with automobile clubs, 10; advertisement of, by automobile clubs, 13; function of, in handling collection items, 30; definition of, 36; restrictions upon, in making collections, 36, 47; law lists and, 39; arrangements with collection agencies by, in bankruptcy matters, 42; activities of collection agencies as interfering with relations of, with clients, 50-51, 55; relations with trust companies, 80, 82, 84; position of, toward un. prac. campaign, 82, 132; effect of lay control on, 86; posi-

tion of, as officers of the courts, 97; competition of, with laymen, 99-100; difficulty in determining exclusive privileges of, 106; jobs for which needed, 106; ability of, to handle new types of jobs, 106; taking jobs traditionally handled away from, 107; misconduct of, explanation of, 110; specialization by, as a method of meeting lay competition, 112; knowledge concerning, in smaller localities, 115; fears of the client concerning, 115-116; methods of getting advice by, 119; "experienced lawyer service" for, 119; reasons for joining in un. prac. campaign, 132.

AUTOMOBILE ACCIDENTS

suggested relation of legal defense service of automobile clubs to, 17.

AUTOMOBILE CLUBS

in general, 3-28; viewpoint of, 3-10; historical background of practice of rendering legal services to members, 3; types of legal service rendered, 3-4, 12-15, 22; information on laws affecting motorists given by, 4, 8; "unjust prosecutions," protection of members against, 4, 8; "speed traps," elimination by, 4-5; adjustment of claims by, 5, 8-9, 10, 15; British, legal services rendered by, 6, 20; discontinuance of legal services by, effect on lawyers, 10; viewpoint of bar concerning, 11-21; Illinois decisions concerning, 11; criminal defense by, 16; automobile accidents and legal defense service of, 17; public interest in services of, 16-17, 19; review of court decisions concerning, 22-28; bases upon which activities of, have been declared unlawful, 23; arguments advanced in favor of furnishing legal services by, 23; form of organization taken by, said to be immaterial, 23; non-profit organization of, 24; Massachusetts cases involving, 25-26; permissible method of furnishing legal services, 26-27; insurance feature of legal services offered, 26-27; ethics of attorney acting for, 28; Rhode Island statute concerning, 28. See CHICAGO MOTOR CLUB.

BAR, THE

viewpoint of, concerning automobile club activities, 11, concerning collection agency activities, 35, concerning the drafting of real estate instruments, 66; establishment of cordial relations with corporate fiduciaries, 80; effect of lay control on, 86; duty of, to render public service, 88; effect of un. prac. upon ethics of, in general, 97-103; reasons for high standards of admission to, 97; independence of, threatened by intermediaries, 100-101; questions

* The abbreviations "prac. l." and "un. prac." have been used in this index for "practice of law" and "unauthorized practice of law," respectively.

concerning monopoly given to, 104-105; economic condition of, stated to be a necessary field of study for intelligent action against un. prac., 107, approach to stated, 108; palliatives and cures for the un. prac. problem of contrasted, 108; "overcrowding" of, explained, 109; gross income of, suggestion that needless expense keeps this down, 109; adverse publicity to, from misconduct of attorneys, 111; technique of, when attorneys and laymen are both engaging in misconduct, 111; complaints of, against lay groups, 111, bases for, 112; organization of, in order to compete with lay agencies, 112, 123-125, 128-130; "encroachments" on, by lay groups, economic bases for, 113; specialized aspects and mass-production technique of these groups, 113; as its own client, 114; organization of for doing business, characterized as antiquated, 114, 133; advances in the methods of compared with other lines of endeavor, 115; percentage of, unable to contact adequate legal business, 117; price for services of, characterized as excessive, 117; development of consulting service by, 120, 123-125, of group-retainer plan, 120; application of business methods by, in contacting clients, 121, 133, including regular publicity mediums, 122, and specialized approaches to reach particular fields, 123; establishment of legal reference bureau by, and relation of this to un. prac., 125; standardization in work of, 126, 133; possibilities of repercussions on, from un. prac. campaign, 127, 134; development of jointly responsible groups in, 129-130; use of quotas in admission to, 130-133.

BANKRUPTCY PROCEEDINGS

activity of collection agencies in connection with, 42, 53-54.

BANKS

See TRUST COMPANIES.

CASE-LAW

aspects of, which increase cost of legal service, 118.

CHICAGO MOTOR CLUB

legal services offered by, 12-15, advertisements of, 13, 24; number of claims handled by, 15; arrest cases handled by, 15; "not for profit" designation of, criticized, 17, 24.

Childs v. Smeltzer, 74.

Clark v. Reardon, 150.

COLLECTION AGENCIES

in general, 29-56; viewpoint of, 29-34; definition of, 29, 36; technique of handling collection items, 30; charge made for collection, 30, 50; basis of placing claims with lawyers, 30, 39, 50; selection of lawyers by, 31, 32, 51-52; practices in which reputable agency will not engage, 31; division of commissions with lawyers, 31, 50; reasons advanced why division of collection commission is not unethical, 32; method by which agencies can continue to operate, 32, 52; reasons advanced why agency should follow case to completion, 33; precautions taken by reputable agencies, 33-34; view-

point of bar concerning, 35-46; practices of, which have been condemned, 35-36, 42, 50; activities of, contrasted with those permitted to the lawyer, 36-37; prac. l. by, 37, 47, 51, 55; volume of business handled by, 38; business preferences for, 38; control of commercial business by, 39; maintenance of credit reporting system by, 40; "free demand" service by, 41; effect of competition between, 41-42; activities of, in connection with bankruptcy proceedings, 42, 53-54; statutes restricting activity of, 43, 49; campaign of bar against, 43, 47; declaration of principles concerning, 44; review of court decisions concerning, 47-57; dunning methods used by, 47-48; simulation of legal process by, 48; threatening suit, 48; maintenance of law departments by, 50; furnishing of legal services by, 50-51; assignment of claims to, for collection, 52.

COMMERCIAL LAW

See COLLECTION AGENCIES.

CONTEMPT PROCEEDINGS

See PROCEDURES.

CONTINUING PROCEEDINGS

See PROCEDURES.

CORPORATE FIDUCIARIES

See TRUST COMPANIES.

CORPORATE PRACTICE OF LAW, 86, 99.

COURT COMMITTEES

See PROCEDURES.

CRIMINAL LAW

See PROCEDURES.

Curry v. Dahlberg, 98.

DECLARATORY JUDGMENT

See PROCEDURES.

Depew v. Wichita Ass'n of Credit Men, 50.

Depew v. Wichita Retail Credit Ass'n, 161.

Detroit Bar Ass'n v. Ward, 78.

Dworkin v. Apartment House Owners Ass'n, 158.

EDMONDS, H. D.

quoted, 83.

FEES

suggested minimum schedule in Missouri, 9; division of, with collection agencies, 31; clients' fears concerning, 115-116.

Goodman v. Beall, 91, 93, 168.

In re Eastern Idaho Loan & Trust Co., 73.

In re Gore, 74.

In re Maclub of America, 25.

In re Mathews, 74.

In re Morse, 143.

In re Ripley, 50.

In re Thibodeau, 26, 28.

INJUNCTIONS

See PROCEDURES.

INSURANCE

furnishing of legal services by automobile clubs as, 26-27.

INTERMEDIARIES

effect of control of law business by, upon legal ethics, 99-100.

Johann v. Irving Trust Company, 85.

Judd v. City Trust & Savings Bank, 74.

JUDICIARY

responsibility of, for administration of justice, 97; inherent power of, as basis for contempt proceedings, 143-145, denial of, 147.

"LAW FACTORIES"

specialization and mass-production technique in, 116.

LAW LISTS

selection of attorneys from, by collection agencies, 31; operation of, 38-39; bonding of attorneys by, 40; American Bar Association's activity concerning, 45; effect of, upon legal ethics, 100.

LEGAL ADVICE

automobile clubs furnishing, in England, 7; need for definition of, 59; drafting of instruments in connection with, 72; by trust companies, 80-81.

LEGAL AID SOCIETIES

activities of, not illegal, 19-20.

LEGAL BUSINESS

lost to lawyers, because of advantages of competitors, 112; new, which lawyers have not taken advantage of, 113; bar's method of organization for, characterized as antiquated, 114; failure to take care of, because of lack of contact, 116; adjustments made in order to handle, 117; cost of engaging in, stated to be excessive, 117-118.

LEGAL ETHICS

commercialization of legal services and, 17, 21, 99, 101-102; activities of automobile clubs and, 25, 28; division of collection commission and, 31-32, 45; collection work and, 36; campaign against collection agencies and, 44; position of lawyer consulted with reference to drafting a will or trust instrument and, 83; effect of un. prac. upon, in general, 97-103; reasons for high standards of, 97; canons of, affected by un. prac., 98; effect of competition of laymen upon, 99, of solicitation of employment by lay competitors upon, 99-100, of activities of law list companies upon, 100-101, of dependency on intermediaries upon, 101; strict enforcement of, as a necessary accompaniment of campaign against un. prac., 102-103; relation of economic condition of Bar to observance of, 110; clarification of application of, to "ambulance-chasing" cases, 110; canons of, characterized as unsuited to large cities, 115.

LEGAL INSTRUMENTS

need for definition of, 59.

LEGAL PROFESSION

See BAR.

LEGAL REFERENCE BUREAU

determining charges to be made for legal service, 123; use of reference list of attorneys by, 124.

LEGAL SERVICE BUREAU

for clients of limited means not in legal aid class, 125; relation un. prac. problem to, 125.

MANDAMUS

See PROCEDURES.

Matter of Cooperative Law Co., 86.

Michigan State Bar v. McGregor, 93.

MOTOR CLUBS

See AUTOMOBILE CLUBS.

NATIONAL ASSOCIATION OF REAL ESTATE BOARDS

position with reference to drafting of instruments, 59.

NATIONAL BAR PROGRAM

un. prac. made subject of, 83.

NEW YORK COUNTY LAWYERS ASS'N

beginning of movement against un. prac. by, 35.

NOTARIES

drafting of instruments by, in other countries, 77.

Opinion of the Justices, 73.

People v. Alfani, 73.

People v. Title Guarantee & Trust Co., 74

People ex rel. Chicago Bar Ass'n v. Automobile Club of Illinois, 11.

People ex rel. Chicago Bar Ass'n v. Chicago Motor Club, 11, 24.

People ex rel. Chicago Bar Ass'n v. Motorists' Ass'n, 11, 24.

People ex rel. Courtney v. Ass'n of Real Estate Taxpayers, 20.

People ex rel. Illinois State Bar Ass'n v. Peoples' Stock Yards State Bank, 143, 150.

PRACTICE OF LAW

changing nature of, 1, 104; definition of, business practice as affecting, 27, 65; in cases involving collection agencies, 55; need for, 59, 60; in connection with drafting of instruments, 73; monopoly nature of, 104; questions to be answered, ineffectiveness of tradition, in determining scope of, 104; non-exclusive aspects of, suggested, 107.

PROCEDURES AGAINST UNAUTHORIZED PRACTICE

Criminal Prosecution: statutes concerning, 136; formalities attached to, 137; statistical analysis of cases of, 137-138; non-use of, 135, 138, explained, 138-140.

Contempt Proceedings: Broad scope of indicated, 140; statutory bases for, 141; and explanation of, 142; theory of, in absence of statute, in state supreme court, 143-147; in intermediate appellate courts, 147-148; in trial courts, 148-150; judicial power as basis of, 143-144, 147, 150; dismissal of, bases for, 145-147; effect of, in trial court, 149; materiality of complaining parties, 150-151; summary conviction in, 152; steps followed in when based on constructive contempt, 152; "safeguards" of criminal trials preserved in, 153; fact-finding methods in, 153; effect of existence of other remedies on, 154; caution in use of, 155.

Injunction Proceedings: statutory bases for use of, 156; use of on "nuisance theory" under Tennessee statute, 157; theories of, in absence of statute, 158-161; use of, on "franchise" theory, 158-160; use of, under protection of administration of justice theory, 160-161; effect on, of existence of legal remedies, 162; proper parties to bring, 163-165; use of class action in, 164-165.

Quo Warranto: traditional office of, 165; use of against individuals, 166; theory of, 166; materiality of complaining party, 166-167; simplicity of, commented on, 167.

Mandamus and Prohibition: possibility of use of mandamus, 167; successful use of prohibition in Ohio, 168.

Declaratory Judgment: use of in Virginia, 168; tactical advantage of, suggested, 169.

Court Committee: Investigatory powers given to, 169; inherent power of court as basis for, 169.

Continuing Proceeding: method of operation, 170.

PROCTOR OF THE BAR

in New York State, 170.

PROHIBITION

See PROCEDURES.

PUBLICITY

for lawyers services, 122-123.

QUASI-JUDICIAL TRIBUNALS

See ADMINISTRATIVE TRIBUNALS.

QUO WARRANTO

See PROCEDURES.

RADIO

use of in advertising Bar's services, 122-123.

REAL ESTATE BROKERS

right to draft real estate instruments urged, 59; licensing of, 62, 72, 77; ethical requirements for, 62-63; definition of, 66; position of, in a real estate deal, 67-68, 71; interests of, 71; court decisions concerning, 72-79; contentions of, with reference to drafting of instruments, 72; compensation of, 76-77; analogy to English notaries, 77; effect of examination of, in real estate law, 78; handling of eviction and foreclosure proceedings by, 79.

REAL ESTATE INSTRUMENTS

drafting of: in general, 57-79; viewpoint of realtors concerning, 57-65; campaign against, by non-lawyers, 57; public welfare, and restrictions on, 57, 58; standard forms for, 58, 61-62, 63, 64, 69, 73; necessity for knowledge of real estate conditions in, 58, 61, 65; by real estate brokers, 59, 61; as incidental to a business, 59, 75; distinction between,

and ordinary business instruments, questioned, 60; aid given by real estate men to lawyers in, 61, 62; uniform conveyancing forms for, in Wisconsin, 64; viewpoint of bar concerning, 66-71; importance of, 67; necessity for appropriate inquiries being made in connection with, 67; types of, in ordinary transactions, 68; inapplicability of standard forms for, urged, 69; filling in blank forms as, 69, 74; "simple instrument" doctrine concerning, 69, 72, 73-74; by parties to transactions, 70, 75; point where attorney should be consulted in, stated, 70; court decisions concerning, 72-79; as prac. l., 72-73, 74; compensation for, 72, 76; by non-lawyers in other countries, 77; "isolated instance" doctrine, 78.

REMEDIES

See PROCEDURES.

Rhode Island Bar Ass'n v. Automobile Service Ass'n, 24, 102.

ROOT, ELIHU

quoted, 87.

Shortz v. Farrell, 91.

State ex rel. Seawell v. Carolina Motor Club, 25.

State ex rel. Wright v. Barlow, 76.

TAXPAYERS' ASSOCIATION

un. prac. by, 20.

TITLE COMPANIES

inability of bar to compete with, 112.

TRAFFIC VIOLATIONS

legal defense services of automobile clubs and, 17, 19.

TRUST COMPANIES

relations of the bar with, in general, 80-88; solicitation of fiduciary business by, 80; prac. l. by, 80, 81; improper activities in connection with drafting of wills, 81, 85; statement of position of, toward drafting of wills and trust instruments, 81; negotiation of agreements with bar, 82; work of committees of Am. Bar Ass'n and A. Bankers Ass'n concerning activities of, 82; code of fair competition for, 82; furnishing of lawyers by, 85.

TRUSTS

problems arising in creation of, 84. See TRUST COMPANIES.

WEIHOFEN, HENRY

articles on legal services of automobile clubs criticized, 18.

WILSON, WOODROW

quoted, 87.

WORKMEN'S COMPENSATION CASES

activities of laymen in connection with, 91.