Legal Ethics

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1. It is unethical for an attorney, (1) to seek to influence the judge in any way out of court, or even to talk about a case to the judge except in the regular, formal way in open court.
(2) to seek to be excused from defending an indigent prisoner for trivial reasons when the court has assigned the defense to him.
(3) to represent adverse interests.
(4) to negotiate with the opposite party in person, when he is represented by counsel.
(5) to purchase an interest in the litigation.
(6) to consume money belonging to the client with his own money.
(7) to sue a client for his fee unless necessary to prevent injustice, imposition, or fraud.
(8) to assert his personal belief in the guilt or innocence of the parties.
(9) to resort to illegal practices, fraud, or chicane in endeavoring to win his case.
(10) to indulge in unseemly personalities with opposing counsel.
(11) to appear as a witness for his client except as to matters of form not in issue.
(12) to be unfair or not candid in the court, for example, by citing a repealed statute, or an over-ruled one.
(13) to flatter the jury, or to communicate or to appear to communicate with any member thereof.
(14) to advertise, directly or indirectly, but plain cards or announcements may be proper, for example—John Doe, Attorney-at-Law announces the removal of his office from etc. However one may ethically place his name in approved law lists that circulate only among lawyers and may state therein such things as his special field, length of time of practice, and (with his clients' consent) names of principal clients.
(15) to stir up litigation, directly or through agents.
(16) to prosecute a civil suit he knows to be trumped up, or illegal.
(17) to incorporate.

2. The lawyer in this country is not under any duty to take any case, unless assigned by court as counsel for an indigent prisoner.

3. The lawyer is under a duty to prosecute his client's case with zeal, and use every honorable means to win his case.

4. The primary duty of a lawyer engaged in public prosecution is not to convict, but to see that justice is done.

5. In determining the fee it is proper to consider (1) the time and labor required (2) effect on other litigation. Lawyer might otherwise have had (3) customary charges (4) amount involved and extent of client's benefit (5) the contingency of the compensation (6) whether casual, or for a constant client.

6. "Contingent fees laid to many abuses, and when sanctioned by law should be subject to the supervision of the court." (Camin 13)

7. Lawyers should restrain their clients from improprieties, and treat all honest witnesses with fairness and consideration.

8. "Put above all a lawyer will find his highest honor in a deserved reputation for fidelity to private trust and to public duty." Note: The Virginia Integrated Bar has adopted the canons of the American Bar Association.

9. A's wife brings a suit against him for divorce for desertion. If A chose to defend the suit, he could defeat the divorce. The wife's attorney makes an agreement with A not to defend the case, and A's wife obtains the divorce. What do you think
10. If your client were sued, and you could win the case by pleading the statute of frauds, would you advise your client to do so? Give reasons. I would advise my client that he had the legal right to do so. If I was satisfied that my client was morally right I would urge him to do so. If I thought that he was merely taking advantage of an honest adversary by virtue of a technicality I would still advise that he had a legal right to do so, but if he insisted on doing it, that he would have to get another attorney. Reason—a lawyer is never under a duty to surrender his conscience to his client. Note, however, that a lawyer would be in his legal rights in taking the case, and if he did so, would be under a duty to plead the statute.

11. In a case in which there are many parties, you have been retained as attorney by A, and subsequently B, whose interests may possibly conflict with those of A, requests you to also represent him. What course should you pursue? Decline the employment. It is impossible to serve two masters whose interests conflict. To be loyal to A, his client, is a lawyer's first duty. See Canon 2(3).

12. The day before the day set for the trial of a case the wife of the counsel opposed to you dies. He telephones you and asks you to consent to a postponement. Or communicating with your client, he objects and insists on your pressing for trial. What is your duty under the Code of Ethics? Unless a continuance will really hurt your client's interests you should disregard his directions. "Is to incidental matters pending the trial—the lawyer must be allowed to judge." (Canon 24.)

13. Should an attorney appear as a witness for his client? No, except as to formal issues, not in dispute. The duties of attorneys and witnesses are inconsistent. If the evidence of the attorney is necessary, he should withdraw from the case. 1(n).

14. Under the Code of Ethics, how far, if at all, can a lawyer defend a client in a criminal prosecution following him as being guilty? Canon 5, "It is the right of the lawyer to undertake the defense of a person accused of crime, regardless of his personal opinion as to the guilt of the accused; otherwise innocent persons, victims only of suspicion, circumstances, might be denied proper defense (or guilty ones punished too severely). Having undertaken such defense, the lawyer is bound by all fair and honorable means to present every defense that the law of the land permits, to the end that no person may be deprived of life or liberty, but by the due process of law."

15. An attorney employed in an important criminal case writes and has published in the newspapers articles relating to the case, for the purpose of influencing sentiment in favor of his client. Did he, by so doing, violate any rule of Law, or of the profession? Yes, Canon 20. Only justified under extreme circumstances, and then should not be made anonymously. Reason—Such statements are apt to interfere with a fair trial.

16. Is it proper for a lawyer to offer evidence which he knows is inadmissible, in order to get it before the jury by argument for its admissibility? This is not fair, but only a cheap trick not even worthy of a cheat. No one should do indirectly what is not permitted to be done directly. See Canon 22.

17. W, an attorney, files on the lien docket of Pennsylvania county a judgment
18. You are employed upon a contingent fee of 30% to handle a claim of B for injuries received through the wrongful act of the Va. Street Car Co. C is attorney for the Street Car Co., and well known to you. You write him a letter, tell him that you have been retained, lay before him some of the facts and urge him to settle the case. C, convinced that his company has no good defense, without your knowledge, goes to B and compromises the case with him for $1,000, and B disappears without paying you any fee:

(1) Is C's conduct unethical?
(2) Have you any redress against the company?
(1) Unethical. Is not treating fellow attorney fairly. C should not deal directly with B when B is represented by counsel. (1/4)
(2) Va. 74-70. "Any person having or claiming a right of action sounding in tort, or for unliquidated damages on contract, may contract with any attorney at law to prosecute the same, and such attorney shall have a lien upon such cause of action as security for his fees — and when written notice of the claim of such lien shall be given to the opposite party, his attorney, or agent any settlement of such cause of action shall be void against the lien so created." See also 6 C.J. pp. 788-790.

19. A and B were college chums. A becomes a physician and B a lawyer in the same city. A suggests that they make an agreement to each pay to the other 10% of all fees from patients or clients produced by the other. Is there any ethical reason why B should not make such an agreement?

Unethical to share fees with others. Reason — Is advertising and tends to stir up litigation but one can shares fees with other attorneys provided they are sharing the responsibilities.

20. LD and LP are the attorneys for the defendant and the plaintiff respectively. LD has thoroughly prepared his case but LP is coasting on his past reputation. After the two attorneys have argued the law and LD has given his opinions the trial judge asks LD if he knows of any cases cited, he does not. There is a well reasoned decision by the U.S. Supreme Court. However, no federal question is involved. LD knows all about this case but LP has no knowledge of it. Is LD under a duty to tell the court about the U.S. Supreme Court decision?

Yes. The lawyer is an officer of the court and his duty to the court (with whom he must be candid) is greater than his duty to his client. In fact the lawyer owes his duty owed his client when he helps the trial judge find the law. Of course he can then argue that the decision is wrong or distinguishable. [For a lively retort on the above reasoning see the January 1939 number of the American Bar Ass. Journal, p. 5, in which Mr. Roberts B. Tunstall of the Norfolk Bar urges that, one ought not to be required to prepare his opponent's case for him, and, in any event, the rule about candor to the court in this type of case should apply only to controlling authorities. Many state courts have refused to follow the U.S. Supreme Court where no federal question is involved so the decision in question would not be a controlling one].
D is the receiver of an insolvent bank. P is the attorney for one X who holds the Bank's note for $30,000 and 10% attorney's fee, if legal proceedings are necessary. Is P entitled to his 10% if resort to legal proceedings is necessary?

10% is a prima facie proper. But attorneys' fees are under the control of the court, and, where too large, may be reduced by the court in the exercise of a reasonable discretion. An $800 fee awarded after hearing the evidence and supported by the evidence will not be interfered with by the Supreme Court of Appeals.

Where credit association (a corporation) selected attorneys to make collection for customers, and fixed fees therefor, and where almost all correspondence and all remittances passed through the credit association, and the association otherwise controlled attorneys and shared compensation without customers even knowing identity of attorneys engaged, the association was held to be engaged in unlawful "practice of law" in violation of statute and public policy.

A state court has jurisdiction to inquire into conduct of attorney licensed by state in federal court, and to disbar him for misconduct committed in such federal tribunal, since such attorney is an officer of state court.

State court held to have jurisdiction to investigate charge that domestic incorporated credit association was engaged in unlawful practice of law in activities within state in handling collections of bankruptcy claims as against contention exercise of jurisdiction would interfere with sovereignty of federal government.

A sister of a man charged with first degree murder and held without bond engaged L, a lawyer, to defend her brother. After the relationship of attorney and client had arisen he called upon her late at night when she was half sick, threatened with a nervous breakdown, and desperately anxious to get her brother out of jail, and stated that unless she gave her note for $500, secured by deed of trust, he would do nothing more. She signed the note and deed of trust under protest. Later she filed this bill in equity to cancel same as a cloud upon her title. Result?

Since the parties were in a fiduciary relation the burden was on L to show that contract was a fair one and fairly obtained. (Otherwise if contract made before inception of that relationship). This contract was not fairly obtained even though there was no actual fraud. The case was remanded to direct an issue out of chancery to determine a reasonable fee for work done.

In cross-examining a character witness for Kanter, a junk dealer accused of receiving stolen property, the attorney for the Commonwealth asked the witness, "Did you ever hear of Kanter's buying copper wire that was stolen?" Was this ethical?

In such cases the representative of the Commonwealth is afforded a wide range in his cross examination of a witness who has testified to the good reputation of a defendant, but that range must be confined within the limits of good faith and fair dealing and must be based upon facts, general rumor or report.

If there were no such basis, then the conduct of the attorney was highly unethical because he is not treating the parties with fairness, but by innuendo, is charging defendant with other serious crimes to his great prejudice.

W claims to have lent her husband, H, a large sum of money. A was attorney for both W and H. H is dead. He made a will that cannot be found. Under V#8-286 W cannot recover from H's estate unless she can be corroborated. A has a copy of the will. Clause 1 of which is as follows: "I want all my just debts paid, including debts due my wife."

Can A ethically testify to this provision in the lost will and still remain
counsel for W. Canon 19 reads in part, "Except when essential to the ends of justice, a lawyer should avoid testifying in court in behalf of his client." The instant case clearly comes within this exception.

Note: Although this will was drawn up only 5 days before H's death, and H was had ridden it was presumed to have been destroyed by him and W so contended and won. Yet this destroyed will was held to be evidence of corroboration. (Destroyed for some purposes but not for all, says one dissenting judge.)

LEGAL ETHICS Disbarment Proceedings

179 Va. 244.

C, an attorney wished to marry X who was already married to Y. He persuaded her to live in adultery with him until two years had elapsed. He then filed a divorce petition for her on the ground that her husband had deserted her. He alleged in the petition that complainant "has always been a true, faithful and devoted wife."

 Held: C should have his license suspended for 10 years for not being candid with the court.

Afterwards C married X, and then timing of the marriage, he filed a bill in equity to annul the marriage on the ground that statutory provisions had not been followed. Read: Unethical for an attorney to urge his own errors to a private advantage.

Note: By Va Code 7-4 disbarment proceedings are tried before a three judge court. One of the judges is the judge before whom a complaint verified by affidavit is filed. If the Supreme Court of Appeals appoints the other judges to participate in the trial, proof need only be by a preponderance of the evidence since the proceedings are not criminal. "Upon the hearing, if the defendant be found guilty by the court, his or her license to practice law in this state shall be revoked, or suspended for such time as the court may prescribe; provided that the court, in lieu of revocation or suspension, may, in its discretion, reprimand such attorney."

LEGAL ETHICS

William Irving, a widower without children or other near relatives, living in Lynchburg, Va., made a will leaving all of his estate of $83,000 to Charles Covington, a life-long friend but of no blood relationship to him. On the death of Irving, ten years later, Covington carried the will to James Black, a lawyer whom he had previously employed, and asked him to take all necessary legal steps for the probate of the will and the administration of the estate. The will, which was in type and otherwise in due form, bore the genuine signatures of Irving and two attesting witnesses, but had no attesting clause. In a letter to Covington, Elliott learned that Covington, at Irving's request, had been present at the execution of the will, that Irving signed the will, that he took care of two neighbors, who came in separately at different times, so that they were not in Irving's presence together, and that they then wrote their names as witnesses at Irving's request, who said to each of them that it was his will. No one else was present at the execution of the will or had knowledge of those facts. Both witnesses died before Irving's death, but their signatures were readily provable. It was generally well known that Irving intended to leave his property to Covington, as he had made frequent declaration to this effect. Covington, at that time reduced by financial reverses to stretched circumstances, knew nothing of the requisites of will-making in Virginia, and acted in entire good faith. What would you say as Black's duty in this matter?

Black should not take the case as he knows that the will is not entitled to probate. The fact that one might legally "put by" with fraud or any other improper practice does not, of course, make it ethical to do so, even if, as here, the motive be not altogether bad.

LEGAL ETHICS

179 Va. 281. Amount of Fee

D, a non-resident, owed P $2,400. P's only asset is land in Virginia subject to a deed of trust. When the deed of trust was foreclosed there was a $500 surplus which P wishes to reach. The note secured by the deed of trust was in the sum of $3500 and provided for a 10% attorney's fee if not paid at maturity. P was the attorney for the creditor. He received the statutory 3% commission for foreclosing the deed of trust, and he now claims 1/3 of $3500 as a lien on the $500 surplus.
Held: The attorney's fee must be reasonable and his fee is subject to control of the court. While the agreed fee is prima facie reasonable, it is not conclusively so. He ought not to be allowed a 5% commission and a 15% attorney's fee for what practically amounts to the same thing. The court then took into consideration all the work that had been done by the attorney with respect to the collection of the note, and concluded that a $100 fee was sufficient.

LEGAL ETHICS — Argument of Commonwealth's attorney 183 Va. 253

Without any evidence to support his argument the Commonwealth's attorney in a murder case stated that deceased was anxious to fight the Germans or the Japs but no— he is killed by somebody here at home.

Held: Reversible error. Here is an appeal to the matter that is irrelevant as to merits of the particular case, and highly prejudicial in time of war. It is the duty of the Commonwealth's Attorney to refrain from arguments that are not supported by the evidence and lead to the conviction of the innocent as the people of the State whom he represents are just as much interested in seeing to it that the innocent are freed as they are in the conviction of the guilty.

LEGAL ETHICS 183 Va. 394

H was indicted in five separate indictments for the murder of his wife and four infant children all of whom met their deaths by drowning when the automobile occupied by them ran backwards into an abandoned quarry filled with water. The deaths were either accidental or malicious. The Commonwealth's attorney states:

1. Let us see whether H is a traitor to his country.
2. This is the most diabolical murder that has ever been committed in these parts in the memory of man.
3. The blackest Rottentot with a ring in his nose would not have acted as did H.
4. It is not up to us to explain how that car went over there. I submit that he is the man to satisfy you about that and he has not done it.

Held: Is H entitled to a new trial?

Held: Yes. Conviction should rest upon reason alone, and not upon appeals to emotion, sympathy, passion or prejudices. Introduce und inflammatory argument calculated to divert the minds of jurors from the real issues involved is improper.

The statement that it was up to H to prove the incident was an accident is highly misleading as the presumption of innocence follows him throughout the case.

LEGAL ETHICS 194 Va. 711

L was attorney for F and M who were the father and mother of S who was killed while at work. F, M, S's older brother, S's sister and her illegitimate child constituted the family. After as thorough an investigation as possible L determined that S furnished 30% of the support of F and M, and as worker's compensation would have been $2,700 per week for 50 weeks for 30% dependency a lump sum settlement of $700 was made. F and M claimed that L had no authority to compromise the case and requested it to be set aside because of this lack of authority. What ruling?

Held: While an attorney has no implied authority to compromise cases he does have authority to agree to stipulations in lieu of proof, and that is what L did in this case. Hence the settlement should stand.

LEGAL ETHICS

Is it legal for licensed real estate brokers to prepare contracts of sale, leases, options to purchase and sell, and agency contracts giving brokers right to represent clients on certain terms?

Yes. In 1938 the Supreme Court of Appeals pursuant to Va. 54-48 has defined the practice of law as "— one, other than a regular employee acting for his employer, undertakes, with or without compensation, to prepare for another legal instruments of any character other than notices or contracts incident to the regular course of conducting a licensed business—". Doings of the things first mentioned above are contracts incident to the regular course of conducting a licensed business and hence within the exception.
LEGAL ETHICS  

Preparation of Deeds

(Second) 186 Va. 30

Is it legal for licensed real estate brokers to prepare deeds, deeds of trust, mortgages, and deeds of release?

held: No. The preparation of such instruments involves the practice of law and such contracts are not a mere incident of the real estate business. They are muniments of title and great harm can be done as a result of faulty preparation. Real estate brokers customarily make separate charges for such services. The Court conceded the force of defendant's argument that it would be illogical to authorize real estate brokers to prepare contracts of sales and leases and not deeds but the line of demarcation must be drawn somewhere. After reviewing the whole subject and admitting that professions overlap, the court reached the conclusion that contracts of sale, leases, and agency agreements were on one side of the line and merely an incident of the real estate brokerage business, and deeds, deeds of trust, mortgages and deeds of release on the other side, and more than permissible incidents of that business.

LEGAL ETHICS

Preparation of Tax Forms

(Third) Suggested by 186 Va. 30

(a) May a non-lawyer represent a client before the State Corporation Committee?

Yes, if it involves the presentation of facts only, and there is no examination of witnesses or preparation of pleadings. An engineer or accountant should be allowed to present technical data.

(b) May a non-lawyer legally prepare income tax returns for others?

Yes. The preparation of tax returns involves many questions other than legal questions. It is a case of overlapping professions and not the exclusive field of any one profession.

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A and B who were attorneys at law procured the appointment of committees for Mary's property. Later in the same day they prepared a will for her. After her death this will was attacked and A and B were witnesses as to its validity. In spite of these facts A and B were the attorneys for the proponents. Was the conduct of A and B ethical?

No. First of all they should have foreseen the possibility of attack on the will of one who had just been adjudicated incompetent to manage her property and should have consulted mental experts before drawing up a will for her. Next they should not have represented proponents when they knew they would be material witnesses. While this unethical conduct was improper, the court held that it should not prejudice the rights of proponents. Note: It would seem to follow by inference that an attorney is not in Virginia an incompetent witness even if he is violating the canons of professional ethics in representing one of the parties.

LEGAL ETHICS

D, a woman, was on trial for murder. Her confession was offered in evidence. According to D the confession was obtained by the sheriff and commonwealth's attorney prowling her in amity if she claimed self-defense, and by then telling her no one would ever believe her true story that deceased killed himself. According to the commonwealth no promises were made to her and the confession was freely given. There was thus a direct conflict between the sheriff and D as to what happened. The commonwealth's attorney was a material witness as to how the confession was obtained. He prosecuted the case to the best of his ability. Was his conduct ethical?

No. He should have withdrawn from the case by his method of question D and the sheriff he was able to impress upon the jury that he vouched for the sheriff. This he accomplished without being sworn as a witness and without admitting to cross-examination. That procedure was unfair to D. It is the duty of the commonwealth's attorney to see that the defendant has a fair trial as the state is just as much interested in the acquittal of the innocent as in the conviction of the guilty.
A was admitted to the practice of law in Georgia in 1927. He moved to Virginia in 1936. He represented X in a court of law in 1947 while associated with Y, a Virginia attorney. Va §54-42 provides that any person duly authorized and practicing as an attorney at law in any state may for the purpose of attending to any case he may occasionally have in association with a practicing lawyer of this State practice in the courts of this State. Is a guilty of any crime?

Held: Yes. He is not now practicing in any other state and hence does not come within the above provision.

A partnership for the practice of law is composed of F, J and X. J is trial Justice of his county. F is the father of J. X is no relation to F or J. F does not practice before J, and J does not pay his salary as trial justice into the firm. F, J, and X all practice in the Circuit Court except that J does not personally take cases appealed from him. X does practice before J but keeps all fees from such practice for himself. Is the conduct of F, J, and X ethical?

Held: No. It is immaterial how F, J, and X divide the receipts. The arrangement is unethical for the sole reason that a member of a law firm should not practice before his partner. Such an arrangement certainly tends to bring practice to the partner on likelihood of his "pull" before the Trial Judge. Regardless of the honesty and integrity of the parties it would not be in the best interests of either the Bar or the public because such a firm would have an advantage not based upon professional ability.

P's attorney in arguing his case before a jury said, "All my client asks you gentlemen to do when you retire to the jury room is to apply the Golden Rule". Was this proper argument? Held: No. The Golden Rule was designed to regulate the conduct of men among themselves before they bring their controversies to a jury. The function of the jury is to decide according to the court's instructions and the evidence, and not according to how its members might wish to be treated.

An attorney in good faith agreed to dismiss a case with prejudice although he had not been authorized by his client to do so.

Held: Unless expressly authorized to do so an attorney has no authority to agree to a retraxit, or a dismissal with prejudice, or to a compromise settlement, or anything going to the merits of the case. He does have implied authority over matters concerning the remedies. Thus he may agree to admissions and stipulations as to facts, to dismiss without prejudice, or to take a nonsuit for these are matters of procedure not constituting a bar to the institution of another suit on the same cause of action. Hence the client is not bound by the action of his attorney in dismissing the case with prejudice as first above set forth.

Attorney A represented the complainant and Attorney B the respondent. The case depended on whether or not the respondent had delivered a deed to the complainant. Attorney B deposed that the deed had never left his office and that he destroyed it at the request of respondent. Attorney A and his client had gone to B's office and A and B had a conversation about the deed portions of which were inconsistent with B's deposition. The same attorneys represented the parties before the Supreme Court of Appeals.

The court of its own motion admonished A and B to observe more carefully the Code of Professional Ethics which provides that attorneys should not be witnesses in the suits they are conducting except as to formal matters not in dispute, and that they should withdraw from a case whenever it appears that their testimony as to disputed material matters may be required.
In the one case a labor union, in another case--the instant one--the NAACP, retained attorneys on a salaried basis to represent their members before the State Industrial Commission in the first case, and persons seeking desegregation of the schools in the second case. The parties represented paid no part of the costs or attorneys' fees. The Union in the one case and the NAACP in the second case controlled all details of the litigation.

Held: Such conduct is unethical on the part of the attorneys as in violation of statute and of Canon 35 which reads in part as follows:

"Intermediaries.--The professional services of a lawyer should not be controlled or exploited by any lay agency, personal or corporate, which intervenes between client and lawyer. A lawyer's relation to his client should be personal, and the responsibility should be direct to the client. Charitable societies rendering aid to the indigent are not deemed such intermediaries."

And by Canon 47 no lawyer should permit his professional services, or his name, to be used in aid of, or to make possible, the unauthorized practice of law by any lay agency, personal or corporate.

Note: This case was reversed as far as the NAACP is concerned by a 6 to 3 decision of the United States Supreme Court in 83 S.Ct.328(1963). The First Amendment made applicable to the States through the Fourteenth protects vigorous advocacy for lawful ends against governmental intrusions. The litigation carried on by the NAACP is not a technique for resolving private differences; it is a means for achieving the lawful objectives of equality of treatment by all government, federal, state and local for the members of the Negro community in this country. Constitutional rights cannot be denied under the pretext that they violate statutes or canons of legal ethics. Canons 35 and 47 are meant to protect the public from private abuses by attorneys and should not be held to apply to situations in which there is little or no danger of such private abuses and where their application as a matter of fact would substantially interfere with the rights of minorities.

LEGAL ETHICS 201 Va.314,0.

A, B and C were under arrest as members of a mob charged with felonious assault. L represented A and B. L approached C as a witness and then asked him if he would like to have L represent him too. C had no money and the likelihood of L receiving a fee from C was quite remote.

Held: L's conduct was unethical. He violated Canon 27 when he solicited C to employ him. The penalty was a reprimand.


In this case the Supreme Court of Appeals held our State Bar has been integrated (1) by rule of court independently of statute and pursuant to the court's inherent power over the judicial branch of our government, and (2) by statute. Under the statutes and the rules the Virginia State Bar may conduct continuing legal education programs, publish the Virginia Bar News (which is not "a law magazine" within the meaning of a provision forbidding publication of such a magazine), and pay fees of attorneys prosecuting unauthorized practice of law cases provided such attorneys have been specially employed for that purpose at the request of the Attorney General. These things are authorized at least impliedly by Section 9(k) of Rule IV establishing an Intergrated Bar. It reads as follows:

"The Council may, *** exercise the necessary powers:
"To cultivate and advance the science of jurisprudence;
"To promote reform in the law and in judicial procedure;
"To facilitate the administration of justice;
"To uphold and elevate the standards of honor, of integrity and of courtesy in the legal profession;
"To encourage higher and better education for membership in the profession;
"To promote a spirit of cordiality and brotherhood among the members of the Virginia State Bar; and
"To perform all duties imposed by law."
LEGAL ETHICS Contempt of Court 106. 205 Va.332.

D, an attorney, filed a motion for change of venue, and in the motion and the argument thereon it was stated that Judge H, the presiding judge, was in fact acting as police officer, chief prosecution witness, adverse witness for the defense, grand jury, chief prosecutor and judge and that a fair trial could not be had in his Court. Judge H summarily held that D was in contempt of court and fined him $50. D was granted an appeal.

Held: Affirmed. The above language was a studied attempt to smear the judge and was meant to be an attack on his integrity and ability as a judge. It is immaterial that it appears in a pleading or an argument on the pleading. Courts have an inherent power subject to reasonable statutory regulation to punish summarily for contempt of court. No jury trial lies as a matter of right. A later statement that no personal insult was intended will not purge the contempt. Reversed. See N.T.

LEGAL ETHICS See 202 Va.142 (supra) 84 S.Ct.1113.

In the case of Brotherhood of Railway Trainmen v Virginia ex rel Virginia State Bar 84 S.Ct.1113 (1964) it appeared that the Brotherhood maintained a plan by which its members were advised of their legal rights and certain attorneys were recommended. This practice resulted in the channelling of practically all Federal Employers' Liability Act cases to the recommended attorneys. The Virginia State Bar obtained an injunction against the Brotherhood and others on the theory that they were illegally practicing law and soliciting cases.

Held: Reversed (two Justices dissenting). The Brotherhood has a constitutional right to freedom of speech. Its members cannot be deprived thereof by any canon of legal ethics. The giving of advice as to whom to consult is not the practice of law nor the solicitation of business, but a reasonable exercise of the right of free speech for the mutual protection of the members of a group. This right is protected by First and Fourteenth Amendments.

LEGAL ETHICS Hearsay Evidence No Damage to Client 205 Va.652.

Attorney X was on trial for violation of the canons of legal ethics in that he represented to his client a certain writing was a decree of divorce although it was not signed by the Chancellor, nor did it bear the seal of the court. The judges at this trial allowed the Chancellor to testify as to a conversation he had with X's client. Since X's client did not rely on the "decree" and eventually got his divorce he was not damaged. X was suspended from the practice of law.

Held: No error. Disbarment proceedings are not governed by the strict rules of evidence required in criminal cases. They are in the nature of an inquest or inquiry. It is immaterial that X's client was not damaged, and X's offense was serious enough to be punished by suspension rather than a mere reprimand.

Note: The Supreme Court of the United States on May 17, 1965 reversed 205 Va.332 at the top of this page in an 8 to 1 decision. The attorneys had a constitutional right to defend themselves and were privileged to do so in their pleadings and arguments for a change of venue.