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The Right to Practice Law

George L. Reinhard

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The Right to Practice Law.*

By GEORGE L. REINHARD,
Dean, Indiana University School of Law.

UNDER the common law the right to practice at the bar is regarded more in the nature of a privilege than a general right. This is shown by the fact that the lawyer first has to be "called" or "admitted" before he will be permitted to engage in the practice. The admission of lawyers to the practice was, by the common law, generally regarded as a judicial function, which, of course, could be exercised by the courts only. Even in our day many courts have expressed doubts whether, in the absence of constitutional provisions, the legislature has the power to prescribe the conditions upon which applicants may be admitted to the bar, while others have denied that power to the legislature altogether. Perhaps in most of the states the subject is now considered to be within the legislative control, as a part of the police power, the same as in the case of other professions; and it is accordingly held that the lawmaking power may

prescribe the qualifications required for candidates for the bar as a prerequisite for admission, at least when the same do not conflict with the other requirements prescribed by the courts. During and immediately after the Civil War, Congress and several of the state legislatures prescribed, as one of the tests of the qualification of an attorney to practice law, an oath to the effect that the applicant had not given aid or support to the rebellion against the government. These statutory enactments were declared void by the Supreme Court of the United States and some of the state tribunals, as being *ex post facto* in their nature, and also as being a violation of the provisions of the general pardon declared by the President of the United States in favor of all offenders that had taken part on the Confederate side in the War of the Rebellion. In some of the states, however, the courts upheld the power of the legislature to make

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such laws. With the *ex post facto* and pardon features eliminated, their constitutionality is generally considered as being a proper exercise of the police power of the state and of the nation.

Under the New York Constitution of 1846, any male citizen of the age of twenty-one years, of good moral character, who possessed the requisite qualifications of learning and ability, was entitled to admission to practice in all the courts of the state. While this provision was in force the legislature enacted a statute declaring that the diploma of the law school of Columbia College should be conclusive evidence of the learning and ability of its possessor. This statute was declared unconstitutional by the supreme court of the state, upon the theory that the power to pass upon the qualifications of attorneys to practice law was judicial in its nature, and could not be taken away from the courts by legislation. But the court of appeals, in the case of *Henry W. Cooper* (22 N. Y. 67), reversed the decision of the supreme court, saying: "The legislature has not taken from the court its jurisdiction over the question of admission, but has simply prescribed what shall be competent evidence in certain cases upon the question. It is not necessary, as seems to have been supposed by the court below, that the power to do this should be especially granted by the Constitution. The general grant of power in paragraph 1, article 3, embraces the entire legislative power of the state, which in itself is absolute and unlimited. Whether, therefore, the Constitution contains a restriction upon this power in the particular case is the only question which can ever arise in respect to an exercise of power by the legislature. * * * It will not be doubted, even assuming that the court had exclusive power of admission, that the legislature might have provided that the

affidavit of the applicant should be evidence upon the question of age, or the certificate of some public officer upon that of citizenship. There is no substantial difference, in respect to the power of the legislature, between such cases and that under consideration. The diploma simply proves that the applicant has the requisite learning and ability, but leaves the facts in regard to the length of study, the age, citizenship, etc., of the applicant to be inquired into and passed upon by the court, in determining the question of admission." If, therefore, the applicant for admission possessed the other qualifications required by the Constitution, to wit, age and citizenship, a diploma from the law school of Columbia College was sufficient to entitle him to admission, and with this construction the constitutionality of the New York statute was upheld.

In Indiana the Constitution provides that every person of good moral character, being a voter, shall be entitled to admission to practice law in all the courts of justice. This provision is identical with the provision in the New York Constitution referred to, except that it does not contain a clause requiring any "qualifications of learning and ability." The provision in the state Constitution has generally been interpreted to mean that no other qualifications than those of good moral character and the right to vote are necessary in order to be entitled to admission to the practice of law in all courts of justice.

In 1849 the legislature of Wisconsin passed an act containing substantially the same provision as that contained in the Constitution of Indiana with respect to the qualifications of applicants for admission to the bar. The act, however, was not generally enforced, but the supreme court of that state nevertheless took occasion to express its views upon

the propriety, if not the validity, of such an act, in the following strong language: "We do not understand that the circuit courts generally yield to the unwise and unseemly act of 1849, which assumes to force upon the courts, as attorneys, any person of good moral character, however unlearned or even illiterate; however disqualified by nature, education, or habits for the important trusts of the profession. We learn from the clerk of this court that no application under the statute was ever made here. The good sense of the legislature has long since led to its repeal. And we have too much reliance on the judgment of the legislature to apprehend another such attempt to degrade the courts. The state suffers substantially by every such assault of one branch of the government upon another, and it is the duty of all the co-ordinate branches scrupulously to avoid even all seeming of such. If, unfortunately, such an attack on the dignity of the courts should again be made, it will be time for the courts to inquire whether the rule of admission be within the legislative or the judicial powers. But we will not anticipate such an unwise and unbecoming interference in what so peculiarly concerns the courts, whether the power to make it exists or not. In the meantime it is a pleasure to defer to all reasonable statutes on the subject." (Matter of Goodell, 39 Wis. 232.)

It cannot be denied that the general standard of qualification for admission to the bar in our country has taken an upward tendency. In perhaps all the states and territories except the state of Indiana applicants for admission to the bar are required to undergo some kind of an examination, either before the court in session, or a committee of attorneys appointed by the court, or a state board of examiners. These requirements are prescribed, in most cases,

by statutory enactments; thus showing the growth of popular sentiment in favor of preliminary preparation, and in some instances by rules of court. Statutes of this character have generally been held constitutional, but in Florida an act passed in 1897 entitled "An act to regulate admission to the bar of this state, to create a board of legal examiners, and to provide for a uniform system of legal examinations," was held unconstitutional, because it created state officers on the board of legal examiners, and failed to provide for their election by the people or appointment by the governor, as required by the Constitution, but made such officers appointive by the supreme court, and fixed their terms of office for a period longer than the constitutional limit. (State v. Hocker, 39 Fla. 477.)

In a recent Illinois case the supreme court of that state asserts in positive terms the inherent power of the courts to pass upon the question of admissibility to the bar, untrammelled by legislative interference, and denounces the attempt of the legislature to override the rules of the supreme court, respecting such admission, as an unconstitutional assumption of judicial power. (In re Day, 181 Ill. 73.) "The right to practice law," said the court, "is a privilege, and a license for that purpose makes the holder an officer of the court, and confers upon him the right to appear for litigants, to argue causes, and to collect fees therefor, and creates certain exemptions, such as from jury service and arrest on civil process while attending court. * * *

Another fatal objection to the provision in question is that the legislature in its enactment overlooked the restraint imposed by the constitution, and assumed the exercise of power belonging to the courts. A provision which has been incorporated in each successive constitution of this state is found in the present con-

stitution as article 3, in the following language: 'The powers of the government of this state are divided into three distinct departments—legislative, executive, and judicial; and no person or collection of persons, being one of these departments, shall exercise any power properly belonging to either of the others, except as hereinafter expressly directed or permitted.'” From this provision in the organic law of its state the court proceeds to discuss the relative powers of legislatures and courts upon the subject under consideration, reviewing the history of English parliamentary legislation with reference to it, and concluding that, even if parliament could have exercised such powers, the state legislature cannot do so, owing to the prescribed constitutional limitations. After noticing the decisions of different courts in this country respecting the subject, and deploring the legislative enactments and constitutional provisions of some jurisdictions which declare that male citizens of good moral character shall be entitled to practice law, the court proceeds to say: “This court has never acknowledged the power of the legislature to prescribe the amount of learning which shall qualify an attorney to practice in our courts. * * * The effect of enforcing such a statute would be to degrade the profession and fill the ranks with those not qualified by our rules. * * * In any consideration of the question it must not be forgotten that restrictions upon the privilege of practicing law are created only in the interest of the public welfare, and neither for nor against the student. * * * The legislature may enact police legislation for the protection of the public against things hurtful or threatening to their safety and welfare. So long as they do not infringe upon the powers properly belonging to the court, they may prescribe reasonable conditions

which will exclude from the practice those persons through whom injurious consequences are likely to result to the inhabitants of the state. * * * It will be strange, indeed, if the court can control its own courtroom, and even its own janitor, but that it is not within its power to inquire into the ability of the persons who assist in the administration of justice as its officers. * * * The function of determining whether one who seeks to become an officer of the courts, and conduct cases therein, is sufficiently acquainted with the rules established by the legislature and the court governing the right of parties, and under which justice is administered, pertains to the courts themselves. They must decide whether he has sufficient legal learning to enable him to apply those rules to varying conditions of facts, and to bring the facts and law before the courts, so that a correct conclusion may be reached. * * * The fact that the legislature may prescribe the qualifications of doctors, plumbers, horseshoers, and persons following other professions or callings not connected with the judicial system, and may say what shall be evidence of such qualifications, can have no influence upon this question. * * * The attorney is a necessary part of the judicial system, and his vocation is not merely to find persons who are willing to have lawsuits. He is the first one to sit in judgment on every case, and whether the court shall be called upon to act depends upon his decision.” This is taking a very exalted view of the position of an attorney, but it is no more so than is merited by his relation to the court as one of its officers. It will be noticed that the court does not deny the power and propriety of the legislative branch to place restrictions upon the right to practice law, by prescribing certain qualifications, etc., but it does deny the right of

the lawmaking power to say what restrictions shall not be placed upon such right by the courts. The Indiana constitution not only strips the courts of the inherent power to pass upon the qualification of candidates for the bar, but even denies to the legislature the power of prescribing the terms of eligibility or of conferring such right upon the courts. This is a reversal of the usual order of things, and places a premium upon ignorance instead of upon intelligence and learning. It says to the legislator as well as to the judge: "You shall never deny to any person the privilege of practicing law simply because that person does not know any law. You may say to the physician that he shall not treat a case of colic, or to the dentist that he may not prescribe for a toothache, or to the veterinary that he shall not undertake to doctor a horse, without having first submitted to a test of professional knowledge and skill; but you shall never say to the person who desires to become a member of one of the most responsible of all professions, and to whom are to be confided some of the most sacred of trusts—involving the lives, the liberties, and the honor of those who seek his counsel and enlist his services, to him who is to become an integral part of the court itself, as one of its officers, and who is to assist it in upholding the majesty of the law—you shall never say to him that he, too, must give some evidence of his knowledge of and fitness to deal with the things which are to be entrusted to him before he shall receive the approval of the state to take upon himself such responsible duties." It cannot be truthfully asserted, therefore, that in Indiana the power of deciding who shall be admitted to the bar is either a judicial or a legislative power, inasmuch as the constitution itself prescribes who shall enjoy that privilege. Every person of good moral character,

who is a voter, has the right to practice law. It would seem to follow from this, under the maxim, "The express mention of one thing impliedly excludes all others," that no one but persons of good moral character who are legal voters should have the right to practice law in the courts of Indiana, and hence that a person who is not a legal voter could not be admitted. But the supreme court has ruled otherwise. In the case of *In re Leach* it is held that the constitutional provision is not a limitation upon the right to membership, but that it simply secures the right to practice to such persons as are legal voters, etc. In other words, legal voters of good moral character are made secure in the right of admission, while those who are not legal voters are not necessarily excluded. As there are no rules prescribed by law for the admission of women, *eo nomine*, the decision further declares that "the power exists as one of the inherent privileges of the court, and as necessarily incident to its control over the membership of its bar," to admit women upon such rules as to character and learning as may be deemed proper.

It is gratifying to note that, in jurisdictions where the question is regarded as a legislative one, most of the state legislatures have proved adequate to the situation, and have prescribed tests which cannot fail to elevate the standard of the profession. In many states, besides the general legal qualifications required, candidates for the bar are required also to pass a preliminary examination concerning their general educational qualifications, in which they must give satisfactory evidence that they have received what is at least equivalent to a good high school education. In some states it is provided that a diploma from some particular law school or from any law school in good standing in the state shall

admit the applicant, without examination, although on account of the existence of the great number of "diploma mills," and the unfairness implied in granting the privilege to some particular school, such a measure is regarded as of doubtful propriety. In all jurisdictions candidates for the bar are required to produce satisfactory evidence of their good moral character. This has relation only to the character of the applicant for honesty and integrity, such as may be necessary for a lawyer in good standing in his profession. In most all the states statutes exist requiring that a person, to be eligible to be admitted to the bar, must be at least twenty-one years old. The following states are exceptions to this rule: In Delaware the applicant need be but eighteen years old; in Georgia the age is not mentioned, and is therefore immaterial; in Kansas he need be only a citizen of the United States; in Maryland not even citizenship is required, and nothing is mentioned as to age. A statute of Arkansas providing that the circuit court may remove the disabilities of infants, so as to enable them to do business as adults, is held by the supreme court of that state not to abrogate the provision of the prior statute requiring applicants for admission to the bar to be twenty-one years of age. But under a similar statute in Florida the court holds that a minor has a right to be admitted, if qualified, and that he may enforce such right by mandamus.

Under the common law, it has been generally held that a woman has no right, even if properly qualified as to character and learning, to demand admission to the bar; and hence, in the absence of statutory or constitutional provisions giving her that privilege, she has generally been regarded as ineligible. In *Bradwell's Case*, 55 Ill. 535, affirmed in 16 Wall. (U. S.) 130, the supreme court of Illinois

decided that under the laws of that state no authority then existed for the admission of women to the practice of law. In Wisconsin the supreme court denied the right of women to admission to practice, and refused to exercise the discretion to admit them, on the ground that it would be contrary to public policy. (In *re Goodell*, 39 Wis. 232.) And in *Lockwood's Case* (9 Ct. of Cl. 346, affirmed in 154 U. S. 116) the United States court of claims reached the same conclusion as did the courts in Illinois and Wisconsin, giving among other reasons why women should not be admitted to the practice the following: "In cases of misconduct by an attorney, he may be attached by the court and imprisoned; but if the attorney were a married woman, she might come in and say that the misconduct occurred in her husband's presence, and that, at common law, it was by his compulsion. She might misapply the funds of a client, or be guilty of gross neglect or fraud, and the husband be sued at common law for the wrong." And so the general term of the supreme court of New York ruled that, under the laws of that state then existing, a woman was not entitled to admission to the bar. (In *re Stoneman*, reported in note "a" to 53 Am. Rep. 323.) It has also been repeatedly decided that the denial to a woman of the privilege of practicing law is not a violation of the provision of the fourteenth amendment to the Constitution of the United States.

In many states of the Union, statutes are now in force enabling women to practice law, while in others the courts hold that no statute or constitutional provision is necessary to entitle women to the exercise of the right. Since the decision of the *Robinson Case* (131 Mass. 376), in which the supreme court of Massachusetts denied the right of women in that state to be admitted to the

bar, the legislature of the commonwealth has passed a law providing that women shall have the same right to be admitted to the practice as men. And since the decision of the Stoneman Case, the legislature of New York amended the Code so that race or sex is no longer sufficient ground for excluding from admission to the bar. And since the decision of the Bradwell Case (55 Ill. 535) the statutes of Illinois have been so changed that no person can be precluded or debarred from any occupation, profession or employment, except military, on account of sex. In Indiana there is no statute giving to women the right to practice law, but as we have seen, the supreme court in the Case of Leach (134 Ind. 665) decided that the courts possess the inherent power to admit them without such a statute. "Whatever the objections of the common law of England," said Judge Hackney, who delivered the opinion of the court, "there is a law higher in this country, and better suited to the rights and liberties of the American people—that law which accords to every citizen the natural right to gain a livelihood by intelligence, honesty, and industry in the arts, the sciences, the professions, or other vocations. This right may not, of course, be pursued in violation of law. We are not unmindful that other states, notably Illinois, Wisconsin, Oregon, Maryland, and Massachusetts, have held that, in the absence of an express grant of the privilege, it may not be conferred upon women. In some instances the holding has been upon constitutional provisions unlike that of this state, and in others upon what we are constrained to believe an erroneous recognition of a supposed common-law inhibition. However, each of the states named made haste to create by legislation the right which it was supposed was forbidden by the common

law, and thereby recognized the progress of American women beyond the narrow limits prescribed in Westminster Hall."

The supreme court of Colorado took the same advanced ground as the Indiana court, deciding that women are eligible to be admitted to the bar without any enabling statutes. (In re Thomas, 16 Colo. 441.) And the court in that case observes that attorneys are not civil officers, within the meaning of the provision of the Colorado Constitution that no person except a qualified elector shall be eligible to any civil or military office, and declares that there is nothing in the common law or the statutes of that state which prevents women from being admitted to practice in the courts. Speaking of the decisions of other states upon the subject, the court said: "The written opinions mentioned marshal all objections to conferring this privilege upon women, dwelling with especial force and clearness upon those existing outside of constitutional and statutory provisions. They ably discuss questions of impropriety and expediency based upon the laws of nature, the bearing of historical customs and usages, and the impediment growing out of women's legal status at the common law. With all deference to those learned courts, we decline to imitate their example in the latter regard. We shall not indulge in speculation concerning the natural aptitude and physical ability of women to perform the duties of the profession, nor shall we dwell upon considerations of propriety or expediency in the premises. These are matters as to which wide differences of opinion exist; and we concede that they have little, if any, bearing upon similar applications now presented in this state, however pertinent they may have been in the commonwealths referred to when the above rulings were made. We shall likewise de-

cline to give controlling weight to historic custom or usage in England, in the American colonies, and in the republic during its infancy. Reasoning predicated upon the latter ground possesses the inherent weakness of ignoring to a greater or less extent the marvelous changes throughout the country during the last fifty years in the legal status of women. It is a significant circumstance, indicating the trend of popular sentiment on the subject, that each of the cases above referred to was speedily followed by a statute providing for the admission of women to the profession. The supreme court of the United States and the courts of the District of Columbia, Massachusetts, Illinois, and Wisconsin no longer adhere to the rule of discrimination on the ground of sex. Women are now licensed without question to practice in these courts, as well as in those of several other states, upon the same conditions as men, save only that the act of congress requires three years' membership to the bar of the highest court in some territory as a condition precedent to their appearance before the supreme court of the United States. * * * Hence we contend with none of the difficulty encountered by the courts above mentioned, arising from the disabilities of women—especially married women—at the common law. Applications like the one before us may therefore be regarded with the judicial favor usually extended when equality of rights is involved, unless some restrictive provision be found in our statutes or Constitution." The court finds none of these restrictive provisions, and concludes by saying: "We have no disposition to postpone falling into line with the supreme court of the United States and other enlightened tribunals throughout the country, that have finally, voluntarily, or in obedience to statutory injunc-

tion, disregarded the criterion of sex, and opened the door of the profession to women as well as men."

It has been a custom of long standing in this country to permit lawyers in good repute in other states to practice in particular cases without examination or being sworn as practicing attorneys of the state into whose courts they seek to be admitted. But an attorney has no right to compel such admission, if refused; it being a mere matter of custom and comity, and confined to the trial of certain causes in which the attorney is retained for the time being. It does not include the right to a general license to practice. In some of the states it is provided by statute that attorneys from other states may be admitted to full membership of the bar if they have been practicing before the highest court of their own state for a given number of years.

Under the decisions of the supreme court of California, a Chinaman will not be admitted to membership in that state, although he presents a license to practice in the highest court of another state, and exhibits naturalization papers issued from a court of a sister state; such papers being held void under the act of congress of May 18, 1882. (In re Hong Yen Chang, 84 Cal. 163.) And in Maryland, under the act of the legislature of that state passed in 1876, it was held that a colored citizen of the state is not eligible to admission to the bar. (In re Taylor, 48 Md. 28.) In North Carolina unnaturalized aliens cannot be licensed to practice law. (In re Thompson, 10 N. C. 355.) But in Ohio a foreigner who resides in the state, and has declared his intention of becoming a citizen of the United States, and possesses the other necessary qualifications, may be admitted. (Ex parte Porter, 3 Ohio Dec. 333.) In New York it has been said that there is no natural right in favor of any one

not a citizen of the state or of the United States to be admitted to practice at the bar, and some statute or constitutional provision is regarded as necessary to entitle such person to admission. (Matter of O'Neill, 90 N. Y. 584.) In some states resident aliens are expressly given the privilege of such admission by act of the legislature. In England, before a person can become an attorney, he must, besides taking the prescribed examination, become an articled clerk—that is to say, he must have entered into articles with some practicing attorney or solicitor, binding himself to serve him for five years as clerk in his office, and must have served as such during the whole time articled. If the candidate has the degree of A. B. or LL. B. from some one of the designated universities, he may be admitted after three years' service instead of five. It is provided by statute in some of the American states, as in New Jersey, for instance, that every applicant for admission to the bar must have served as clerk in some lawyer's office for a prescribed period, next before his examination for admission. Where this is the rule, it is held that the candidate must show by satisfactory evidence that he has actually served as such clerk during the required period, and that he was actively engaged during such time in assisting the attorney whom he served as clerk, with the business under his control. (Matter of Dunn, 43 N. J. L. 359.) It is not enough that he should simply have read law under the direction or tutorship of such attorney. "A clerkship to an attorney," said the supreme court of New Jersey in the case cited, "imports the office of assistant to an attorney—an actual occupation in and about the attorney's business and under his control. The service is to be rendered not solely or mainly by the study of lawbooks, but chiefly by attending to

the work of the attorney under his direction. The purpose of the rule is that the clerk shall be actually engaged in the practice of law under the guidance of his master for the stated period, so that by direct contact with an attorney's duties he may acquire the skill and facility in the profession which are necessary for enabling him to protect and promote independently the interests that clients may afterwards commit to him. This is the sole object of requiring the clerkship to be served with a practicing attorney. For the mere study of legal principles, a retired counselor or a professor would be an apter guide." The pursuit of classical studies was deemed sufficient in importance in the state of New York, where a clerkship was also required to be served, to warrant the enactment of a law providing for the diminution of the term of the clerkship, upon proof of the applicant's having, to a certain extent, and for a certain period, pursued the studies of the classics.

Under the common law, as we have seen, the courts determined for themselves who should be admitted to practice at their bar, but this did not give them the arbitrary power of rejecting any one who possessed the qualifications prescribed by the rules of the court. Hence the appellate courts were not without power to command the admission of candidates to the lower tribunals, if they were arbitrarily rejected by them without cause. It came to be regarded as the law, therefore, that, if an applicant was improperly rejected or suspended or disbarred by the lower court, the writ of mandate would issue to restore him to his rights; but, when he had been properly rejected or disbarred, the writ would not lie. (Walls v. Farmer, 64 Ind. 493.)

Upon admission to the bar of Indiana, it is provided by statute that an attorney

shall take an oath that he will support the Constitution of the United States and of the state of Indiana, and that he will faithfully and honestly discharge his duty as an attorney at law. An official oath of some nature is required in every state. There is no substantial difference in the contents of the oath in the different states. In Pennsylvania the applicant swears or affirms that he will support the Constitution of the United States and of the commonwealth, and that he will behave himself in the office of attorney within the court with all good fidelity, as well to the court as to the client, and that he will use no falsehood, nor delay any person's cause for lucre or malice. The oath or affirmation required to be taken by an attorney or counselor on his admission to the bar of the supreme court of the United States is as follows: "I do solemnly swear, or affirm, that I will demean myself as an attorney and counselor of this court, uprightly and according to law; and that I will support the Constitution of the United States." (Rule 2, Supreme Court.) In some of the states, the oath of an attorney is that he will not violate the duties enjoined upon him by law.

In most of the states an attorney at law is required to procure a license or certificate before he is permitted to enter upon the practice of his profession. The mere fact that a statute substitutes a diploma from a law school for an examination at the bar will not excuse the holder of such diploma from procuring a license. But where the license is issued by the supreme court, it has been held that an admission to the bar of that court, which has been made a matter of record, is equivalent to the required license. (*In re Villere*, 33 La. Ann. 998.) A license from the supreme court of New York, stating that the holder has been admitted to the bar of the court of

appeals of New York, is held not to be a compliance with the rule of court in Pennsylvania, which allows an attorney practicing in the highest court of a state to practice before the supreme court of Pennsylvania; as the supreme court of New York has no authority to certify to the admission of attorneys to practice before the court of appeals. (*In re Splane*, 123 Pa. St. 527.)

The right to practice law includes not only the right of admission to the bar, but the further right of continuing in the practice after such admission. What was originally a privilege has now become a vested right, which can only be taken away by due process of law. By his admission the attorney becomes an officer of the court, amenable to its rules and regulations, and, to a large extent, subject to its control. By violating the rules of court, or committing any act which renders the attorney unfit to remain in such office, he may forfeit his right to continue therein. It is generally conceded that, as incident to the power of admitting attorneys to the bar, the courts have also the power to suspend or disbar them from practice for their misconduct. As the occasions for disbarment are far more rare than those for admission, it happens that the great contrariety of opinion as to the methods and consequences which we find in regard to admissions does not exist in case of disbarments.

The inherent power of courts to disbar an attorney may be restricted by statute, and such power may be vested in a particular court or courts, when the tribunal from which the power is taken is one of limited or special jurisdiction. In North Carolina it is declared by statute that no attorney shall be disbarred except upon a conviction for a criminal offense or after a confession in open court, and the provision has been held

valid and constitutional. (Ex parte Schenck, 65 N. C. 353.) And in North Dakota it has been decided that, where specific causes are prescribed for which an attorney may be disbarred, he cannot be disbarred for any other. (In re Eaton, 7 N. D. 269.) But the general rule and weight of authority are to the effect that statutes prescribing causes for disbarment are not regarded as limiting the common-law power of the court to disbar for causes not mentioned in the statute. (In re Mills, 1 Mich. 392; Delano's Case, 58 N. H. 5.)

A court will not be justified summarily to strike an attorney's name from the rolls without the proceedings prescribed by statute, if such there be, or some procedure constituting process of law under the common law. A contempt of court may be such as to warrant disbarment, but here, too, there must be a charge and a hearing, before there can be a valid judgment revoking the attorney's license. (State v. Root, 5 N. D. 487.) In the federal courts it is held that an attorney may be disbarred for any act showing him to be unfit to practice in the courts, as one of the officers thereof, such as shows a bad moral character, or the commission of criminal, vicious, or other acts inconsistent with his official relation to the court, as when he engages in a riot, or aids a mob to lynch a prisoner. (In re Wall, 13 Fed. Rep. 814.) One of the acts which has been made sufficient

ground for the disbarment of an attorney in Colorado and other states is that of advertising for divorce cases—notably the repeated insertions of such announcements as "Divorces legally obtained very quietly; good everywhere." (People v. McCabe, 18 Colo. 186. See, also, People v. Goodrich, 79 Ill. 148.) Disbarments have been held justifiable on the grounds of libel; instituting divorce proceedings on behalf of the wife at the instance of the husband, but without her authority; offering to sell information to the adverse party; subornation of perjury; obtaining illegal fees in pension cases; falsifying records or documents; abstracting records from the court files; filing false affidavit for change of venue, bribing a witness, and threatening to chastise the judge of the court, though done outside of court.

As in the case of admission to the bar, so as to the right to continue in the practice, the tendency appears to be toward a higher standard. Recent convictions of jury bribers and disbarments of recreant attorneys are encouraging signs for the future. The American Bar Association is doing a great work in advancing the standard of the profession generally. What the American Bar Association is doing in the country at large, local bar associations and individual members of the American bar may accomplish in their several localities.