

merits only,³⁶ to aid any effort under the court's direction to root out corruption and fraud,³⁷ and also to devote his ability, skill, and diligence along ethical and professional lines to the interests of his client,³⁸ and to refrain from entering into any alliance or incurring any obligation connected with the litigation in which he is engaged as counsel that would place him in a position where his per-

sonal interests would be adverse to those of client.³⁹

b. Nature of Right to Practice

Right to practice law is not a natural or constitutional right, but is in the nature of a privilege or franchise.

The right to practice law is not a natural or constitutional right,⁴⁰ nor an absolute right,⁴¹ a right de jure,⁴² but is a privilege or franchise.

36. U.S.—U. S. v. Frank, (D.C.N.J.) 53 F.(2d) 128, reversed on other grounds (C.C.A.) Loughlin v. U. S., 57 F.(2d) 1080, and reversed on other grounds in part Pearse v. U. S., 59 F.(2d) 518—Hertz v. U. S., (C.C.A.Minn.) 18 F.(2d) 52.
- Cal.—Daily v. Superior Court in and for Monterey County, 40 P.(2d) 936, 4 Cal.App.(2d) 127—In re Cate, (App.) 273 P. 617, supplementing opinions 270 P. 968 and 271 P. 356—Falloon v. Superior Court of Los Angeles County, 248 P. 1057, 79 Cal.App. 149—Furlong v. White, 196 P. 903, 51 Cal.App. 265.
- Ill.—People v. Gorman, 178 N.E. 880, 340 Ill. 432—People v. Burr, 147 N.E. 47, 316 Ill. 166, affirming People v. McCaffrey, 232 Ill.App. 462—People v. Czarnecki, 109 N.E. 14, 268 Ill. 278—Watson v. Trinz, 274 Ill.App. 379.
- Ind.—In re McDonald, 164 N.E. 261, 200 Ind. 424.
- Me.—Ellis v. Emerson, 147 A. 761, 128 Me. 379.
- Mont.—State v. District Court of First Judicial Dist. in and for Lewis and Clark County, 191 P. 772, 58 Mont. 276—In re O'Keefe, 175 P. 593, 55 Mont. 200.
- N.J.—Raimondi v. Bianchi, 134 A. 866, 100 N.J.Eq. 238.
- N.Y.—People ex rel. Karlin v. Culkin, 162 N.E. 487, 248 N.Y. 465, 160 A.L.R. 851, affirming 228 N.Y.S. 873, 223 App.Div. 822.
- Okl.—In re Kelley, 28 P.(2d) 564, 167 Okl. 142.
- Utah.—Van Cott v. Wall, 178 P. 42, 53 Utah 282.
- Wis.—Petition of Board of Law Examiners, Examination of 1926, 210 N.W. 710, 191 Wis. 359—Langen v. Borkowski, 206 N.W. 181, 188 Wis. 277, 43 A.L.R. 622, 6 C.J. p 569 note 26.
- Same duty in civil and criminal cases**
Under Judiciary L. § 88 subd 2, as amended by L.(1912) c 253, as to disbarment of attorneys guilty of professional misconduct, there is no difference in the duty of the attorney to the court in criminal and civil cases.—In re Palmieri, 162 N.Y.S. 799, 176 App.Div. 58, reversed on other grounds 117 N.E. 1078.
- Although possessing a personal dislike for the presiding judge, attorneys are under an obligation to uphold the dignity of the court.**
- Platnauer v. Superior Court in and for Sacramento County, 163 P. 237, 32 Cal.App. 463.
- Profession includes much more than the mere management of the prosecution and the defense of litigated cases.**—Commonwealth v. Wheeler, 73 Pa.Super. 164.
- Default judgment should not be taken unless intentional**
Attorney should not take default judgment, unless after communicating with opponent he is satisfied default was intentional.—Marcus v. Simotone & Combined Sound & Color Films, 237 N.Y.S. 509, 135 Misc. 228.
- Informing court of infancy of litigant**
Intentional neglect to inform the court of the infancy of the litigant is a breach of attorney's duty to the court.—Keenan v. Flanagan, 147 A. 617, 50 R.I. 321.
27. In re Becker, 241 N.Y.S. 369, 229 App.Div. 62, appeal dismissed in re Levy, 174 N.E. 461, 255 N.Y. 223.
33. Cal.—Falloon v. Superior Court of Los Angeles County, 248 P. 1057, 79 Cal.App. 149—Furlong v. White, 196 P. 903, 51 Cal.App. 265—Platnauer v. Superior Court in and for Sacramento County, 163 P. 237, 32 Cal.App. 463.
- Ill.—People v. Johnson, 176 N.E. 278, 344 Ill. 132—People v. Charone, 123 N.E. 291, 288 Ill. 220.
- Okl.—In re Kelley, 28 P.(2d) 564, 167 Okl. 142.
- Wis.—Langen v. Borkowski, 206 N.W. 181, 188 Wis. 277, 43 A.L.R. 622, 6 C.J. p 569 note 27.
- Within ethical limits, an attorney owes his entire devotion to his client's interest.**—Mutter v. Burgess, 290 P. 269, 87 Colo. 580.
- Duty of attorney**
(1) Duty of an attorney to his client demands nothing more than an honest effort to secure justice for such client, and does not permit or excuse a resort to deception to procure for a client even that to which the attorney honestly believes his client entitled.—In re Wilmarth, 172 N.W. 921, 42 S.D. 76.
- (2) It is the attorney's duty, without flattery or scurrility, to present his view of the law, irrespective of an adverse ruling of the court.—Phipps v. City of Medford, 158 P.
- 666, 81 Or. 119, denying rehearing P. 787, 81 Or. 119.
- Persistent in presenting points**
Although a lawyer in discharge his duty to a client be persistent in presenting his points, he is with his rights, so long as his language is not indecorous, whether he be right or wrong.—Platnauer v. Superior Court in and for Sacramento County, 163 P. 237, 32 Cal.App. 463.
39. McWhirter v. Donaldson, 101 P. 731, 36 Utah 293.
Acquiring interests adverse to client see infra § 126.
Representing adverse interests see infra §§ 47, 48.
40. Ariz.—In re Gibbs, 278 P. 35 Ariz. 346—In re Miller, 241 P. 376, 29 Ariz. 582.
- Ind.—In re McDonald, 164 N.E. 261, 200 Ind. 424.
- Iowa.—In re Cloud, 250 N.W. 169, 150 Or. 1.
- Kan.—In re Casebier, 284 P. 611, Kan. 853.
- La.—State v. Rosborough, 94 So. 152 La. 945.
- N.Y.—In re Peters, 166 N.E. 387, N.Y. 595, affirming 225 N.Y.S. 221 App.Div. 607, and answering certified question 228 N.Y.S. 223 App.Div. 865, reargument denied 170 N.E. 148, 252 N.Y. 574.
- N.C.—Seawell v. Carolina Motor Club, 184 S.E. 540, 209 N.C. 624.
- Or.—In re Weinstein, 42 P.(2d) 150 Or. 1.
- Vt.—In re Haddad, 173 A. 103, Vt. 322, 6 C.J. p 569 note 29.
41. Cal.—In re Investigation of Conduct of Examination for Admission to Practice Law, 33 P.(2d) 829, Cal.(2d) 61, followed in Bull. Bar Examiners, 33 P.(2d) 833, Cal.(2d) 789.
- Ill.—People v. Baker, 142 N.E. 311 Ill. 66, 31 A.L.R. 737.
- Iowa.—In re Cloud, 250 N.W. 169, 150 Or. 1.
- S.D.—In re Hosford, 252 N.W. 62 S.D. 374—In re Egan, 213 N.W. 1, 52 S.D. 394.
42. In re Ellis, 203 P. 957, 118 Wash. 484.
43. Ariz.—In re Miller, 241 P. 376, 29 Ariz. 582.
Cal.—Townsend v. State Bar of California, 291 P. 337, 210 Cal. 100.

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right to practice law is not "property,"⁴⁴ nor in any sense a "contract,"⁴⁵ nor a "privilege or immunity,"⁴⁶ within the constitutional meaning of these terms. It cannot be assigned or inherited, but may be earned by hard study and good conduct.⁴⁷

Constitutional and Statutory Provisions and Rules of Court

- a. As to admission of attorneys
- b. Miscellaneous provisions

a. As to Admission of Attorneys

Generally, the legislature may prescribe reasonable rules and regulations for admission to the bar, but cannot deprive courts of the right to make other, or additional, rules pertaining thereto.

Notwithstanding the jurisdiction and power to admit applicants to practice law is judicial and vested solely in the courts as hereafter shown (see *infra* § 6), it has been generally conceded that the legislature may, subject to constitutional limitations, prescribe reasonable rules and regulations for admissions to the bar which will be followed by the courts,⁴⁸ and this power to prescribe qualifica-

In re Edwards, 266 P. 665, 42 Cal.(2d) 324.
 Idaho 876.
 In re McDonald, 164 N.E. 261, 665, 45 Idaho 676.
 Ind. 424.
 In re Cloud, 250 N.W. 160, 217 Kan. 853.
 State ex rel. Boynton v. Per-
 son, 28 P.(2d) 765, 138 Kan. 899.
 In re Casebier, 284 P. 611, 129 Kan. 853.
 State v. Rosborough, 94 So. 858, 94 La. 945—Meunier v. Bernich, (App.) 170 So. 567.
 In re Carver, 112 N.E. 877, 124 Mass. 169.
 In re Scott, 292 P. 291, 53 Nev. 24, rehearing denied 296 P. 1113.
 People ex rel. Karlin v. Cul-
 lan, 162 N.E. 487, 248 N.Y. 465, 160 N.Y.S. 851, affirming 228 N.Y.S. 223 App.Div. 822—In re Gold-
 man, 220 N.Y.S. 473, 220 App.Div. 797, modifying 218 N.Y.S. 944, 218 App.Div. 799.
 Land Title Abstract & Trust
 Co. v. Dworken, 193 N.E. 650, 129 Ohio St. 23—Dworken v. Cleveland Automobile Club, 29 Ohio N.P.(N.S.) 607—United Mercantile Agency v. Lybarger, 28 Ohio N.P.(N.S.) 219—Goodman v. Western Bank & Trust Co., 28 Ohio N.P.(N.S.) 272—Dworken v. Department House Owners Association of Cleveland, 28 Ohio N.P.(N.S.) 115.
 In re Weinstein, 42 P.(2d) 744, 124 Or. 1—In re Crum, 204 P. 948, 124 Or. 296.
 In re Brown, 264 N.W. 521—
 In re Hosford, 252 N.W. 843, 62 S.D. 374—In re Egan, 218 N.W. 1, 124 S.D. 394.
 In re Morse, 126 A. 550, 98 Vt. 85, 16 A.L.R. 527.
 In re Adkins, 98 S.E. 888, 83 W.Va. 673.
 6 C.J. p 569 note 30.

hearing denied 42 P.(2d) 311, 2 Cal.(2d) 324.
 44. Idaho.—In re Edwards, 266 P. 665, 45 Idaho 676.
 Kan.—In re Casebier, 284 P. 611, 129 Kan. 853.
 6 C.J. p 569 note 33.
Property right
 (1) The right to practice law has been held not to be a property right.—In re Hosford, 252 N.W. 843, 62 S.D. 374.
 (2) However, it has also been held that it is a property right, existing by virtue of letters patent.—Unger v. Landlords' Management Corporation, 168 A. 229, 114 N.J.Eq. 68.
 45. In re Casebier, 284 P. 611, 129 Kan. 853—6 C.J. p 569 note 34.
 46. U.S.—Bradwell v. Illinois, (Ill.) 16 Wall. 130, 21 L.Ed. 442.
 La.—Meunier v. Bernich, (App.) 170 So. 567.
 Md.—In re Taylor, 48 Md. 28, 30 Am. R. 451.
 Wash.—State v. Rossman, 101 P. 357, 53 Wash. 1, 21 L.R.A.(N.S.) 821, 17 Ann.Cas. 625.
 As a privilege or immunity within meaning of constitution see Constitutional Law § 458 [12 C.J. p 1110 note 85].
 47. Fla.—In re Clifton, 155 So. 324, 115 Fla. 168.
 Kan.—In re Casebier, 284 P. 611, 129 Kan. 853.
 Ohio.—United Mercantile Agency v. Lybarger, 29 Ohio N.P.(N.S.) 319.
 Vt.—In re Morse, 126 A. 550, 98 Vt. 85, 36 A.L.R. 527.
 6 C.J. p 569 note 36.
 48. U.S.—Keeley v. Evans, (D.C. Or.) 271 F. 520, appeal dismissed 42 S.Ct. 184, 257 U.S. 667, 66 L. Ed. 426.
 Ariz.—In re Bailey, 248 P. 29, 30 Ariz. 407—In re Miller, 244 P. 376, 29 Ariz. 582.
 Cal.—In re Lavine, 41 P.(2d) 161, 2 Cal.(2d) 324, modified on other grounds and rehearing denied 42 P.(2d) 311, 2 Cal.(2d) 324—Agg Large v. State Bar of California, 23 P.(2d) 288, 218 Cal. 334—Brydonjack v. State Bar of California, 281 P. 1018, 208 Cal. 439, 66 A.L.R.

1507—In re Weymann, 268 P. 971, 92 Cal.App. 646—In re Chapelle, 234 P. 906, 71 Cal.App. 129.
 Kan.—Depew v. Wichita Ass'n of Credit Men, 49 P.(2d) 1041, 142 Kan. 403—In re Casebier, 284 P. 611, 129 Kan. 853.
 La.—State v. Rosborough, 94 So. 858, 152 La. 945.
 Mass.—In re Opinion of the Justices, 194 N.E. 313.
 Mich.—In re Bonam, 237 N.W. 45, 255 Mich. 59.
 Nev.—In re Scott, 292 P. 291, 53 Nev. 24, rehearing denied 296 P. 1113.
 N.C.—Seawell v. Carolina Motor Club, 184 S.E. 540, 209 N.C. 624.
 Ohio.—In re Thatcher, 12 Ohio N.P.(N.S.) 273.
 Or.—In re Crum, 204 P. 948, 103 Or. 296.
 Tenn.—Gregory v. City of Memphis, 6 S.W.(2d) 332, 157 Tenn. 68.
 Tex.—Burns v. State, (Civ.App.) 76 S.W.(2d) 172, error granted.
 Va.—Bryce v. Gillespie, 163 S.E. 653, 160 Va. 137.
 Wis.—State v. Cannon, 240 N.W. 441, 206 Wis. 374.
 6 C.J. p 569 note 31, p 572 note 63.
Declaratory of inherent power of court
 Statute declaring that the supreme court shall, by general or special rules, regulate admission of attorneys to practice in state courts is declaratory of power inherent in the supreme court to control and supervise the practice of law generally.—Rhode Island Bar Ass'n v. Automobile Service Ass'n, (R.I.) 179 A. 139.
Legal services not connected with administration of law in court proceedings
 (1) Legislature may establish whatever qualifications it chooses for those permitted to render any type of legal service which has nothing to do with the administration of the law in court proceedings.—State v. Cannon, 240 N.W. 441, 206 Wis. 374.
 (2) Legislature in punishing practice of law except by licensed attorneys is empowered to authorize licensed realty brokers to draw deeds, bonds, mortgages, leases, releases, agreements and assignments.—Mor-