APPENDIX

MISCELLANEOUS

RULES

of the

SUPREME COURT

STATE OF ARKANSAS

Rules Governing Admission
to the Bar
Rules Regulating Professional
Conduct of Attorneys At Law
Canons of Professional Ethics
Canons of Judicial Ethics

January 1963

NOTICE

Since the publication of these rules in September, 1954, certain changes have been made, which justify a reprinting.

The Court is adding the Canons of Judicial Ethics.

Attention is also called to the following rules as being some of those which have been changed:

(a) The rules governing admission to the Bar, Rules I, VIII, IX, X, XI, XII and XIII.

(b) Rules regulating professional conduct, Rules II, III, VI and VII.

I.

RULES GOVERNING ADMISSION TO THE BAR

The State Board of Law Examiners is hereby constituted, before whom all applicants for license must appear.

Said Board shall consist of ten members; one from each Congressional District, (as now or hereafter constituted) and the others from the State at Large. Each appointment shall be for a term of three years, unless otherwise designated by the Supreme Court. Vacancies occurring from causes other than expiration of term of office will be filled by the Supreme Court as they occur, and the person so appointed shall serve the remainder of the term of his predecessor.

The Board, from its members, shall select its own chairman. A non-member secretary, who shall reside in Little Rock, shall also be selected.

II.

TIME AND PLACE OF EXAMINATION

The Board shall meet semi-annually on the first Monday in March and the third Monday in July of each year, at the State Capitol in Little Rock, for the purpose of examining applicants. Provided, the Board may meet at such other times as it may designate, for the purpose of considering applications under the reciprocity rule, or from members of the bar of this state admitted to practice in the Circuit and Chancery Courts prior to July 1, 1917.

III.

DUTIES OF THE BOARD

The Board shall provide questions to be used on examinations, and shall furnish to each applicant a set of such questions, on the day of examination.

The Board shall grade the examination papers and as a Board ascertain the average grade of each applicant. Each Applicant shall produce evidence satisfactory to the Board that said applicant is either a resident of this State, or intends to engage in the actual practice of law in this State. The names and addresses of applicants making an average grade of 75 per cent on all subjects, and who shall have been found to be of good moral character, shall be certified to the Clerk of the Supreme Court, with a recommendation that they be licensed as attorneys-at-law and solicitors in chancery.

IV.

DUTIES OF THE CLERK

Upon receipt of the report from the Board recommending an application for license, the Clerk shall immediately notify the said appli-

cant, sending him a petition for license and oath of office. Said petition, when properly executed and returned, shall be presented to the Court, when the order of enrollment will be made and license issued.

V.

DUTIES OF THE APPLICANT

The applicant shall execute the petition and take the oath before some officer authorized by law to administer official oaths (a notary public cannot do so), and return the petition to the Clerk of the Supreme Court, together with the fee provided by law ($20.00). Each applicant for admission to the Bar is required to answer under oath a questionnaire on forms prescribed by the Court. Should any answer be false in a material respect, the application will be rejected if the fact is ascertained before enrollment; but if enrolled, such attorney is subject to disbarment.

VI.

APPLICATION FOR LICENSE

Application for license to practice law, except for good cause shown must be filed within one year from the date of recommendation; otherwise applicant must submit to an examination by the State Board of Law Examiners for further recommendation.

VII.

DUTIES OF THE SECRETARY

The duties of the Secretary are purely ministerial. He shall attend to all necessary correspondence of the Board and shall furnish to applicants all needed information relative to, and petitions for leave to take the examination.

He shall give such bond as may be required by the Board. He shall keep a faithful account of all fees collected and expenditures made; make a detailed report of same to the Board at each regular meeting; and shall perform such other duties as may be directed by the Board.

VIII.

EXAMINATIONS—SUBJECTS—PASSING GRADE

All examinations shall be in writing and shall cover the following subjects: Torts, Contracts, Real Property, Procedure—Trial and Appellate, Criminal Law and Procedure, Equity, Constitutional Law, Corporations, Evidence, Conflict of Laws, Wills and Probate Law, Agency, Trusts, Legal Ethics, and such other subjects as the Board may direct.

Applicants must make an average grade of 75 per cent on all subjects in order to pass.

The State Board of Law Examiners, in accordance with its existing practice, is expressly authorized to destroy all examination papers at the time of the next succeeding bar examination.

IX.

APPLICATIONS TO TAKE EXAMINATION

All applications for leave to take the examination shall be filed with the Secretary at least 30 days in advance of the date of the examination.

X.

EXPENSE FEE

A fee of $25.00 must accompany the application to take the examination and a fee of $50.00 must accompany the application for admission without examination (reciprocity rule), remittance being made by postoffice money order or Little Rock exchange, payable to the State Board of Law Examiners. The fees thus provided shall be used by the Board to defray the expense of examination, necessary expenses of the Board members while attending meetings and to provide a reasonable compensation for the services of its Secretary, which amount shall be fixed by the Board.

XI.

ADMISSION UNDER RECIPROCITY RULE

Attorneys of good moral character who have been admitted for at least four years to the Bar of the highest Appellate Court of another state where the requirements for admission to the Bar are substantially equivalent to the requirements of this state, and who have engaged in the active practice of law for at least three years immediately preceding application for admission, and who have removed to this state, and intend to practice law here, may be recommended by the Board for admission without examination, upon showing the foregoing facts to the satisfaction of the Board, provided that, until the further order of this court, the Board, in its discretion, may waive the three years' practice requirement as to an applicant who is sufficiently grounded in law, and who by reason of service in the Armed Forces of the United States has been unable to acquire three years' practice.

A certificate from the Clerk of the highest Appellate Court of such foreign state, showing that the applicant has been licensed for the required time, and that he is a member of the Bar in good standing, together with recommendations of (1) a judge of a court of record, (2) two practicing attorneys, and (3) two business men, as to his moral qualifications and period of active practice are required to be furnished the Board.

Application for recommendation for admission under this Rule

shall be made to the Board. Three members of the Bar, who shall be appointed by and serve at the pleasure of the Board, with the approval of the Court, shall examine all applications under this rule, and make recommendations to the Board as to admission of applicants. A fee of $50.00 must accompany the application for admission (Reciprocity Rule); remittance being made by Post Office Order or Little Rock Exchange, payable to the Clerk of the Supreme Court, to be disbursed by him as provided in the other Rules of this Court.

XII.

REQUIREMENTS FOR TAKING EXAMINATION

1. Graduation from a law school shall not confer the right of admission to the bar, and every candidate shall be subject to an examination.

2. No candidate shall be allowed to take the bar examination who has not completed at least two years of pre-law study in a college approved by the State Board of Law Examiners.

3. No candidate shall be allowed to take the bar examination unless he meets one of the following requirements:

   a. Graduation, or completion of the requisites for graduation, from a law school approved by the American Bar Association or by the State Board of Law Examiners.

   b. Four years of full-time private study in a law office after registration with the State Board of Law Examiners.

4. Any applicant who has taken the examination unsuccessfully three or more times may be allowed to retake the examination only if at least twelve months have elapsed since last taking the examination.

XIII.

GENERAL INFORMATION

Admission to practice is based upon grade made on the examination and moral qualifications.

The examination is in writing. Each applicant must provide himself with the necessary pen and paper.

Questions from previous examinations are on file in the Supreme Court Library.

For information relative to the examination and application to take same, consult the Secretary, who should be addressed as Secretary of State Board of Law Examiners, Little Rock, Arkansas.

RULES REGULATING PROFESSIONAL CONDUCT OF ATTORNEYS AT LAW

(Adopted April 24, 1939)

I.

Canons of ethics adopted — Violation disciplined. — The Court adopts the canons of professional ethics of the American Bar Association as the standard of professional conduct of attorneys at law, and an attorney who violates any of such canons shall be dealt with as provided herein.

II.

Committee appointed—Quorum.—The court shall appoint a committee of seven lawyers, one from each Congressional District and the others from the State at large, to serve at the pleasure of the Court, to assist the courts in enforcing these rules. The committee shall select one of its members as chairman; and shall select a secretary who need not be a member of the committee; and shall adopt rules regarding its procedure. A majority shall constitute a quorum.

Authority to issue summonses and subpoenaes — Disobedience thereof contempt of Court.—The Committee shall provide for its use a seal of such design as it may deem appropriate, and in the performance of duties imposed by the rules of this Court and by its own regulations in aid of the Court's rules, shall have authority to issue summonses for any person or subpoenaes for any witness, directed to any sheriff or state police officer within the state, requiring the presence of any party or the attendance of any witness before it. Such process shall be issued under the seal of the Committee and be signed by the secretary or assistant secretary thereof. Disobedience of any summons or subpoenae or refusal to testify shall be regarded as constructive contempt of the Supreme Court.

Assistant Secretary authorized — Salary. The Committee may have (and it is hereby granted authority to employ) an assistant secretary who need not be a member of the Committee. Such assistant secretary may be paid such fees or reasonable salary as may be deemed necessary and appropriate, and fixed by the *Court*, payable from funds collected for use of the Committee under existing rules, and available for that purpose as hereby provided.

III.

Complaints investigated—Committee may file court complaints.— The Committee shall investigate all complaints of professional misconduct that may be brought to its attention in the form of an affidavit, or in respect of which any member of the Committee may have informa-

tion, and shall give the attorney involved an opportunity to explain or refute the charge. If the Committee finds that there is reasonable ground to believe that the attorney has been guilty of professional misconduct, it may, without any publicity, caution, reprove, or reprimand the attorney, or it may cause a complaint in writing to be prepared which shall set forth the specific facts constituting the alleged misconduct, and serve a copy thereof on the attorney against whom the charge is made.

Filed in either Circuit or Chancery Court—notice of Trial—Trial before Judge or Chancellor.—Such complaint shall be filed with the clerk of the circuit or chancery court of the county in which the accused attorney resides, or in which the alleged offense was committed; and reasonable notice of the time of trial shall be given of not less than 20 days, which trial shall be had before the Circuit Judge or Chancellor.

IV.

Punishment if guilty—Dismissal if not.—If the Judge or Chancellor finds, upon the hearing before him, that the attorney has been guilty of professional misconduct, he shall reprove, reprimand, suspend, or disbar such attorney, as the testimony may warrant. If the Judge or Chancellor finds that the report of the Committee is not sustained by the evidence, the proceeding shall be dismissed.

Appeal by either party—Heard de novo.—Either the Committee or the attorney defendant may appeal to the Supreme Court from the action taken by the Judge or Chancellor. On appeal the matter shall be heard de novo upon the record made before the trial judge, and this Court shall pronounce such judgment as in its opinion should have been pronounced below.

V.

Notice of appeal within thirty days—Time for appeal 90 days.—Notice of the appeal must be served in writing within 30 days after final action by the Judge or Chancellor, but the order below shall remain effective until judgment by this Court is pronounced. The appeal shall be perfected within 90 days from rendition of the final decision by the trial Judge or Chancellor, but if no appeal be perfected within the time allowed and in the manner provided (unless for cause satisfactory to this Court the time for appeal be extended), the order of the Judge or Chancellor shall be final and binding on all parties.

Appeal by defendant—Notice to Committee.—Notice of appeal shall be served in writing upon the chairman or secretary of the Committee if the appeal be taken by the defending attorney, and upon such attorney if the appeal be taken by the Committee.

VI.

License fee provided—When payable.—A license fee is hereby imposed (to be fixed annually by the Court) upon each attorney engaged in the practice of law in this State, to be paid to the Clerk of this Court. The amount shall be payable January 1 of each year, and must be paid not later than March 1. Funds thus realized shall be used exclusively to defray expenses incurred in the enforcement of these rules. Funds thus realized shall be deposited by the clerk of this Court to the credit of the Bar Rules and Examiners Fund and used to defray expenses incurred in the enforcement and administration of any and all rules of this Court.

VII.

Expenses of Committee Provided for.—The fund created under Rule VI. above, and all funds received in connection with the State Board of Law Examiners, shall be called the "Bar Rules and Examiners Fund," to be disbursed by the Clerk of this Court by check on said Fund signed by the Clerk and countersigned by the Chief Justice. Accounts must be itemized and certified by the Chairman and Secretary of the respective committees (Bar Rules and State Board of Examiners) as true and correct. The members of the State Board of Law Examiners and the Bar Rules Committee shall receive their actual necessary travel and hotel expense, reimbursement for postage, stationery, communications, and other incidental expenses—while attending meetings and, with the approval of this Court, may incur salaries for the service of secretaries of each of said Committees, as well as an assistant secretary to the Bar Rules Committee.

VIII.

Contingent fee to witness unethical.—It is declared unethical for an attorney to be privy or a party to any contract, arrangement, or agreement whereby any witness, expert or otherwise, in any civil or criminal case, shall be paid a fee or other compensation dependent, or in any manner contingent upon the result of the trial in which such witness is called to testify.

IX.

Rules supplemental to statutes.—The rules adopted shall not be deemed exclusive of, but as supplemental to, the statutes of the State of Arkansas. The Committee may invoke the statutes or proceed hereunder if it should elect so to do.

X.

All licensed attorneys members of Bar.—Every lawyer now licensed to practice and engaged in the practice shall be a member of the bar of this State, subject to these rules or those hereafter made.

Suspension for failure to pay fee—Notice of delinquency—Reinstatement, how.—Failure to pay the annual license fee herein provided for to the Clerk of this Court within the time provided, shall automatically suspend such delinquent lawyer from the practice. Notice of delinquencies shall be given by the Clerk of this Court to the delinquent, and to the Judges of the Circuit and Chancery Courts of the district of the delinquent's residence, and a list of all delinquents shall be posted in the office of the Clerk of this Court. Where delinquency is for no more than three years, reinstatement may be had by the payment of all such delinquent dues and a penalty of one dollar. (Delinquency in a given year dates from March 2nd of that year.) If delinquency is for more than three years, application for reinstatement must be made on a form supplied by the Clerk, and accompanied by a tender of all unpaid dues and penalty. Application will be referred to the Bar Examining Committee for further recommendation, which may include the taking of a new examination.

Disbarment in other States bar to license and ground for disbarment here—Certified copy of such order prima facie evidence when filed in any Court of this State.—No person shall be admitted to practice law in this State who has been disbarred from the practice of law in any other State and the disbarment of any person from the practice of law in any other state shall operate as a disbarment of such person from the practice of law in this State under any license, permit, or enrollment issued to such person by any court in this State prior to his disbarment in such other state. Whenever any member of the bar of this Court shall have been disbarred or suspended by judgment of any court of record held outside of this state or by any federal court held within this state, such judgment, upon filing of authenticated copy thereof in this Court, shall be deemed prima facie grounds for disbarment or suspension, as the case may be, of such attorney by this Court; and, unless good cause for other action be shown, a like order shall be entered by this Court.

XI.

Suspension of license—Adjudication of incompetency.—Where a court of competent jurisdiction has found any licensed attorney to be mentally deficient, such order shall have the effect of depriving the subject of the right to practice law. When the finding has been superseded by appropriate legal procedure the attorney shall, before again entering upon the practice of law, apply to the State Board of Bar Examiners and submit to such inquiry as that Board, in its discretion, may require. The Board's recommendations shall then be transmitted to the Supreme Court for its action; but in all instances the proceeding shall be conducted with as little publicity as the circumstances permit.

CANONS OF PROFESSIONAL ETHICS

Preamble

In America, where the stability of Courts and of all departments of government rests upon the approval of the people, it is peculiarly essential that the system for establishing and dispensing Justice be developed to a high point of efficiency and so maintained that the public shall have absolute confidence in the integrity and impartiality of its administration. The future of the Republic, to a great extent, depends upon our maintenance of Justice pure and unsullied. It cannot be so maintained unless the conduct and the motives of the members of our profession are such as to merit the approval of all just men.

No code or set of rules can be framed which will particularize all the duties of the lawyer in the varying phases of litigation or in all the relations of professional life. The following canons of ethics are adopted by the American Bar Association as a general guide, yet the enumeration of particular duties should not be construed as a denial of the existence of others equally imperative, though not specifically mentioned.

1. THE DUTY OF THE LAWYER TO THE COURTS.

It is the duty of the lawyer to maintain towards the Courts a respectful attitude, not for the sake of the temporary incumbent of the judicial office, but for the maintenance of its supreme importance. Judges, not being wholly free to defend themselves, are peculiarly entitled to receive the support of the Bar against unjust criticism and clamor. Whenever there is proper ground for serious complaint of a judicial officer, it is the right and duty of the lawyer to submit his grievances to the proper authorities. In such cases, but not otherwise, such charges should be encouraged and the person making them should be protected.

2. THE SELECTION OF JUDGES.

It is the duty of the Bar to endeavor to prevent political considerations from outweighing judicial fitness in the selections of Judges. It should protest earnestly and actively against the appointment or election of those who are unsuitable for the Bench; and it should strive to have elevated thereto only those willing to forego other employments, whether of a business, political or other character, which may embarrass their free and fair consideration of questions before them for decision. The aspiration of lawyers for judicial position should be governed by an impartial estimate of their ability to add honor to the office and not by a desire for the distinction the position may bring to themselves.

3. ATTEMPTS TO EXERT PERSONAL INFLUENCE ON THE COURT.

Marked attention and unusual hospitality on the part of a lawyer to a Judge, uncalled for by the personal relations of the parties subject

both the Judge and the lawyer to misconstructions of motive and should be avoided. A lawyer should not communicate or argue privately with the Judge as to the merits of a pending cause, and he deserves rebuke and denunciation for any device or attempt to gain from a Judge special personal consideration or favor. A self-respecting independence in the discharge of professional duty, without denial or diminution of the courtesy and respect due the Judge's station, is the only proper foundation for cordial personal and official relations between Bench and Bar.

4. COUNSEL FOR AN INDIGENT PRISONER.

A lawyer assigned as counsel for an indigent prisoner ought not to ask to be excused for any trivial reason, and should always exert his best efforts in his behalf.

5. THE DEFENSE OR PROSECUTION OF THOSE ACCUSED OF CRIME.

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 suspicious circumstances, might be denied proper defense. 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 due process of law.

The primary duty of a lawyer engaged in public prosecution is not to convict, but to see that justice is done. The suppression of fact or the secreting of witnesses capable of establishing the innocence of the accused is highly reprehensible.

6. ADVERSE INFLUENCES AND CONFLICTING INTERESTS.

It is the duty of a lawyer at the time of retention to disclose to the client all the circumstances of his relations to the parties, and any interest in or connection with the controversy, which might influence the client in the selection of counsel.

It is unprofessional to represent conflicting interests, except by express consent of all concerned given after a full disclosure of the facts. Within the meaning of this canon, a lawyer represents conflicting interests when in behalf of one client, it is his duty to contend for that which duty to another client requires him to oppose.

The obligation to represent the client with undivided fidelity and not divulge his secrets or confidences forbids also the subsequent acceptance of retainer or employment from others in matters adversely affecting any interest of the client with respect to which confidence has been reposed.

7. PROFESSIONAL COLLEAGUES AND CONFLICTS OF OPINION.

A client's proffer of assistance of additional counsel should not be regarded as evidence of want of confidence, but the matter should

be left to the determination of the client. A lawyer should decline association as colleague if it is objectionable to the original counsel, but if the lawyer first retained is relieved, another may come into the case.

When lawyers jointly associated in a cause cannot agree as to any matter vital to the interest of the client, the conflict of opinion should be frankly stated to him for his final determination. His decision should be accepted unless the nature of the difference makes it impracticable for the lawyer whose judgment has been overruled to co-operate effectively. In this event it is his duty to ask the client to relieve him.

Efforts, direct or indirect, in any way to encroach upon the professional employment of another lawyer, are unworthy of those who should be brethren at the Bar; but, nevertheless, it is the right of any lawyer, without fear or favor, to give proper advice to those seeking relief against unfaithful or neglectful counsel, generally after communication with the lawyer of whom the complaint is made.

8. ADVISING UPON THE MERITS OF A CLIENT'S CAUSE.

A lawyer should endeavor to obtain full knowledge of his client's cause before advising thereon, and he is bound to give a candid opinion of the merits and probable result of pending or contemplated litigation. The miscarriages to which justice is subject, by reason of surprises and disappointments in evidence and witnesses, and through mistakes of juries and errors of Courts, even though only occasional, admonish lawyers to beware of bold and confident assurances to clients, especially where the employment may depend upon such assurances. Whenever the controversy will admit of fair judgment, the client should be advised to avoid or to end the litigation.

9. NEGOTIATIONS WITH OPPOSITE PARTY.

A lawyer should not in any way communicate upon the subject of controversy with a party represented by counsel; much less should he undertake to negotiate or compromise the matter with him, but should deal only with his counsel. It is incumbent upon the lawyer most particularly to avoid everything that may tend to mislead a party not represented by counsel, and he should not undertake to advise him as to the law.

10. ACQUIRING INTEREST IN LITIGATION.

The lawyer should not purchase any interest in the subject matter of the litigation which he is conducting.

11. DEALING WITH TRUST PROPERTY.

The lawyer should refrain from any action whereby for his personal benefit or gain he abuses or takes advantage of the confidence reposed in him by his client.

Money of the client or collected for the client or other trust property coming into the possession of the lawyer should be reported and

accounted for promptly, and should not under any circumstances be comingled with his own or be used by him.

12. FIXING THE AMOUNT OF THE FEE.

In fixing fees, lawyers should avoid charges which overestimate their advice and services, as well as those which undervalue them. A client's ability to pay cannot justify a charge in excess of the value of the service, though his poverty may require a less charge, or even none at all. The reasonable requests of brother lawyers, and of their widows and orphans without ample means, should receive special and kindly consideration.

In determining the amount of the fee, it is proper to consider: (1) the time and labor required, the novelty and difficulty of the questions involved and the skill requisite properly to conduct the cause; (2) whether the acceptance of employment in the particular case will preclude the lawyer's appearance for others in cases likely to arise out of the transaction, and in which there is a reasonable expectation that otherwise he would be employed, or will involve the loss of other employment while employed in the particular case or antagonisms with other clients; (3) the customary charges of the Bar for similar services; (4) the amount involved in the controversy and the benefits resulting to the client from the services; (5) the contingency or the certainty of the compensation; and (6) the character of the employment, whether casual or for an established and constant client. No one of these considerations in itself is controlling. They are mere guides in ascertaining the real value of the service.

In determining the customary charges of the Bar for similar services, it is proper for a lawyer to consider a schedule of minimum fees adopted by a Bar Association, but no lawyer should permit himself to be controlled thereby or to follow it as his sole guide in determining the amount of his fee.

In fixing fees it should never be forgotten that the profession is a branch of the administration of justice and not a mere money-getting trade.

13. CONTINGENT FEES.

A contract for a contingent fee, where sanctioned by law, should be reasonable under all the circumstances of the case, including the risk and uncertainty of the compensation, but should always be subject to the supervision of a court, as to its reasonableness.

14. SUING A CLIENT FOR A FEE.

Controversies with clients concerning compensation are to be avoided by the lawyer so far as shall be compatible with his self-respect and with his right to receive reasonable recompense for his services; and lawsuits with clients should be resorted to only to prevent injustice, imposition or fraud.

15. HOW FAR A LAWYER MAY GO IN SUPPORTING A CLIENT'S CAUSE.

Nothing operates more certainly to create or foster popular prejudice against lawyers as a class, and to deprive the profession of that full measure of public esteem and confidence which belong to the proper discharge of its duties than does the false claim, often set up by the unscrupulous in defense of questionable transactions, that it is the duty of the lawyer to do whatever may enable him to succeed in winning his client's cause.

It is improper for a lawyer to assert in argument his personal belief in his client's innocence or in the justice of his cause.

The lawyer owes "entire devotion to the interest of the client, warm zeal in the maintenance and defense of his rights and the exertion of his utmost learning and ability," to the end that nothing be taken or be withheld from him, save by the rules of law, legally applied. No fear of judicial disfavor or public unpopularity should restrain him from the full discharge of his duty. In the judicial forum the client is entitled to the benefit of any and every remedy and defense authorized by the law of the land, and he may expect his lawyer to assert every such remedy or defense. But it is steadfastly to be borne in mind that the great trust of the lawyer is to be performed within and not without the bounds of the law. The office of attorney does not permit, much less does it demand of him for any client, violation of law or any manner of fraud or chicane. He must obey his own conscience and not that of his client.

16. RESTRAINING CLIENTS FROM IMPROPRIETIES.

A lawyer should use his best efforts to restrain and to prevent his clients from doing those things which the lawyer himself ought not to do, particularly with reference to their conduct towards Courts, judicial officers, jurors, witnesses and suitors. If a client persists in such wrong-doing the lawyer should terminate their relation.

17. ILL-FEELING AND PERSONALITIES BETWEEN ADVOCATES.

Clients, not lawyers, are the litigants. Whatever may be the ill-feeling existing between clients, it should not be allowed to influence counsel in their conduct and demeanor toward each other or toward suitors in the case. All personalities between council should be scrupulously avoided. In the trial of a cause it is indecent to allude to the personal history or the personal peculiarities and idiosyncrasies of counsel on the other side. Personal colloquies between counsel which cause delay and promote unseemly wrangling should also be carefully avoided.

18. TREATMENT OF WITNESSES AND LITIGANTS.

A lawyer should always treat adverse witnesses and suitors with fairness and due consideration, and he should never minister to the malevolence or prejudices of a client in the trial or conduct of a cause.

The client cannot be made the keeper of the lawyer's conscience in professional matters. He has no right to demand that his counsel shall abuse the opposite party or indulge in offensive personalities. Improper speech is not excusable on the ground that it is what the client would say if speaking in his own behalf.

19. APPEARANCE OF LAWYER AS WITNESS FOR HIS CLIENT.

When a lawyer is a witness for his client, except as to merely formal matters, such as the attestation or custody of an instrument and the like, he should leave the trial of the case to other counsel. Except when essential to the ends of justice, a lawyer should avoid testifying in court in behalf of his client.

20. NEWSPAPER DISCUSSION OF PENDING LITIGATION.

Newspaper publications by a lawyer as to pending or anticipated litigation may interfere with a fair trial in the Courts and otherwise prejudice the due administration of justice. Generally they are to be condemned. If the extreme circumstances of a particular case justify a statement to the public, it is unprofessional to make it anonymously. An ex parte reference to the facts should not go beyond quotation from the records and papers on file in the court; but even in extreme cases it is better to avoid any ex parte statement.

21. PUNCTUALITY AND EXPEDITION.

It is the duty of the lawyer not only to his client, but also to the Courts and to the public to be punctual in attendance, and to be concise and direct in the trial and disposition of causes.

22. CANDOR AND FAIRNESS.

The conduct of the lawyer before the Court and with other lawyers should be characterized by candor and fairness.

It is not candid or fair for the lawyer knowingly to misquote the contents of a paper, the testimony of a witness, the language or the argument of opposing counsel, or the language of a decision or a textbook; or with knowledge of its invalidity, to cite as authority a decision that has been overruled, or statute that has been repealed; or in argument to assert as a fact that which has not been proved, or in those jurisdictions where a side has the opening and closing arguments to mislead his opponent by concealing or withholding positions in his opening argument upon which his side then intends to rely.

It is unprofessional and dishonorable to deal other than candidly with the facts in taking the statements of witnesses, in drawing affidavits and other documents, and in the presentation of causes.

A lawyer should not offer evidence which he knows the Court should reject, in order to get the same before the jury by argument for it admissibility; nor should he address to the Judge arguments upon any point not properly calling for determination by him. Neither should he introduce into an argument, addressed to the court, remarks or statements intended to influence the jury or bystanders.

These and all kindred practices are unprofessional and unworthy of an officer of the law charged, as is the lawyer, with the duty of aiding in the administration of justice.

23. ATTITUDE TOWARD JURY.

All attempts to curry favor with juries by fawning, flattery or pretended solicitude for their personal comfort are unprofessional. Suggestions of counsel, looking to the comfort or convenience of jurors, and propositions to dispense with argument, should be made to the Court out of the jury's hearing. A lawyer must never converse privately with jurors about the case; and both before and during the trial he should avoid communicating with them, even as to matters foreign to the cause.

24. RIGHT OF LAWYER TO CONTROL THE INCIDENTS OF THE TRIAL.

As to incidental matters pending the trial, not affecting the merits of the cause, or working substantial prejudice to the rights of the client, such as forcing the opposite lawyer to trial when he is under affliction or bereavement; forcing the trial on a particular day to the injury of the opposite lawyer when no harm will result from a trial at a different time; agreeing to an extension of time for signing a bill of exceptions, cross interrogatories and the like, the lawyer must be allowed to judge. In such matters no client has a right to demand that his counsel shall be illiberal, or that he do anything therein repugnant to his own sense of honor and propriety.

25. TAKING TECHNICAL ADVANTAGE OF OPPOSITE COUNSEL, AGREEMENTS WITH HIM.

A lawyer should not ignore known customs or practice of the Bar or of a particular Court, even when the law permits, without giving timely notice to the opposing counsel. As far as possible, important agreements, affecting the rights of clients, should be reduced to writing; but it is dishonorable to avoid performance of an agreement fairly made because it is not reduced to writing, as required by rules of Court.

26. PROFESSIONAL ADVOCACY OTHER THAN BEFORE COURTS.

A lawyer openly, and in his true character may render professional services before legislative or other bodies, regarding proposed legislation and in advocacy of claims before departments of government, upon the same principles of ethics which justify his appearance before the Courts; but it is unprofessional for a lawyer so engaged to conceal his attorneyship, or to employ secret personal solicitations, or use means other than those addressed to the reason and understanding, to influence action.

27. ADVERTISING, DIRECT OR INDIRECT.

It is unprofessional to solicit professional employment by circular, advertisements, through touters or personal communications or inter-

views not warranted by personal relations. Indirect advertisements for professional employment such as furnishing or inspiring newspaper comments, or procuring his photograph to be published in connection with causes in which the lawyer has been or is engaged or concerning the manner of their conduct, the magnitude of the interest involved, the importance of the lawyer's position, and all other like self-laudation, offend the traditions and lower the tone of our profession and are reprehensible; but the customary use of simple professional cards is not improper.

Publication in reputable law lists in a manner consistent with the standards of conduct imposed by these canons of brief biographical and informative data is permissible. Such data must not be misleading and may include only a statement of the lawyer's name and the names of his professional associates; addresses, telephone numbers, cable addresses, branches of the profession practiced; date and place of birth and admission to the bar; schools attended; with dates of graduation, degrees and other educational distinctions; public or quasi-public offices; posts of honor; legal authorships; legal teaching positions; memberships and offices in bar associations and committees thereof, in legal and scientific societies and legal fraternities; the fact of listings in other reputable law lists; the names and addresses of references; and, with their written consent, the names of clients regularly represented. A certificate of compliance with the Rules and Standards issued by the Standing Committee on Law Lists must be treated as evidence that such list is reputable.

It is not improper for a lawyer who is admitted to practice as a proctor in admiralty to use that designation on his letterhead or shingle or for a lawyer who has complied with the statutory requirements of admission to practice before the patent office to so use the designation "patent attorney" or "patent lawyer" or "trade-mark attorney" or "trade-mark lawyer" or any combination of those terms.

28. STIRRING UP LITIGATION, DIRECTLY OR THROUGH AGENTS.

It is unprofessional for a lawyer to volunteer advice to bring a lawsuit, except in rare cases where ties of blood, relationship or trust make it his duty to do so. Stirring up strife and litigation is not only unprofessional, but it is indictable at common law. It is disreputable to hunt up defects in titles or other causes of action and inform thereof in order to be employed to bring suit or collect judgment, or to breed litigation by seeking out those with claims for personal injuries or those having any other grounds of action in order to secure them as clients, or to employ agents or runners for like purposes, or to pay or reward, directly or indirectly, those who bring or influence the bringing of such cases to his office, or to remunerate policemen, court or prison officials, physicians, hospital attaches or others who may succeed, under the guise of giving disinterested friendly advice, or influencing the criminal, the sick and the injured, the ignorant or others,

to seek his professional services. A duty to the public and to the profession devolves upon every member of the Bar having knowledge of such practices upon the part of any practitioner immediately to inform thereof, to the end that the offender may be disbarred.

29. UPHOLDING THE HONOR OF THE PROFESSION.

Lawyers should expose without fear or favor before the proper tribunals corrupt or dishonest conduct in the profession, and should accept without hesitation employment against a member of the Bar who has wronged his client. The counsel upon the trial of a cause in which perjury has been committed owe it to the profession and to the public to bring the matter to the knowledge of the prosecuting authorities. The lawyer should aid in guarding the Bar against the admission to the profession of candidates unfit or unqualified because deficient in either moral character or education. He should strive at all times to uphold the honor and to maintain the dignity of the profession and to improve not only the law but the administration of justice.

30. JUSTIFIABLE AND UNJUSTIFIABLE LITIGATIONS.

The lawyer must decline to conduct a civil cause or to make a defense when convinced that it is intended merely to harass or to injure the opposite party or to work oppression or wrong. But otherwise it is his right, and, having accepted retainer, it becomes his duty to insist upon the judgment of the Court as to the legal merits of his client's claim. His appearance in Court should be deemed equivalent to an assertion on his honor that in his opinion his client's case is one proper for judicial determination.

31. RESPONSIBILITY FOR LITIGATION.

No lawyer is obliged to act either as adviser or advocate for every person who may wish to become his client. He has the right to decline employment. Every lawyer upon his own responsibility must decide what employment he will accept as counsel, what causes he will bring into Court for plaintiffs, what cases he will contest in Court for defendants. The responsibility for advising as to questionable transactions, for bringing questionable suits, for urging questionable defenses, is the lawyer's responsibility. He cannot escape it by urging as an excuse that he is only following his client's instructions.

32. THE LAWYER'S DUTY IN ITS LAST ANALYSIS.

No client, corporate or individual, however powerful, nor any cause, civil or political, however important, is entitled to receive nor should any lawyer render any service or advice involving disloyalty to the law whose ministers we are, or disrespect of the judicial office, which we are bound to uphold, or corruption of any person or persons exercising a public office or private trust, or deception or betrayal of the public. When rendering any such improper service or advice, the lawyer invites and merits stern and just condemnation. Correspondingly, he advances the honor of his profession and the best interests of his client when he renders service or gives advice tending to impress

upon the client and his undertaking exact compliance with the strictest principles of moral law. He must also observe and advise his client to observe the statute law, though until a statute shall have been construed and interpreted by competent adjudication, he is free and is entitled to advise as to its validity and as to what he conscientiously believes to be its just meaning and extent. But above all a lawyer will find his highest honor in a deserved reputation for fidelity to private trust and to public duty, as an honest man and as a patriotic and loyal citizen.

33. PARTNERSHIPS — NAMES.

Partnerships among lawyers for the practice of their profession are very common and are not to be condemned. In the formation of partnerships and the use of partnership names care should be taken not to violate any law, custom, or rule of court locally applicable. Where partnerships are formed between lawyers who are not all admitted to practice in the courts of the state, care should be taken to avoid any misleading name or representation which would create a false impression as to the professional position or privileges of the member not locally admitted. In the formation of partnerships for the practice of law, no person should be admitted or held out as a practitioner or member who is not a member of the legal profession duly authorized to practice, and amenable to professional discipline. In the selection and use of a firm name, no false, misleading, assumed or trade name should be used. The continued use of the name of a deceased or former partner, when permissible by local custom, is not unethical, but care should be taken that no imposition or deception is practiced through this use. When a member of the firm, on becoming a judge, is precluded from practicing law, his name should not be continued in the firm name.

Partnership between lawyers and members of other professions or non-professional persons should not be formed or permitted where any part of the partnership's employment consists of the practice of law.

34. DIVISION OF FEES.

No division of fees for legal service is proper, except with another lawyer, based upon a division of service or responsibility.

35. INTERMEDIARIES.

The professional services of a lawyer should not be controlled or exploited by any agency, personal or corporate, which intervenes between client and lawyer. A lawyer's responsibilities and qualifications are individual. He should avoid all relations which direct the performance of his duties by or in the interest of such intermediary. 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 indigents are not deemed such intermediaries.

A lawyer may accept employment from any organization, such

as an association, club or trade organization, to render legal service in any matter in which the organization, as an entity, is interested, but this employment should not include the rendering of legal services to the members of such an organization in respect to their individual affairs.

36. RETIREMENT FROM JUDICIAL POSITION OR PUBLIC EMPLOYMENT.

A lawyer should not accept employment as an advocate in any matter upon the merits of which he has previously acted in a judicial capacity.

A lawyer, having once held public office or having been in the public employ, should not after his retirement accept employment in connection with any matter which he has investigated or passed upon while in such office or employ.

37. CONFIDENCES OF A CLIENT.

It is the duty of a lawyer to preserve his client's confidences. This duty outlasts the lawyer's employment, and extends as well to his employees, and neither of them should accept employment which involves or may involve the disclosure or use of these confidences, either for the private advantage of the lawyer or his employees or to the disadvantage of the client, without his knowledge and consent, and even though there are other available sources of such information. A lawyer should not continue employment when he discovers that this obligation prevents the performance of his full duty to his former or to his new client.

If a lawyer is accused by his client, he is not precluded from disclosing the truth in respect to the accusation. The announced intention of a client to commit a crime is not included within the confidences which he is bound to respect. He may properly make such disclosures as may be necessary to prevent the act or protect those against whom it is threatened.

38. COMPENSATION, COMMISSIONS AND REBATES.

A lawyer should accept no compensation, commission, rebates or other advantages from others without the knowledge and consent of his client after full disclosure.

39. WITNESSES.

A lawyer may properly interview any witness or prospective witness for the opposing side in any civil or criminal action without the consent of opposing counsel or party. In doing so, however, he should scrupulously avoid any suggestion calculated to induce the witness to suppress or deviate from the truth, or in any degree to affect his free and untrammeled conduct when appearing at the trial or on the witness stand.

40. NEWSPAPERS.

A lawyer may with propriety write articles for publications in

which he gives information upon the law; but he should not accept employment from such publications to advise inquirers in respect to their individual rights.

41. DISCOVERY OF IMPOSITION AND DECEPTION.

When a lawyer discovers that some fraud or deception has been practiced, which has unjustly imposed upon the court or a party, he should endeavor to rectify it; at first by advising his client, and if his client refuses to forego the advantage thus unjustly gained, he should promptly inform the injured person or his counsel, so that they may take appropriate steps.

42. EXPENSES.

A lawyer may not properly agree with a client that the lawyer shall pay or bear the expense of litigation; he may in good faith advance expenses as a matter of convenience, but subject to reimbursement.

43. APPROVED LAW LISTS.

It is improper for a lawyer to permit his name to be published in a law list the conduct, management or contents of which are calculated or likely to deceive or injure the public or the profession, or to lower the dignity or standing of the profession.

44. WITHDRAWAL FROM EMPLOYMENT AS ATTORNEY OR COUNSEL.

The right of an attorney or counsel to withdraw from employment, once assumed, arises only from good cause. Even the desire or consent of the client is not always sufficient. The lawyer should not throw up the unfinished task to the detriment of his client for reasons of honor or self-respect. If the client insists upon an unjust or immoral course in the conduct of his case, or if he persists over the attorney's remonstrance in presenting frivolous defenses, or he deliberately disregards an agreement or obligation as to fees or expenses, the lawyer may be warranted in withdrawing on due notice to the client, allowing him time to employ another lawyer. So also when a lawyer discovers that his client has no case and the client is determined to continue it, or even if the lawyer finds himself incapable of conducting the case effectively. Sundry other instances may arise in which withdrawal is to be justified. Upon withdrawing from a case after a retainer has been paid, the attorney should refund such part of the retainer as has not been clearly earned.

45. SPECIALISTS.

The canons of the American Bar Association apply to all branches of the legal profession; specialists in particular branches are not to be considered as exempt from the application of these principles.

46. NOTICE OF SPECIALIZED LEGAL SERVICE.

Where a lawyer is engaged in rendering a specialized legal service directly and only to other lawyers, a brief, dignified notice of that fact,

couched in language indicating that it is addressed to lawyers, inserted in legal periodicals and like publications, when it will afford convenient and beneficial information to lawyers desiring to obtain such service, is not proper.

47. AIDING THE UNAUTHORIZED PRACTICE OF LAW.

No lawyer shall 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.

CANONS OF JUDICIAL ETHICS

In accordance with the resolution of the Arkansas Bar Association, the Supreme Court hereby declares that the Canons of Judicial Ethics, promulgated by the American Bar Association, to and including September 19, 1952, and adopted by the Arkansas Judicial Council on September 26, 1958, constitute a proper code of standards for the judiciary of this state. Said Canons are:

Ancient Precedents

"And I charged your judges at that time, saying, Hear the causes between your brethren, and judge righteously between every man and his brother, and the stranger that is with him.

"Ye shall not respect persons in judgment; but ye shall hear the small as well as the great; ye shall not be afraid of the face of man; for the judgment is God's; and the cause that is too hard for you, bring it unto me, and I will hear it."—*Deuteronomy I,* 16-17.

"Thou shalt not wrest judgment; thou shalt not respect persons, neither take a gift: for a gift doth blind the eyes of the wise, and pervert the words of the righteous."—*Deuteronomy* XVI, 19.

"We will not make any justiciaries, constables, sheriffs or bailiffs, but from those who understand the law of the realm and are well disposed to observe it."—*Magna Charta,* XLV.

"Judges ought to remember that their office is *jus dicere* not *jus dare;* to interpret law, and not to make law, or give law." . . .

"Judges ought to be more learned than witty; more reverend than plausible; and more advised than confident. Above all things, integrity is their portion and proper virtue." . . .

"Patience and gravity of hearing is an essential part of justice; and an over speaking judge is no well-tuned cymbal. It is no grace to a judge first to find that which he might have heard in due time for the Bar, or to show quickness of conceit in cutting off evidence or counsel too short; or to prevent information by questions though pertinent."

"The place of justice is a hallowed place; and therefore not only the Bench, but the foot pace and precincts and purprise thereof ought to be preserved without scandal and corruption." . . . —*Bacon's Essay "of Judicature."*

Preamble

In addition to the Canons for Professional Conduct of Lawyers which it has formulated and adopted, the American Bar Association, mindful that the character and conduct of a judge should never be objects of indifference, and that declared ethical standards tend to become habits of life, deems it desirable to set forth its views respecting those principles which should govern the personal practice of members of the judiciary in the administration of their office. The Association accordingly

adopts the following Canons, the spirt of which it suggests as a proper guide and reminder for judges, and as indicating what the people have a right to expect from them.

1. Relations of the Judiciary.

The assumption of the office of judge casts upon the incumbent duties in respect to his personal conduct which concern his relation to the state and its inhabitants, the litigants before him, the principles of law, the practitioners of law in his court, and the witnesses, jurors and attendants who aid him in the administration of its functions.

*These Canons, to and including Canon 34, were adopted by the American Bar Association at its Forty-Seventh Annual Meeting, at Philadelphia, Pennsylvania, on July 9, 1924.

Canons 28 and 30 were amended at the Fifty-Sixth Annual Meeting, Grand Rapids, Michigan, August 30-September 1, 1933. Canon 28 was further amended at the Seventy-Third Annual Meeting, Washington, D. C., September 20, 1950. Canons 35 and 36 were adopted at the Sixtieth Annual Meeting, at Kansas City, Missouri, September 30, 1937. Canon 35 was amended at San Francisco, California, September, 1952.

2. The Public Interest.

Courts exist to promote justice, and thus to serve the public interest. Their administration should be speedy and careful. Every judge should at all times be alert in his rulings and in the conduct of the business of the court, so far as he can, to make it useful to litigants and to the community. He should avoid unconsciously falling into the attitude of mind that the litigants are made for the courts instead of the courts for the litigants.

3. Constitutional Obligations.

It is the duty of all judges in the United States to support the federal Constitution and that of the state whose laws they administer; in so doing, they should fearlessly observe and apply fundamental limitations and guarantees.

4. Avoidance of Impropriety.

A judge's official conduct should be free from impropriety and the appearance of impropriety; he should avoid infractions of law; and his personal behavior, not only upon the Bench and in the performance of judicial duties, but also in his everyday life, should be beyond reproach.

5. Essential Conduct.

A judge should be temperate, attentive, patient, impartial, and since he is to administer the law and apply it to the facts, he should be studious of the principles of the law and diligent in endeavoring to ascertain the facts.

6. Industry.

A judge should exhibit an industry and application commensurate with the duties imposed upon him.

7. Promptness.

A judge should be prompt in the performance of his judicial duties, recognizing that the time of litigants, jurors and attorneys is of value and that habitual lack of punctuality on his part justifies dissatisfaction with the administration of the business of the court.

8. Court Organization.

A judge should organize the court with a view to the prompt and convenient dispatch of its business and he should not tolerate abuses and neglect by clerks and other assistants who are sometimes prone to presume too much upon his good natured acquiescence by reason of friendly association with him.

It is desirable too, where the judicial system permits, that he should cooperate with other judges of the same court, and in other courts, as members of a single judicial system, to promote the more satisfactory administration of justice.

9. Consideration for Jurors and Others.

A judge should be considerate of jurors, witnesses and others in attendance upon the court.

10. Courtesy and Civility.

A judge should be courteous to counsel, especially to those who are young and inexperienced, and also to all others appearing or concerned in the administration of justice in the court.

He should also require, and, so far as his power extends, enforce on the part of clerks, court officers and counsel civility and courtesy to the court and to jurors, witnesses, litigants and others having business in the court.

11. Unprofessional Conduct of Attorneys and Counsel.

A judge should utilize his opportunities to criticise and correct unprofessional conduct of attorneys and counsellors, brought to his attention; and, if adverse comment is not a sufficient corrective, should send the matter at once to the proper investigating and disciplinary authorities.

12. Appointees of the Judiciary and Their Compensation.

Trustees, receivers, masters, referees, guardians and other persons appointed by a judge to aid in the administration of justice should have the strictest probity and impartiality and should be selected with a view solely to their character and fitness. The power of making such appointments should not be exercised by him for personal or partisan advantage. He should not permit his appointments to be controlled by others than himself. He should also avoid nepotism and undue favoritism in his appointments.

While not hesitating to fix of approve just amounts, he should

be most scrupulous in granting or approving compensation for the services or charges of such appointees to avoid excessive allowances, whether or not excepted to or complained of. He cannot rid himself of this responsibility by the consent of counsel.

13. Kinship or Influence.

A judge should not act in a controversy where a near relative is a party; he should not suffer his conduct to justify the impression that any person can improperly influence him or unduly enjoy his favor, or that he is affected by the kinship, rank, position or influence of any party or other person.

14. Independence.

A judge should not be swayed by partisan demands, public clamor or considerations of personal popularity or notoriety, nor be apprehensive of unjust criticism.

15. Interference in Conduct of Trial.

A judge may properly intervene in a trial of a case to promote expedition, and prevent unnecessary waste of time, or to clear up some obscurity, but he should bear in mind that his undue interference, impatience, or participation in the examination of witnesses, or a severe attitude on his part toward witnesses, especially those who are excited or terrified by the unusual circumstances of a trial, may tend to prevent the proper presentation of the cause, or the ascertainment of the truth in respect thereto.

Conversation between the judge and counsel in court is often necessary but the judge should be studious to avoid controversies which are apt to obscure the merits of the dispute between litigants and lead to its unjust disposition. In addressing counsel, litigants, or witnesses, he should avoid a controversial manner or tone.

He should avoid interruptions of counsel in their arguments except to clarify his mind as to their positions, and he should not be tempted to the unnecessary display of learning or a premature judgment.

16. Ex parte Applications.

A judge should discourage *ex parte* hearings of applications for injunctions and receiverships where the order may work detriment to absent parties; he should act upon such *ex parte* applications only where the necessity for quick action is clearly shown; if this be demonstrated, then he should endeavor to counteract the effect of the absence of opposing counsel by a scrupulous cross-examination and investigation as to the facts and the principles of law on which the application is based, granting relief only when fully satisfied that the law permits it and the emergency demands it. He should remember that an injunction is a limitation upon the freedom of action of defendants and should not be granted lightly or inadvisedly. One applying for such relief must sustain the burden of showing clearly its necessity and this burden is increased in the absence of the party whose freedom of action is sought to be restrained even though only temporarily.

17. Ex parte Communications.

A judge should not permit private interviews, arguments or communications designed to influence his judicial action, where interests to be affected thereby are not represented before him, except in cases where provision is made by law for *ex parte* application.

While the conditions under which briefs of argument are to be received are largely matters of local rule or practice, he should not permit the contents of such brief presented to him to be concealed from opposing counsel. Ordinarily all communications of counsel to the judge intended or calculated to influence action should be made known to opposing counsel.

18. Continuances.

Delay in the administration of justice is a common cause of complaint; counsel are frequently responsible for this delay. A judge, without being arbitrary or forcing cases unreasonably or unjustly to trial when unprepared, to the detriment of parties, may well endeavor to hold counsel to a proper appreciation of their duties to the public interest, to their own clients, and to the adverse party and his counsel, so as to enforce due diligence in the dispatch of business before the court.

19. Judicial Opinions.

In disposing of controverted cases, a judge should indicate the reasons for his action in an opinion showing that he has not disregarded or overlooked serious arguments of counsel. He thus shows his full understanding of the case, avoids the suspicion of arbitrary conclusion, promotes confidence in his intellectual integrity and may contribute useful precedent to the growth of the law.

It is desirable that Courts of Appeals in reversing cases and granting new trials should so indicate their views on questions of law argued before them and necessarily arising in the controversy that upon the new trial counsel may be aided to avoid the repetition of erroneous positions of law and shall not be left in doubt by the failure of the court to decide such questions.

But the volume of reported decisions is such and is so rapidly increasing that in writing opinions which are to be published judges may well take this fact into consideration, and curtail them accordingly, without substantially departing from the principles stated above.

It is of high importance that judges constituting a court of last resort should use effort and self-restraint to promote solidarity of conclusion and the consequent influence of judicial decision. A judge should not yield to pride of opinion or value more highly his individual reputation than that of the court to which he should be loyal. Except in case of conscientious difference of opinion on fundamental principle, dissenting opinions should be discouraged in courts of last resort.

20. Influence of Decisions Upon the Development of the Law.

A judge should be mindful that his duty is the application of general law to particular instances, that ours is a government of law and not of men, and that he violates his duty as a minister of justice

under such a system if he seeks to do what he may personally consider substantial justice in a particular case and disregards the general law as he knows it to be binding on him. Such action may become a precedent unsettling accepted principles and may have detrimental consequences beyond the immediate controversy. He should administer his office with a due regard to the integrity of the system of the law itself, remembering that he is not a depositary of arbitrary power, but a judge under the sanction of law.

21. Idiosyncrasies and Inconsistencies.

Justice should not be moulded by the individual idiosyncrasies of those who administer it. A judge should not adopt the usual and expected method of doing justice, and not seek to be extreme or peculiar in his judgments, or spectacular or sensational in the conduct of the court. Though vested with discretion in the imposition of mild or severe sentences he should not compel persons brought before him to submit to some humiliating act or discipline of his own devising, without authority of law, because he thinks it will have a beneficial corrective influence.

In imposing sentence he should endeavor to conform to a reasonable standard of punishment and should not seek popularity or publicity either by exceptional severity or undue leniency.

22. Review

In order that a litigant may secure the full benefit of the right of review accorded to him by law, a trial judge should scrupulously grant to the defeated party opportunity to present the questions arising upon the trial exactly as they arose, were presented, and decided, by full and fair bill of exceptions or otherwise; any failure in this regard on the part of the judge is peculiarly worthy of condemnation because the wrong done may be irremediable.

23. Legislation.

A judge has exceptional opportunity to observe the operation of statutes, especially those relating to practice, and to ascertain whether they tend to impede the just disposition of controversies; and he may well contribute to the public interest by advising those having authority to remedy defects of procedure, of the result of his observation and experience.

24. Inconsistent Obligations.

A judge should not accept inconsistent duties; nor incur obligations, pecuniary or otherwise, which will in any way interfere or appear to interfere with his devotion to the expeditious and proper administration of his official functions.

25. Business Promotions and Solicitations for Charity.

A judge should avoid giving ground for any reasonable suspicion that he is utilizing the power or prestige of his office to persuade or coerce others to patronize or contribute, either to the success of private business ventures, *or to charitable enterprises.* He should, therefore,

not enter into such private business, or pursue such a course of conduct, as would justify such suspicion, nor use the power of his office or the influence of his name to promote the business interests of others; *he should not solicit for charities,* nor should he enter into any business relation which, in the normal course of events reasonably to be expected, might bring his personal interest into conflict with the impartial performance of his official duties.

26. Personal Investments and Relations.

A judge should abstain from making personal investments in enterprises which are apt to be involved in litigation in the court; and, after his accession to the Bench, he should not retain such investments previously made, longer than a period sufficient to enable him to dispose of them without serious loss. It is desirable that he should, so far as reasonably possible, refrain from all relations which would normally tend to arouse the suspicion that such relations warp or bias his judgment, or prevent his impartial attitude of mind in the administration of his judicial duties.

He should not utilize information coming to him in a judicial capacity for purposes of speculation; and it detracts from the public confidence in his integrity and the soundness of his judicial judgment for him at any time to become a speculative investor upon the hazard of a margin.

27. Executorships and Trusteeships.

While a judge is not disqualified from holding executorships or trusteeships, he should not accept or continue to hold any fiduciary or other position if the holding of it would interfere or seem to interfere with the proper performance of his judicial duties, or if the business interests of those represented require investments in enterprises that are apt to come before him judicially, or to be involved in questions of law to be determined by him.

28. Partisan Politics. *

While entitled to entertain his personal views of political questions, and while not required to surrender his rights or opinions as a citizen, it is inevitable that suspicion of being warped by political bias will attach to a judge who becomes the active promoter of the interests of one political party as against another. He should avoid making political speeches, making or soliciting payment of assessments or contributions to party funds, the public endorsement of candidates for political office and participation in party conventions.

He should neither accept nor retain a place on any party committee nor act as party leader, nor engage generally in partisan activities.

Where, however, it is necessary for judges to be nominated and elected as candidates of a political party, nothing herein contained shall prevent the judge from attending or speaking at political gather-

*As amended August 31, 1933 and September 20, 1950.

ings, or from making contributions to the campaign funds of the party that has nominated him and seeks his election or re-election.

29. Self-Interest.

A judge should abstain from performing or taking part in any judicial act in which his personal interests are involved. If he has personal litigation in the court of which he is judge, he need not resign his judgeship on that account, but he should, of course, refrain from any judicial act in such a controversy.

30. Candidacy for Office. *

A candidate for judicial position should not make or suffer others to make for him, promises of conduct in office which appeal to the cupidity or prejudices of the appointing or electing power; he should not announce in advance his conclusions of law on disputed issues to secure class support, and he should do nothing while a candidate to create the impression that if chosen, he will administer his office with bias, partiality or improper discrimination.

While holding a judicial position he should not become an active candidate either at a party primary or at a general election for any office other than a judicial office. If a judge should decide to become a candidate for any office not judicial, he should resign in order that it cannot be said that he is using the power or prestige of his judicial position to promote his own candidacy or the success of his party.

If a judge becomes a candidate for any judicial office, he should refrain from all conduct which might tend to arouse reasonable suspicion that he is using the power or prestige of his judicial position to promote his candidacy or the success of his party.

He should not permit others to do anything in behalf of his candidacy which would reasonably lead to such suspicion.

31. Private Law Practice.

In many states the practice of law by one holding judicial position is forbidden. In superior courts of general jurisdiction, it should never be permitted. In inferior courts in some states, it is permitted because the county or municipality is not able to pay adequate living compensation for a competent judge. In such cases one who practices law is in a position of great delicacy and must be scrupulously careful to avoid conduct in his practice whereby he utilizes or seems to utilize his judicial position to further his professional success.

He should not practice in the court in which he is a judge, even when presided over by another judge, or appear therein for himself in any controversy.

If forbidden to practice law he should refrain from accepting any professional employment while in office.

He may properly act as arbitrator or lecture upon or instruct in law, or write upon the subject, and accept compensation therefor, if

*As amended August 31, 1933.

such course does not interfere with the due performance of his judicial duties, and is not forbidden by some positive provision of law.

32. Gifts and Favors.

A judge should not accept any presents or favors from litigants, or from lawyers practicing before him or from others whose interests are likely to be submitted to him for judgment.

33. Social Relations.

It is not necessary to the proper performance of judicial duty that a judge should live in retirement or seclusion; it is desirable that, so far as reasonable attention to the completion of his work will permit, he continue to mingle in social intercourse, and that he should not discontinue his interest in or appearance at meetings of members of the Bar. He should, however, in pending or prospective litigation before him be particularly careful to avoid such action as may reasonably tend to awaken the suspicion that his social or business relations or friendships constitute an element in influencing his judicial conduct.

34. A Summary of Judicial Obligation.

In every particular his conduct should be above reproach. He should be conscientious, studious, thorough, courteous, patient, punctual, just, impartial, fearless of public clamor, regardless of public praise, and indifferent to private political or partisan influences; he should administer justice according to law, and deal with his appointments as a public trust; he should not allow other affairs or his private interests to interfere with the prompt and proper performance of his judicial duties, nor should he administer the office for the purpose of advancing his personal ambitions or increasing his popularity.

35. Improper Publicizing of Court Proceedings.*

Proceedings in court should be conducted with fitting dignity and decorum. The taking of photographs in the court room, during sessions of the court or recesses between sessions, and the broadcasting or televising of court proceedings are calculated to detract from the essential dignity of the proceedings, distract the witness in giving his testimony, degrade the court, and create misconceptions with respect thereto in the mind of the public and should not be permitted.

Provided that this restriction shall not apply to the broadcasting or televising, under the supervision of the court, of such portions of naturalization proceedings (other than the interrogation of applicants) as are designed and carried out exclusively as a ceremony for the purpose of publicly demonstrating in an impressive manner the essential dignity and the serious nature of naturalization.

36. Conduct of Court Proceedings.*

Proceedings in court should be so conducted as to reflect the importance and seriousness of the inquiry to ascertain the truth.

*Adopted September 30, 1937.

*Adopted September 30, 1937; amended September 15, 1952.

The oath should be administered to witnesses in a manner calculated to impress them with the importance and solemnity of their promise to adhere to the truth. Each witness should be sworn separately and impressively at the bar or the court, and the clerk should be required to make a formal record of the administration of the oath, including the name of the witness.

In Memory of the Late Chief Justice Griffin Smith

PROCEEDINGS OF JANUARY 6, 1959

The Supreme Court of Arkansas met in extraordinary session on January 6, 1959, with all Justices present, for the purpose of a memorial service for the late Chief Justice Griffin Smith. Members of the family and many friends of Chief Justice Griffin Smith were present. At the service a beautiful sterling silver pitcher was presented to the Court by Hon. J. M. Smallwood, as coming from friends of Chief Justice Griffin Smith. Along with the presentation, Hon. Neill Bohlinger made the following remarks:

"May it please the Court—'Know ye not that a Prince and a mighty man has this day fallen in Israel?' When word came to Saul of the death of Abner, the Book says that he made a great lamentation and calling about him his servants, he said, 'Know ye not that a prince and a mighty man has this day fallen in Israel?'

"Those words uttered so many hundreds of years ago come back to me today with distinct vividness—truly a prince has fallen. A prince who scorned dirt, physical or mental, who adhered to the right and loved the just, has fallen. A mighty man who bore upon his shoulders and upon his heart the wrongs that beset his fellowman.

"Would you read an epitomy of human history—would you have revealed to you in a few short sentences all of human history? Find it in the 5th chapter of Genesis: 'And all the days that Adam lived were 930 years and he died. And all the days of Seth were 912 years and he died. And all the days of Enos were 908 years and he died.' And so the story goes, an unalterable reiteration of what was, of what is, and of what will be. But Adam lived Adam's life, not Seth's, not Enos', and by your indulgence I speak to you now of one who lived his life—the life of a Prince and a mighty man.

"It seems to me now that it will be a comparatively easy task for those who follow after me to carve with chisel and with hammer upon unfeeling stone his name and those dates and things which were part of the life of a mighty man. And for those who are gifted with pen to follow after me and write large upon the records of this Court a recital of the rise and the struggles and the triumphs of a great man. But I speak to you of those things which are more than dates and simple recitals of bygone events. For in my weak, humble, and faltering way I strive to present to your Honors a projection of the results upon our generation and other generations that are to follow, that stem from the greatness that was his. You have met, Gentlemen of the Bar, to do more than to take formal cognizance of a state day of observance. You have come into this Chamber with your emotions already stirred and I do not trespass upon your emotions, but I speak rather as one who sits with his kindred in the shadow of their sainted dead.

"Organizations take their cue and reflect the ideals of those who

have left an imprint upon them. This nation as an example, had its thinking colored and its objectives defined by the actions and pronouncements of a little band of dedicated patriotic men who brought this nation into being. Consciously or unconsciously we have followed that leadership and, as during the dark days of a world war, when weary and perplexed commanders pored over grimy maps behind a battlefield and planned military action that was to them both new and perplexing, there came so often the question, 'What would Lee do now?' And I know now that so many times within our practice, confused lawyers seeking the truth have pondered half aloud, 'What would Griffin Smith do now?' And there is not a man among us who hasn't stood just a little bit straighter before this Bar because Griffin Smith has sat there—and somehow the little, the mean, the shoddy, the dubious short cut, have lost their allure when we gauge our actions in the light of 'What would Griffin Smith do now?' The brilliance of his mind was but an indirect reflection of a character that transcended all things.

"A generation sometimes mistakes the theatrical for the dramatic, the specious for the serious, the pretender for the defender. The apparent greatness of many may be measured more by the successful choice of clever propagandists than by actual achievements. A demagog is never more popular than his publicity is appealing. The history of a people is often one of disillusionment concerning its heroes, yet in the final analysis rarely does the judgment of a race go astray. Mankind never mistakes a pygmy for a giant. Once it has been put in prospective by the afternoon sun, the prayer of the faithful, 'Give us right judgment in all things, O Lord,' has its answer in the ultimate choice of a people's enduring heroes. The hero of the hour may not have deserved his place, even for that hour, but he who has the love and respect, the admiration and the veneration of his profession when his hour has closed, has qualities which are timeless. "The world takes men it can understand, men who have answered the smaller riddles of harrassing daily life as well as the larger riddles of a supreme challenge—men to whom mankind may look for strength in its hour of weakness, for guidance in its day of doubt,—men above all who have character. This is why Marcus Aurelius sits where Augustus may never ascend. This is why the Maid of Domremy is remembered when kings and inquisitioners are forgotten. This is why Sir Phillip Sidney's name is cherished and Gustavus Adolphus is revered by generations that do not remember what wars they fought or on what fields they fell. And this is why Griffin Smith today is one of the few, the few sons from Arkansas offered at the altar of time as worthy by reasons of his character to be exempted from the otherwise universal sentence of oblivion.

" 'The only guide for a man is his conscience, the only shield to his memory is the rectitude and sincerity of his actions. It is very imprudent for any man to walk through life without this shield, for we are so often mocked by the collapse of our hopes and the upsetting

of our calculations. But with this shield, let the fates play as they may, one marches forever in the ranks of honor.' And now with every task that was his stamped at its conclusion, with the rectitude and sincerity of his actions, and with the shield of his conscience, Griffin Smith marches forever in the ranks of honor.

"And somehow, my Brothers, I never come to an hour like this when I am stabbed anew with a sense of personal loss, when my heart is heavy, but what I look for my consolation to the rhymes of a sweet singer of long ago, who said—

" 'Alas—for him who never sees
The stars shine through his cypress trees,
Who hopeless lays his dead away
Nor looks to see the coming day
Across the mournful marbles play.
Who has not learned in hours of faith
That truth, to flesh and sense unknown,
That life is ever lord of death
And love can never lose its own.' "

Justice Ed. F. McFaddin responded for the Court, as follows:

"Mr. Chief Justice and Friends here assembled:

"I am one of the thousands who loved Chief Justice Griffin Smith and who honor his memory. He had been Chief Justice for six years when I became a member of the Court and he knew from personal experience the many problems that beset a new Judge. When I came on the Court he constantly and sympathetically undertook to help me. The writing of the opinion has always been my greatest trouble; and I felt happy that Griffin Smith would take my rough draft copy and show me how I might strive for clarity and brevity. He continued to do that as long as he lived. And with the passing of the years he would on increasingly frequent occasions hand me the rough draft of his opinion to ask if he should tone down some of his expressions.

"Our friendship was real and sincere and not merely superficial. We frequently differed as far as the poles in our views on a particular case; and in the consultation room comments and remarks would be acrimonious. But when the noon hour came, the Chief Justice and I would go together for lunch and laugh at each other for becoming so vociferous in consultation. Our friendship was aided and strengthened by the fact that our wives were also close friends; and frequently when the Court was in vacation, the Smiths and the McFaddins would ride together out Highway No. 10 to see the sun set over the mountains. Yes, I loved Griffin Smith; and I know that he loved me.

"The last trip we took together was to Ashdown, Arkansas, to the funeral of Chief Justice C. E. Johnson, who died on April 19, 1955. That was only ten days before Griffin Smith left us. As you recall, Griffin Smith had defeated C. E. Johnson for Chief Justice; but, even so, the men greatly admired each other and each had told me of his

admiration and respect for the other. Ernest Johnson had been my Chancellor and my lifelong friend. I supported him most vigorously and Griffin Smith knew all this and we discussed it. When Johnson died, his son called and told me the time and place of the funeral so that I could be there. When I told Griffin Smith, he said he wanted to go to the funeral if the Johnson family wanted him. So, at his request, I called Mrs. Johnson and Cecil. They wanted Griffin Smith at the funeral and he went; and the meeting between Mrs. Johnson and Griffin Smith was one of sincere friendship. All political differences were wiped out by friendship, just as you would expect such fine people to do.

"This sterling silver pitcher this day presented to the Court in memory of Griffin Smith is a most fitting tribute. He was a man of sterling character and of the highest integrity. As lawyers before this Court quench their thirst from the waters of this pitcher, they will remember that they too must be of sterling character, just as was Chief Justice Griffin Smith. Mr. Smallwood, the Court accepts as most appropriate this tribute to Chief Justice Griffin Smith."

Appropriate remarks were made by other members of the Court and by some of the attorneys present.

The following Resolution and Memorial Address was filed and received by the Supreme Court in memory of the late Justice Minor W. Millwee:

IN THE CHANCERY COURT OF SEVIER COUNTY, ARKANSAS

March 9, 1964

In The Matter of Memorial Services
Commemorating The Life and Character } ss.
Of Minor Wallace Millwee

Now on this day come Wesley Howard, Gordon B. Carlton, Winfred Lake, Byron Goodson, Elbert Cook, Ben Core and John B. Hainen, a committee representing the Bar of Sevier County, Arkansas, and present the following resolution commemorating the life and character of Minor Wallace Millwee, recently deceased.

WHEREAS, Minor Wallace Millwee departed this life on the 31st day of March, 1963, A. D., and,

WHEREAS, he has left his influence indelibly imprinted upon the minds and the hearts of every member of this Bar, and,

WHEREAS, it is fitting and proper that we should bear testimony to his high character and perpetuate his memory in the records of this Court in which he so long practiced and served,

NOW, THEREFORE, in grateful recognition of the enduring contributions made by him to this Bar and to the Bar of this State,

BE IT RESOLVED;

FIRST: That in his death the Bar of this County and this State have suffered a grievous loss; and,

SECOND: That this Bar and each individual member thereof extend to his bereaved family in their grief and sadness their sincere and deepest sympathy and hereby express their affection and esteem for Minor Wallace Millwee; and,

THIRD: That a copy of this resolution be presented to the Chancery Court of Sevier County, Arkansas, with the request that it with the biography, be spread upon the minutes of this Court; that copies be sent to the family, and that a copy be sent to the Supreme Court of Arkansas.

Wesley Howard
Gordon B. Carlton
Winfred Lake
Byron Goodson
Elbert Cook
John B. Hainen
Ben Core

Unanimously adopted by the Sevier County Bar Association on this 9th day of March, 1964.

Byron Goodson read the following biographical sketch and eulogy of the life of Judge Millwee.

Minor Wallace Millwee was born in Horatio, Sevier County, Arkansas, on June 9, 1901. He attended the public schools in Sevier County, Hendrix College and received his legal training at the University of Virginia and the University of Arkansas. He received his AB degree in 1924 and his LLB degree from the University of Arkansas in 1928. Following his graduation from law school, he was married to Grace Tribble, thereby culminating a school day romance. They lived together in a devoted and ideally happy union until his death. He was a member of the Bar and actively practiced his profession in DeQueen from 1928 to 1937 during which time he was DeQueen City Attorney and Assistant Prosecuting Attorney for the Ninth Judicial Circuit for two terms. He represented Sevier County in the sessions of 1933 and 1935 in the House of Representatives of the Arkansas General Assembly. Minor Wallace Millwee was appointed Judge of the Circuit Court for the Ninth Judicial Circuit in 1937 where he served until his election to the Supreme Court of Arkansas in 1944. Upon leaving the bench in 1959, he moved to Fayetteville, Arkansas, and became a member of the law firm of Dickson, Putnam, Millwee and Davis and also served as a lecturer in the law school of the University of Arkansas until the time of his death.

Judge Millwee received the University of Arkansas Distinguished Alumni Award in 1948. At the University of Arkansas he was a member of Kappa Alpha social fraternity, Phi Alpha Delta legal fraternity, was a Charter Member of Blue Key, served on the Inter-Fraternity Council, and was President of the Law Students Association.

Minor Millwee was an active Member of the Methodist Church and for many years, taught a Men's Bible Class. He was a member of the Rotary Club, and of the Sevier County, Pulaski County, Washington County, Arkansas and American Bar Associations.

The name Millwee is widely known, respected and honored throughout the legal profession and the Courts of Arkansas. He departed this life on the 31st day of March, 1963, at the age of 61 years, and is survived by his widow, Grace Tribble Millwee, two daughters, Mrs. Rodney Neal of York, Pa., and Rosemary Millwee of Little Rock, Arkansas.

The following Resolution and Memorial Address was filed and received by the Supreme Court in memory of the late Justice J. Seaborn Holt:

RESOLUTION

WHEREAS, James Seaborn Holt, deceased, was for many years an esteemed and active member of the Sebastian County Bar Association, and

WHEREAS, he also served the State of Arkansas with great distinction as an Associate Justice of the Arkansas Supreme Court, and

WHEREAS, the Sebastian County Bar Association, in Special Services on April 27, 1964, memorialized his departure from this life and tribute to him was made by the address of Mr. John P. Woods, of Fort Smith, Arkansas, and

WHEREAS, the members of the Sebastian County Bar Association feel a deep sense of loss and sorrow in his death:

NOW THEREFORE BE IT RESOLVED: That a copy of the Address of Mr. John P. Woods in tribute to the Honorable James Seaborn Holt, deceased, delivered at the Special Services of the Sebastian County Bar Association on April 27, 1964, be forwarded together with a copy of this Resolution to the Clerk of the Arkansas Supreme Court with the request that they be spread upon the records of the Court.

The above and foregoing Resolution was unanimously approved and adopted by the Sebastian County Bar Association, in regular meeting, duly held, on the 4th day of May, 1964.

Richard L. Martin, President

William M. Stocks, Secretary

James Seaborn Holt was born in the picturesque little village of Bellefonte, just a few miles from Harrison, the County Seat of Boone County, Arkansas, on November 17, 1884. He was the son of Joseph Rutherford Holt, a prosperous agriculturalist who specialized in the raising and marketing of fruits and livestock. His mother was Paralee Coffman Holt, a member of a very prominent northwest Arkansas family of Coffmans. Judge Holt spent his boyhood at Bellefonte. His old friends in that area rememember him as a diligent, earnest and cooperative student in the public schools there. His physical frailty disqualified him as an active participant in athletic sports, but, nevertheless, he was keenly interested in amateur athletics and especially football. His interest in that game continued until the very end. Although his parents bestowed upon him the rather imposing name of "James Seaborn", no one, aside from his parents, was ever heard to call him by either of those names. From the beginning he was "Seab"

and that familiar name followed him through his boyhood at Bellefonte, his young-manhood at the State University, his practice of law in Fort Smith and still followed him through his long service on the Supreme bench. That fact simple as it may sound suggests of itself something of the comradery and affection felt for him by those with whom he came in contact.

Judge Holt entered the University of Arkansas in 1903 and was graduated with a Bachelor of Arts Degree in 1907. He then entered the College of Law of the University of Virginia, by which institution he was awarded an L.L.B. Degree in 1909. Upon his graduation from Law School he opened an office at Harrison, but in a little less than a year decided to seek greener professional pastures and removed to Fort Smith where he engaged in the general practice of Law until elected to the Supreme Court in 1938. After locating in Fort Smith he never sought an elective office but always manifested a keen and wholesome interest in political affairs. It was this interest, no doubt, that resulted in his appointment as an Assistant United States District Attorney for the Western District of Arkansas in 1917 and his later appointment as Chief District Attorney in 1920, in which two capacities he served for five years, ending in the year 1921. Upon his retirement from the United States Attorney's office he resumed his general practice in Fort Smith, which continued until his election to the Supreme Court. Both as an official and as a private practitioner Judge Holt was known as a hard working, painstaking and conscientious lawyer, serving both his Government and his clients faithfully and well. Judge Holt never had a professional partner. His was a general practice in the conduct of which he was unusually successful.

A major accomplishment of Judge Holt occurred on September 14, 1909, when he led to the marriage altar Miss Lucile Miles of Fort Smith. His bride was the daughter of Colonel Oscar L. Miles who as a young man came from his native Virginia to Fort Smith where he became one of this State's most outstanding lawyers. Detracting nothing from Judge Holt's accomplishments from his own individual and independent efforts, it must be said that he owed much of his success to Lucile, and this is particularly true of his successful campaigns for membership on the Supreme Court in which she took an active and most effective part.

As a member of the Court Judge Holt was neither a radical nor an arch conservative in his application of the law to the facts in any controversy which came before him, but in such application he endeavored always to follow the plain letter of the law but to apply it in such a way as not to impose an unnecessary hardship on a litigant. Subsequent to Judge Holt's death I received a letter from one of the Associate Justices with whom he had served for many years, who had this to say and I quote:

" Seab Holt was a conscientious man. He studied each and every case and earnestly applied the law to the facts. He was quiet and

reserved, but a clear thinker, and was a good human example of the adage, 'still water runs deep.' "

The writer then added a further characterization of Judge Holt as a Judge by saying that any error which he may have committed was frankly and graciously admitted and corrected, and several instances were mentioned in which this particular trait was manifested. We all know that this is a trait which bespeaks a type of honesty and courage which is rare in politics and even among the judiciary. It is appropriate to mention here a signal honor which was paid Judge Holt shortly after his elevation to the bench. During the presidency of Dr. Arthur Harding of the University a program was adopted providing for the annual recognition of outstanding alumni, and that program has become a permanent part of the annual Commencement activities. The very first of these awards was bestowed upon Judge Holt.

Judge Holt's social and non-professional activities were carried on absolutely without ostentation or display. In the University he was a member of the Kappa Alpha Greek Letter Society. In Fort Smith he was a member for many years of the Noon Civics Club and at one time served as its President. However, his chief non-professional interest and activity was in his church. He served for many years as Chairman of the Board of Stewards of the First Methodist Church of Fort Smith. Also for many years he taught a Sunday School Class of teenage boys. Many of these boys, now mature men, still remember and speak with respect and affection of Judge Holt and what they learned under his tuition. After his removal to Little Rock he transferred his membership to the First Methodist Church of that city where he served on the Board of Stewards, that service only ending with his death.

Judge and Mrs. Holt never had any children of their own but the hospitality of their home was generously shared with the children of their friends and particularly with the younger sister and brothers of Mrs. Holt. Mrs. Holt has told me that her younger brothers, after the premature death of their father, came to worship their "Uncle Seab" who never failed to guide and encourage them as a father would his sons. When these Miles boys learned of Judge Holt's retirement from the bench they showered the Judge with touching letters expressing their respect and love for him and wishing him a happy road ahead. In that sentiment many personal friends, lawyers and laymen alike, joined.

I believe that I knew Judge Holt over a longer period than was enjoyed by any other member of this Bar, except Dave Ford. I first knew him when I entered the State University, a shy and greenhorn Freshman who looked up to and admired Seab Holt, a prominent member of the Senior Class, and today I must admit that that early attitude toward him has never greatly changed throughout the years. During the period of Judge Holt's active practice we occasionally met as opposing counsel in various types of litigation. I always found him

to be a formidable foe and yet always fair in his presentation of his client's cause, and always courteous to opposing counsel, witnesses and court. Nothing ever happened in any trial in which we were opposed to lessen my admiration and respect for him. It affords me great satisfaction today to recall that I was in some degree responsible for his entry into the race for Associate Justice in 1938, and that I took an active part in his successful campaign. I felt then and I feel more strongly today that whatever contribution I made to Judge Holt's advancement was in a high degree a contribution to the preservation of the dignity of our Supreme Court and the general welfare of the State.

Upon his retirement from the Supreme bench on September 4, 1961, Judge Holt announced that he wished to satisfy his long pent up desire for travel. Fate denied him the fulfillment of this wish; for on the 13th day of May, 1963, his life was suddenly snuffed out as the result of an automobile accident on the streets of Little Rock. All of us know how utterly futile are mere words to express our innermost feelings on an occasion like this. We can only express to Mrs. Holt, who is present with us, and to her distinguished husband's circle of relatives and friends our sincere sympathy; and may I add that in the passing of James Seaborn Holt I lost a good friend, our Bar a distinguished member and the State an outstanding citizen.

John P. Woods
of the Sebastian County Bar Association
Fort Smith, Arkansas