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The Layman as His Own Lawyer

North Dakota State Bar Association

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THE LAYMAN AS HIS OWN LAWYER

The attempt of the layman to be his own lawyer, is not restricted to the making of Wills. In the recent case of Hathy-vs.-Mathy, 291 NW 761, the Supreme Court of Wisconsin says:

"The plaintiff asks in an amended complaint for reformation of the original deed on the ground of mistake. But there is no evidence of any mistake in the drafting of it. None of the parties to the instrument testified to any mistake. It was perhaps a mistake to have had the deed drawn by one not a lawyer, but that is the kind of a mistake for the correction of which no remedy has yet been found."

The attorneys argued the lack of legal sequence in the language of the deed as affecting its legality, and the court said,—“It would be necessary to bear in mind in determining the meaning of the deed, that when the instrument is drawn on a printed form, written or typed portions of it are more strongly indicative of intent than seemingly inconsistent of the printed portion. Such provisions are likely to be inserted, especially by unskilled scribes, wherever there is a blank space to insert them rather than where in legal sequence they properly belong.”

Well, one might say,—All right, this sort of conveyancing makes work for the lawyers, and plenty of it where it goes to the Court of last resort as it did in the above case, but on the other hand it is an imposition upon the parties, and an infringement of the rights of attorneys and unauthorized practice. But today in this state it is a common practice for clerks to draw wills, and do conveyancing. It is difficult to fix the violation on the party; we are receiving much better cooperation from the banks as a whole than ever before but as to others it is just the same.