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Lawyers and the Collection Agencies

Duke Law School

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terest. So if you want to be affiliated with a dead organization stay at home and howl. Who wants to hold hands with a corpse? We point out as your duty, and recommend for your pleasure, attendance at the annual meeting. Our meeting will be held at one of the scenic cities of the state — Devils Lake. The committee reports will start on the first day of the meeting and under them, discussion will be devoted to the most interesting current questions. The conclusions reached will be acted upon by the members. Do you feel that the policies of this association should be determined by thirty or forty percent of its members? If you do, stay at home! If, however, you would like the majority of the lawyers to direct the actions of the Executive Committee for the coming year, come prepared to express your views on the questions you are concerned about.

Now a final word to the member who is unable to attend the meeting, or unwilling to do so. Send your suggestions to the President of your District Bar Association or send them by your neighbor, who is attending the convention. Make known your suggestions, instructions and demands. Finally, if you must stay at home, and fail to make your suggestions, don't find fault and complain about what the members are doing and not doing. You are one of the stockholders in this corporation. You now have had notice of this annual meeting. Come to that meeting in person or by proxy and express yourself, or hold your peace.

LAWYERS AND THE COLLECTION AGENCIES

The desire of lawyers to uphold the ethics of their profession is based not upon self-aggrandizement, but rests upon the conviction that the continued usefulness of the profession as an instrument of public service must depend upon the maintenance and upholding of a correct professional attitude toward the public, toward their clients, and toward the courts. Lawyers generally regard this as self-evident. But the business men do not grasp this situation. The question, from their point of view is a very simple one; if all the lawyers were honest and lived up to the standards of the profession, there would be no abuses. If John Q Public wants to give a claim to a collection agency, he does so because he does not think he needs a lawyer at all. So why interfere with collection agencies? And anyway, what right has the bar to insist upon the direct relationship of lawyer and client, if the client prefers it otherwise?

And yet, here in this field of commercial law, we face the extraordinary difficulty of reconciling a relationship between laymen and lawyers which has its inception in a simple situation, not necessarily involving a lawyer, yet generally resulting in law practice, and the furnishing of lawyers.

During the past two years, substantial progress has been made toward a solution of the problem. The American Bar Association's Committee on Unauthorized Practice of the Law, as well

as the New York Bar Association's Special Committee on Collection Agencies, adopted a declaration of principles as follows:

"It is improper for a collection agency;

1. To furnish legal advice or to perform legal services, or to represent that it is competent to do so; or to institute judicial proceedings on behalf of other persons.

2. To communicate with debtors in the name of an attorney or upon the stationery of an attorney; or to prepare any forms of instrument which only attorneys are authorized to prepare.

3. To solicit and receive assignments of claims for the purpose of suit thereon.

4. In dealing with debtors to employ instruments simulating forms of judicial process, or forms of notice pertaining to judicial proceedings, or to threaten the commencement of such proceedings.

5. To solicit claims for the purpose of having any legal action or court proceedings instituted thereon, or to solicit claims for any purpose at the instigation of any attorney.

6. To assume authority on behalf of creditors to employ or terminate the services of an attorney or to arrange the terms or compensation for such services.

7. To intervene between creditor and attorney in any manner which would control or exploit the services of the attorney or which would direct those services in the interest of the agency.

8. To demand or obtain in any manner a share of the proper compensation for services performed by an attorney in collecting a claim, irrespective of whether or not the agency may have previously attempted collection thereof."

This declaration of principles has been adopted by the New York State Association of Collection Agencies, and also by the Commercial Law League of America, and steps are being taken by these latter organizations to see to it that their members live up to these principles in the conduct of their business relations.

Furthermore, the American Bar Association has now assumed jurisdiction over the law list problem by the establishment of a standing committee with full jurisdiction to approve such lists as conduct their business by the adoption of standards of conduct approved by the Association, and the Canons of Professional Ethics have been amended so that they now prohibit any attorney from permitting his name to be listed in any but an approved law list.

Extract from Law and Contemporary Problems
Winter number 1938.

IN RE BOOKS

Mr. E. A. Ripley of Mandan has for sale a set of North Dakota Reports Volumes 1 to 65 inclusive, North Dakota Session Laws 1911 to 1923 inclusive and 1927 to 1933 inclusive, and Shepards North Dakota Citations three volumes.