

PREFACE

Perhaps because of the recent willingness of the United States Supreme Court to review the activities of attorneys, the legal profession is now undergoing the most intensive scrutiny it has ever experienced. This scrutiny has come from all sectors, including not only the various bar associations and legal organizations, but also the public generally. It has now become clear that the traditional concept of the organization and role of the legal profession must adapt to the needs of modern society.

Advertising has, naturally, created the greatest stir among both the members of the legal profession and the public. However, underlying innovations such as legal clinics, prepaid legal services, and specialization have emerged to meet consumer needs. These programs are, however, still in their infancy; whether they will prove effective remains to be seen. Their survival and effectiveness rest, in part, upon the cognizance and cooperation of every member of the profession; for without the interest and support of the legal community, the interchange of ideas essential to their proper evolution will not occur. This Symposium will address these topics as well as other aspects of the legal profession.

The Symposium begins with an essay by United States Representative Morris Udall addressing the involvement of lawyers with the operations of society and government. Reflecting on the growth and laudable accomplishments of the legal profession in the past, Representative Udall looks optimistically at the future of the profession.

Next, Philip Lacovara, who served in the past as Deputy Solicitor General of the United States and also as counsel to the Watergate Special Prosecutor, examines in detail the ethical considerations that come into play when government lawyers leave public office and return to practice in the private sector. Despite a federal law restricting activities of former federal employees and the duties imposed upon former government attorneys by the Code of Professional Responsibility, the possibility of conflicts of interest remains a serious problem. Lacovara addresses this issue and sets forth proposed amendments to the Code of Professional Responsibility. Then Professor Joseph Livermore focuses on a different and somewhat overlooked problem—lawyer extortion. He suggests that the not infrequent practice of threatening legal action

which is not legitimately available requires serious consideration by the legal profession.

Professor Walter Steele looks at the devices used to police the legal profession and places emphasis on the summary power of the courts to disbar errant attorneys. Professor Steele compares that power with the legislative regulations governing the legal profession and the disciplinary procedures adopted by state bar associations, and he concludes that the ultimate responsibility for policing the profession rests with the courts.

In the next Article, the significance of *Bates v. State Bar of Arizona*¹ and the future of attorney advertising are analyzed by Law Professor Tiffany Meyer and Marketing Professor Robert Smith. They review the Supreme Court decision and detail the antitrust and first amendment principles utilized by the Court. The second part of the Article presents an interesting insight into attorney attitudes on advertising legal services. A questionnaire, soliciting responses to various aspects of the subject of attorney advertising, was sent to a random sample of attorneys shortly after *Bates* was decided. The results of this survey, along with an interpretation and analysis of the collected data, are set forth by the authors. Next, an article by Philip J. Murphy reviews the development and operation of prepaid legal service plans. Murphy, who served on the ABA Special Committee on Prepaid Legal Services, outlines the difficulties encountered in developing these plans and stresses their importance in making legal services available to the public.

This Symposium is concluded by the work of two student authors. In the first of these two Notes, David Ramage-White reports on the attitudes of Arizona lawyers toward the attorney's duty to report professional misconduct. Ramage-White comments on the results of an opinion survey mailed to Arizona lawyers and proposes several alternatives to relying on DR 1-103(A) to uncover lawyer misbehavior. In the final Note, Michael King concentrates on the doctrine of judicial immunity. Recent case law demonstrates that the traditional exceptions to the doctrine are insufficient avenues of relief for the individual harmed by judicial misdeeds. The author examines the history and policies behind judicial immunity in light of examples of judicial misconduct and proposes that judges be afforded only a qualified immunity from suit. However, to prevent vexatious suits and preserve the independence of the judiciary, additional procedural safeguards are proposed for such actions.

It was in the spirit of the free exchange of ideas that this sympo-

1. 433 U.S. 350 (1977).

sium was put together. Our aim is to present new ideas on the problems which face the profession and the adaptations which have emerged to meet these problems. We hope that both the profession and the public will accept the challenge and that the free flow of ideas will work to define a solution which can provide for the well-being of both the public and the legal profession.

