

CHAPTER XLIX.

AN ACT concerning *Attorneys and Counsellors at Law*.—[Passed February 19, 1851.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows :*

SECTION 1. Any white male citizen of the age of twenty-one years, of good moral character, and who possesses the necessary qualifications of learning and ability, shall be entitled to admission as Attorney and Counsellor in all the Courts of this state.

Who may be admitted as an Attorney, etc.

SEC. 2. Every applicant for admission as Attorney and Counsellor shall produce satisfactory testimonials of good moral character, and undergo a strict examination, in open Court, as to his qualifications, by one of the Judges of the Supreme Court of this state.

What is required of applicants for admission.

SEC. 3. If upon examination he be found duly qualified, the Court shall admit him as Attorney and Counsellor in all the Courts of this state, and shall direct an order to be entered to that effect upon its records, and that a certificate of such record be given to him by the Clerk of the Court, which certificate shall be his license.

Certificates of admission.

SEC. 4. The District and County Courts of this state are authorized to admit as Attorney and Counsellor in their respective Courts, any white male citizen of the age of twenty-one years, and of good moral character, who possesses the requisite qualifications, on similar testimonials and like examinations as are required by the preceding sections for admission by the Supreme Court, and may direct their clerks to give a certificate of such admission, which certificate shall be his license to practice in such Courts.

District and County Courts may admit Attorneys, etc.

SEC. 5. Every person, on his admission, shall take an oath or affirmation to support the constitution of the United States and of the state, and to discharge the duties of Attorney and Counsellor to the best of his knowledge and ability. A certificate of such oath or affirmation shall be endorsed on the license.

Oath on admission.

SEC. 6. The examination may be dispensed with, in the case of a person who has been admitted Attorney and Counsellor in the highest Courts of a sister state; his affidavit of such admission, or his license showing the same, shall be deemed sufficient to entitle him to admission.

When examination may be dispensed with.

SEC. 7. Each Clerk shall keep a roll of Attorneys and Counsellors

Roll of Attorneys, etc., to be kept

of the Court of which he is Clerk, which shall be a record of the Court.

Penalty for practicing without a license.

SEC. 8. If any person shall practice law in any Court, except a Justice's or Recorder's Court, without having received a license as Attorney and Counsellor, he shall be deemed guilty of a contempt of Court, and punished as in other cases of contempt.

Authority of Attorney.

SEC. 9. An Attorney and Counsellor shall have authority: 1st, To bind his client in any of the steps of an action or proceeding, by his agreement filed with the Clerk, or entered upon the minutes of the Court, and not otherwise. (1) 2d, To receive money claimed by his client in an action or proceeding, during the pendency thereof, or within one year after judgment, and upon the payment thereof, and not otherwise, to discharge the claim or acknowledge satisfaction of the judgment.

Change of Attorney.

SEC. 10. The Attorney in an action or special proceeding, may be changed at any time before judgment or final determination, as follows: 1st, Upon his own consent, filed with the Clerk, or entered upon the minutes: 2d, Upon the order of the Court, or Judge thereof, on the application of the client.

Notice of change to be given.

SEC. 11. When an Attorney is changed, as provided in the last section, written notice of the change and of the substitution of a new Attorney, or of the appearance of the party in person, shall be given to the adverse party; until then he shall be bound to recognize the former Attorney.

Death or removal of an Attorney.

SEC. 12. When an Attorney dies, or is removed, or suspended, or ceases to act as such, a party to an action for whom he was acting as Attorney shall, before any further proceedings be had against him, be required by the adverse party, by written notice, to appoint another Attorney, or to appear in person.

When an Attorney, etc., may be removed

SEC. 13. An Attorney and Counsellor may be removed or suspended by the Supreme Court, and by no other Court in the State, for either of the following causes, arising after his admission to practice: 1st, Upon his being convicted of felony or misdemeanor, involving moral turpitude; in either of which cases the record of his conviction shall be conclusive evidence: 2d, For wilful disobedience or violation of the order of a Court, requiring him to do or forbear an act connected with or in the course of his profession.

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(1) See Cal. Sup. Court Rep. Vol. 1, page 331. *Held*, that an Attorney has no lien upon a judgment recovered by him in favor of his client for a *quantum meruit* compensation for his services. The lien extends only to costs given by statute.

SEC. 14. In case of the conviction of an Attorney or Counsellor, of <sup>Attorney</sup> a felony, or misdemeanor involving moral turpitude, the Clerk of the <sup>convicted of</sup> Court in which the conviction was had, shall within thirty days there- <sup>felony, etc.</sup> after transmit to the Supreme Court a certified copy of the record of conviction.

SEC. 15. The proceedings to remove or suspend an Attorney and <sup>Proceedings to</sup> Counsellor, under the first subdivision of section thirteenth, shall be <sup>remove an</sup> taken by the Court on the receipt of the certified copy of the record <sup>Attorney, etc.</sup> of conviction; the proceedings under the second subdivision of section thirteenth, may be taken by the Court for matters within its knowledge, or may be taken upon the information of another.

SEC. 16. If the proceedings be upon the information of another, <sup>The like.</sup> the accusation shall be in writing, and shall be presented to the Court.

SEC. 17. The accusation shall state the matters charged, and shall <sup>The like.</sup> be verified by the oath of the person making it, or some other person, to the effect that the charges therein contained are true.

SEC. 18. After receiving the accusation the Court shall, if, in its <sup>The like.</sup> opinion, the case require it, make an order requiring the accused to appear and answer the accusation, at a specified time, in the same or subsequent term, and shall cause a copy of the order and of the accusation to be served upon the accused, within a prescribed time, before the day appointed in the order.

SEC. 19. The accused must appear at the time appointed in the <sup>The like.</sup> order, and answer the accusation, unless for sufficient cause the Court assign another day for that purpose; if he do not appear, the Court may proceed and determine the accusation in his absence.

SEC. 20. The accused may answer to the accusation, either by ob- <sup>The like.</sup> jecting to the sufficiency, or by denying its truth.

SEC. 21. If he object to the sufficiency of the accusation, the <sup>The like.</sup> objection shall be in writing, but need not be in any specific form; it being sufficient if it present intelligibly the grounds of the objection: If he deny the truth of the accusation, the denial may be oral, and without oath, and shall be entered upon the minutes.

SEC. 22. If an objection to the sufficiency of the accusation be <sup>The like.</sup> not sustained, the accused shall answer forthwith.

SEC. 23. If the accused plead guilty, or refuse to answer the ac- <sup>The like.</sup> cusation, the Court shall proceed to judgment of removal or suspension. If he deny the matters charged, the Court shall immediately, or at such time as it may appoint, proceed to try the accusation.

SEC. 24. The Court may in its discretion order a reference to a <sup>The like</sup> committee to take depositions in the matter, and to report to the Court before proceeding to try the accusation.

The like.

SEC. 25. Upon conviction, in cases arising under the first subdivision of section thirteenth, the judgment of the Court shall be, that the name of the party be stricken from the roll of Attorneys and Counsellors of the Court, and he be precluded from practicing as such Attorney or Counsellor in all the Courts of this State; and upon conviction in cases under the second subdivision of section thirteenth, the judgment of the Court may be according to the gravity of the offence charged; deprivation of the right to practice as Attorneys or Counsellors in the Courts of this State, permanently or for a limited period.