

*Question.* 1. When a judge of a court of review or of last resort has a dispute which he wishes to litigate, may he, without impropriety or a breach of the ethics of the profession, prosecute his suit in a court from which an appeal or writ of error lies to the court of which he is a member? Or should he, before bringing suit, resign from his office as judge?

2. When the judgment in such case comes before the court of review or of last resort, of which the plaintiff is a member, is it sufficient to meet the requirements of the ethics of the profession, or for the due, proper, and impartial administration of the law, for the reviewing court in deciding the case merely to say that the plaintiff in the case did not sit? Or, if not, what is the proper action?

*Answer.* 1. In the opinion of the Committee, the judge may properly prosecute his suit without resigning his office.

2. The reviewing court could, it seems to the Committee, be fully expected to deal properly with the case. The plaintiff should of course not sit as a judge in his own cause; but this does not disqualify his colleagues, who should not (and doubtless would not) permit him to participate in their deliberations or influence them in any way whatever. It does not seem to us that any formal action or comment of any sort by the court upon the judge's disqualification is necessary. A proper precaution to avoid possible, but not probable, misunderstanding would be an informal announcement that the disqualified judge did not participate in the deliberations or action of the court.

In the opinion of the Committee, the judge should not personally try or argue his own cause.