June 1952

Masthead Volume 54, Issue 3

Follow this and additional works at: https://researchrepository.wvu.edu/wvlr

Part of the Law Commons

Recommended Citation
Available at: https://researchrepository.wvu.edu/wvlr/vol54/iss3/1

This Prefatory Matter is brought to you for free and open access by the WVU College of Law at The Research Repository @ WVU. It has been accepted for inclusion in West Virginia Law Review by an authorized editor of The Research Repository @ WVU. For more information, please contact researchrepository@mail.wvu.edu.
STUDENT NOTES

THE ATTORNEY-CLIENT PRIVILEGE IN WEST VIRGINIA.—It is said that in this state the rule of privilege between attorney and client is strict and rigid.¹ As a general rule, where legal advice of any kind is sought from a professional legal adviser in his capacity as such, the communications relating to that purpose, made in confidence by the client, are at his instance permanently protected from disclosure by himself or by the legal adviser. However, the protection may be waived.² Although there are few West Virginia cases on the point, the common law principle is applied in courts of record in West Virginia and by statute it applies to justice of the peace courts.³ The purpose of this article is to review the West Virginia cases on privileged communications and to compare the rules therein with those of other jurisdictions.

In an early case, Parker v. Carter,⁴ the Virginia court said that it was settled law that attorneys ought not to be permitted to give evidence of facts imparted to them by their clients. The privilege is that of the client and not the attorney. In a note to the case the court said that the client could also assert the privilege

² 8 Wigmore, EVIDENCE § 2292 (3d ed. 1940).
⁴ 4 Munf. (18 Va.) 273 (1814).