Loyola University Chicago Law Journal

Volume 16
Issue 3 *Spring 1985 Legal Ethics Symposium*

Article 2

1985

Foreword

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Recommended Citation
Allen HartmanHonorable, *Foreword*, 16 Loy. U. Chi. L. J. 429 (1985).
Available at: http://lawecommons.luc.edu/luclj/vol16/iss3/2

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Foreword

*Honorable Allen Hartman**

> Item, for sundry damages and mischiefs that have ensued before this time to divers persons of the realm by a great number of attornies, ignorant and not learned in the law, as they were wont to be before this time; (2) it is ordained and established, That all the attornies shall be examined by the justices, and by their discretions their names put in the roll, and they that be good and virtuous, and of good fame, shall be received and sworn well, and truly to serve in their offices . . .; and the other attornies shall be put out by the discretion of the said justices . . .[1]

The foregoing represents one of the earliest statutory efforts to curb perceived abuses among members of the fifteenth century legal community, by prescribing an oath to be taken by those considered to be lawyers of that early era. Such an oath was deemed sufficient at that time to discourage and avoid unacceptable conduct. Some 300 years later, in 1701, the lawyers of Massachusetts also were required to take an oath, this one demanding much more than that a lawyer be "good and virtuous, and of good fame," but also that he: "do no falsehood, nor consent to any to be done in the court"; advise the court of any falsehoods of which the lawyer had knowledge; avoid the procurement or promotion of false or unlawful suits, nor consent nor aid the same; "delay no man for lucre or malice" but perform the duties of his office to the best of his learning and discretion "with all good fidelity as well to the courts as to your clients."[2]

The profession, however, came to recognize that much more was required than simple oath taking if "sundry damages and mischiefs" which had been visited upon the courts, the profession, the community and clients were to be prevented. Tracing the origins and development of standards of conduct from which emanated modern codes of legal ethics, Justice Orrin N. Carter of the Illinois Supreme Court observed, in his exhaustive history, *Ethics of the*

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1. 4 Hen. 4, ch. 18, *quoted in* State v. Cannon, 206 Wis. 374, 240 N.W. 441, 446 (1932).

2. O. PHILLIPS & P. MCCOY, CONDUCT OF JUDGES AND LAWYERS 9-10 (1952) (quoting J. COHEN, THE LAW—BUSINESS OR PROFESSION 87 (Rev. ed. 1924)).

Legal Profession,[3] that "[t]he ethics of a profession are its rules of conduct. They represent its ideals; they form its character."[4] Particularly important are standards promulgated by and for the legal profession, which has been recognized by our Anglo-Saxon oriented society as endowed with great power to do good or evil.[5] As aptly observed by Lord Bolingbroke, "the profession of the law, in its nature the noblest and most beneficial to mankind, is in its abuse an abasement the most sordid and pernicious."[6]

The search for standards of conduct in the legal profession, of course, has been ongoing. As early as 1817 in this country, a professor of law at the University of Maryland, David Hoffman, proposed "Fifty Resolutions in Regard to Professional Deportment"[7] as guidelines for conduct by new attorneys in their practice of law. In 1854, as a Pennsylvania trial judge who later ascended to the bench of the Pennsylvania Supreme Court, Justice George Sharswood wrote an essay on professional ethics published as "A Compend of Lectures on the Aims and Duties of the Profession of the Law," which contained rules that were accepted by the profession for much of the balance of the nineteenth century as standards for conduct.[8] Much has been written about legal ethics since that time. Many canons and codes have been adopted by local, state and national bar associations and courts throughout our land, addressing the problems of legal ethics in the practice of law, led by Alabama in 1887 and followed by the American Bar Association in 1908.[9] Much more will no doubt be written in the future because the questions attending proper conduct by members of the legal profession must be raised constantly, and answers formulated just as often, since ours is a society in perpetual change and growth, insisting upon never ending evaluations of what we do as judges and lawyers in activities which demand the highest levels of ideals, motives and actions.

The present symposium supports and furthers the ongoing es-

3. 9 ILL. L. REV. 297, 385, 453 (1914-1915).

4. *Id.* at 297-98.

5. *See* dissent of Justice Miller in *Ex parte Garland*, 71 U.S. (4 Wall.) 333, 385-86 (1867). It is as evident today as then that very substantial members of public officials, including our presidents, cabinet officers, and national and state legislators are lawyers, wielding great influence upon the formation of governmental policies in addition to those which are traditionally legal and judicial.

6. People v. Salomon, 184 Ill. 490, 501 (1900).

7. *Reprinted in* G. COSTIGAN, CASES AND OTHER AUTHORITIES ON THE LEGAL PROFESSION AND ITS ETHICS 695-709 (2d ed. 1933).

8. Later published as An Essay on Professional Ethics (5th ed. 1884).

9. Carter, *Ethics of the Legal Profession* (pt. 1), 9 ILL. L. REV. 297, 308 (1914).

sential inquiries and reflects that growth and change for the present time. The articles and notes contained in this symposium are not only timely, but are far-ranging in their investigations, analyses and discourses into ethical problems confronting our profession. They are valuable contributions and will reward the reader with challenging thought and references not only for the present but for years to come.