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# Watergate Stirs New Look At Lawyers' Self-Policing

By TOM GOLDSTEIN

In the aftermath of the Watergate scandal in which nearly three dozen lawyers have either admitted or been accused of crimes that include perjury and burglary, the legal profession has intensified its reassessment of the way it governs itself.

This re-examination began in 1970 after a special American Bar Bar Association committee found that "with few exceptions, the prevailing attitude of lawyers toward disciplinary enforcement ranges from apathy to outright hostility."

But it was Watergate, combined with a growing public scrutiny of lawyers' services and a toughened stance by the Securities and Exchange Commission toward business lawyears' services and a toughened stance by the Securities and Exchange Commission toward business lawyers, that transformed legal ethics into a primary concern of the profession.

In this atmosphere, lawyers have begun to challenge some of the basic assumptions of the way they do business.

"We don't get the fat cat," said Orville H. Schell Jr., the past president of the Association of the Bar of the City of New York, an 11,000-member group consisting primarily of corporate lawyers. "We've got to find a way of examining more carefully highly complex business transactions."

In the last several months, lawyers have been asking fundamental questions, among them the following:

¶Has the organized bar tigh-

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tened its procedures sufficiently to handle the problems arising from Watergate and from the more common misdeeds of lawyers who either convert their clents' funds or neglect to give full representation to their clients?

¶Should the profession's rule book, the Code of Professional Responsibility, be modified further to reflect the intricate work of lawyers who are engaged in governmental or complex business transactions?

¶Should someone other than lawyers enforce the rule book? Traditionally, lawyers have abhorred the prospect of even a limited degree of outside control, but now some are actively pushing for the inclusion of laymen in the disciplinary process.

### Inquiries On in 10 States

So far, Watergate has had its greatest impact on the administration of discipline. At least 10 states are conducting preliminary inquiries into lawyers wh-o have been indicted or named co-conspirators in Watergate-related crimes, according to John Bonomi, counsel to the grievance committee of the city bar association. Mr. Bonomi, who is head of a committee formed last summer to coordinate Watergate-lawyer discipline among the state and local authorities, put the number of lawyers indicted or named as co-conspirators at 17 or 18.

G. Gordon Liddy, who was convicted of conspiracy, burglary and wiretapping stemming from the Watergate break-in, has been disbarred in New York. And Virginia has revoked the license of John W. Dean 3d, who pleaded guilty last fall to one count of conspiracy to obstruct justice.

Serious allegations have been made against a dozen or more other lawyers, including President Nixon. Disciplinary authorities in both California and New York — the two state were Mr. Nixon has been licensed to practice — have been keeping files on the President, consisting mostly of material culled from the public record, in the event disciplinary action is needed in the future.

### Disciplinary Role Limited

Information about Watergate lawyers is also being collected by the Center for Professional Discipline, a unit of the American Bar Association that was established last summer. Disciplinary efforts were also spurred following the disbarring of former Vice President Spiro T. Agnew.

Since it is up to the states, whose courts license lawyers to practice, to discipline the lawyers as well, the 175,000-member American Bar Association is limited in what it can do in matters of discipline.

In 1971, the bar group instructed all law schools it had approved to offer instruction in legal ethics. Most law schools now have such courses. The bar group has deferred until its annual meeting this summer in Hawaii its decision over whether the schools must teach ethics in a special course or whether it is sufficient that material on ethics be included in standard courses, such as contracts and torts.

Finally, the bar group can issue reports by its committees, like the one headed by former Supreme Court Justice Tom Clark. That committee concluded in 1970 that disciplinary enforcement was "a scandalous situation that requires the immediate attention of the profession."

### Little Modification in State

A bar-group spokesman said lawyers in most states had heeded this unvarnished admonition and had modifiedtheir disciplinary structure in the last few years. However, little change has been made in New York, where a report in 1972 by a group of judges headed by Marcus G. hrist said there was a "pressing need" to improve disciplinary procedures.

Bar leaders have said that a lack of financing has hampered the carrying out of the recommendations of the Christ Committee, which called for the formation of uniform, centralized disciplinary bodies with paid professional staffs toinvestigate complaints of improper conduct by lawyers.

These leaders regard lawyer registration, which is already in effect in 37 states, as an essential first step in providing the funds.

Last month, the House of Delegates of the New York Bar Association approved "in principle" a plan by which every lawyer would be compelled to register and pay an annual fee to help defray the expenses of lawyer disciplinary proceedings.

### Grievance Panel Cited

Although New York has an estimated total of 60,000 lawyers—the largest lawyer population of any state—no one knows the precise total. Registration, which has been considered intermittently in the last 10 years, still needs approval by the State Court of Appeals or the Legislature.

Both the Clark and Christ committees pointed to the grievance arrangements of the city bar association as a model for other jurisdictions to follow. The grievance committee initiates investigations on its own or after it has received a complaint. If it decides that the misconduct is minor, it will merely reprimand the lawyer in private. If the offense is serious, the committee takes the case to the Appellate Division of the First Department, which can reprimand, suspend or disbar a lawyer.

Last year, Mr. Liddy was one of 12 lawyers disbarred in the First Department, which consists of Manhattan and the Bronx, and was one of 102 disbarred in the country.

When the lawyer is the subject of a criminal charge, the grievance committee usually defers action until the case is completed. In New York, a felony conviction, like that of Mr. Liddy, leads to automatic disbarment.

All this can be a cumbersome process that may last up to 10 years. Often, the lawyer who has been accused of wrongdoing continues to practice during that period.

"We might have been too smug in the past," says Mr. Bonomi, who is examining ways to accelerate the disciplinary process and remove the cloak of confidentiality that shrouds the hearings at the Appellate Division stage.

The city bar association has also begun to look into the substance of the rules it has been enforcing. The original Canons of Ethics were adopted in 1908. They were revised in the nineteen-sixties because, according to one member of the drafting committee the old code was "more suited to a trade union than a profession."

Many lawyers feel the code is still oriented too much toward the solo practitioner and small-town litigator.

"When we discipline, we tend to get the small practitioner," Mr. Schell said.

Since Watergate, there has been a sprinkling of suggestions tha the code be revised to delineate more clearly the responsibilities of lawyers who work in government. However, action has been taken on these suggestions because most lawyers agree with Mr. Bonomi, who said: "What the lawyers in Watergate did usually was not in theircapacity in lawyers. As lawyers, they are still governed by the code's general provisions."

Thos provisions forbid "illegal conduct involving moral turpitude" and conduct involving "dishonesty, fraud, deceit or misrepresentation."

The bar association has displayed far greater interest in modifying the code in relation to business lawyers. Recently, Mr. Schell appointed a 16-member committee to suggest changes in the code as it applies to lawyers in the securities field.

The formation of this committee comes two years after the Securities and Exchange Commission charged White Case, one of the country's 10 largest law firms, and Lord, Bissell & Brook, a large Chicago firm, with having violated the Federal securities laws by failing to disclose publicly certain adverse information the firm learned about the National Student Marketing Corporation. The information was in connection with a 1969 merger plan the company was involved in.

Since then, in its proceedings and in other civil suits, the commission has continued to suggest in unequivocal terms that lawyers owe disclosure t the public even if it interferes with what the lawyers perceive to be their duties to their clients.

Lawyers detect that what th commission has said about lawyers is a reflection of a large public malaise concerning the profession. Since last summer, Senator John V. Tunney, Democrat of California, has conducted hearings on such topics as consumer access to lawyers and "The Bar: Self-Serving or Serving the Public?"