

Watergate's a pain in

"Lawyers, as guardians of the law, play a vital role in the preservation of society . . . A consequent obligation of lawyers is to maintain the highest standards of ethical conduct."

—from lawyers' Canons of Ethics

Approximately three dozen lawyers have admitted or been accused of high crimes and misdemeanors in the Watergate mess.

—from the daily press

By Larry D. Hatfield

Ethics, the one subject that was almost sure to make an attorney turn his back on you when you mentioned it at a cocktail party, is suddenly one of the biggest topics among the brotherhood.

Discipline, the subject that an American Bar Association committee said fosters attitudes ranging from "apathy to outright hostility" among attorneys, now has become a number one priority of the legal profession.

Now, in the autumn of the Age of Watergate, the entire legal profession is playing sort of a "Mirror, mirror on the wall" game and the reflection it is getting is not the fairest of them all.

The result has been a painful, but also the most comprehensive look at the role of ethics in a lawyer's life in decades. Along with "updating" codes of ethics on national and state levels, there is an increased emphasis on ethics courses in law schools, a barren field in the past, more stringent disciplinary hearings and a push for "reviews" of attorneys' performances generally.

This introspection, profession leaders claim, started

well before Watergate but they freely admit that the tarnish acquired by the whole profession because of the activities of a few lawyers has accelerated the process.

And although lawyers generally agree that their public image has been unfairly blemished by Watergate, they agree that the consequences for the profession have generally been good.

"Some may argue that the disrepute should not be distributed broadside to all other lawyers because the people involved were acting less as lawyers than as politicians and solicitors of political contributions," said Robert H. Fabian, president of the San Francisco Bar Association.

"Be that as it may, the general public, with a great deal of justification, is tempted to tar us all with the same brush."

Fabian, who is an executive vice president and general counsel for the Bank of America, added: "The course of conduct that got them (Watergate figures) indicted had nothing to do with the practice of law. They were not acting as lawyers.

"But they're lawyers as far as the public is concerned. This is fed by some distortions by Republican politicians . . . who would like to make (lawyers) the public scapegoat."

The result of this focus on lawyers, Fabian suggested, would be to distract the public's attention from the fact that the Watergate villains were really Republican politicians, not acting as attorneys.

This view is shared by

Seth Hufstedler, president of the State Bar of California. "Watergate gave a blow to public confidence in the legal profession," Hufstedler, husband of a Los Angeles federal judge, said. "I think it's unjustified.

"These people were not lawyers practicing law. They were involved in power brokerage . . ."

Under Hufstedler's direction, seven Watergate-connected figures licensed to practice law in California are being investigated and face discipline up to and including disbarment. The seven lawyers include President Nixon, although Hufstedler and other California legal leaders expect no State Bar sanctions ultimately to be taken against the President.

Although re-evaluations began before the Watergate scandal was exposed, both the American Bar Association and the State Bar of California are revising their rules of ethical conduct.

In the ABA's case, the revision is the first major one since the original canons of ethics were written in 1908. Although most highly technical in nature, the general thrust of the ABA's revision is to make it clear to lawyers what they can do and cannot do and remain within the bounds of acceptable ethics.

The California Bar's rules of professional conduct, written in 1928, which in certain areas are more stringent than the ABA's code of professional responsibility, govern the activities of the state's 45,000 lawyers, the largest number in any state.

The California ethics code also has been subject to more frequent revisions than the ABA's canons, although John Malone, execu-

their ethics

tive secretary of the State Bar, admits that the current one is the first complete review in many years.

Again, the revisions are fairly technical but their effect is to spell out in more unambiguous terms the ethical limits of the profession.

"I think it is healthy," said the San Francisco Bar's Fabian. (The emphasis on ethics) may not make a dishonest person honest, but it certainly makes people aware of their responsibilities."

As for Watergate's "good" influence, he added, "It's a matter of degree. When any number of brothers in the profession get caught, it dramatizes it; it drives home the necessity for improving standards of behavior."

A companion advance to the conduct codes' revisions has been the growing importance of ethics courses in law schools, particularly in California.

Surprisingly, few law schools bothered with any instruction in ethics until the 1970s. Now, under direction of the State Bar, all of California's 25 accredited law schools have required ethics courses and most of the 27 unaccredited ones have some sort of course.

The courses in the unaccredited schools, however, have not completely satisfied at least the State Bar's Malone, who thinks "they tend too much to be a crash program sort of thing."

Moreover, the State Bar is taking more steps to make new lawyers more aware of the ethical limits of their new jobs. Starting in February, 1975, the State Bar examination will for the first time include a question on ethics.

Another effect of the post-Watergate self-policing by

the legal profession is increased activity by local bar associations in the ethics field.

The San Francisco Bar as of last year had an ethics committee to which lawyers can go for opinions in questionable areas. Karin T. Skeen, an Internal Revenue Service attorney and chairman of the committee, says her committee and similar panels in other cities are expanding their activities, aimed at promoting attention to legal ethics.

In the meantime, the number of disciplinary actions against lawyers in California continues to increase. During the year 1972-73, the State Bar processed the heaviest disciplinary caseload in its history: the disciplinary staff handled more than 4,900 complaints, compared to 4,700 the year before.

Sixty-two attorneys were finally disciplined by the Supreme Court and five other attorneys resigned with charges pending, action which is tantamount to disbarment. The disciplinary board of the State Bar publicly reprimanded six attorneys and privately reprimanded 22. There were also 20 interim suspensions.