

Editorial Comment

Edward Fagan

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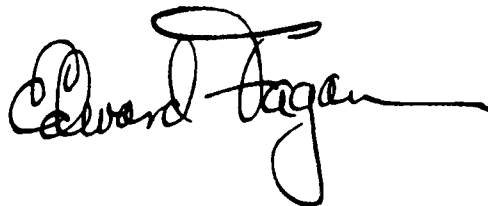
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Editorial Comment

The current symposium on Sexual Offenses and the Law which began in the Winter 1963 issue of *The Catholic Lawyer* has already attracted widespread comment and interest among the bench and bar both in this country and abroad. The most frequently made observation in letters to the Editor has been that the symposium provides a scholarly and thorough analysis of a topic which is too often either ill-treated or incompletely covered by literary or legal publications.

Building upon Dr. Cavanagh's basic article entitled "Sexual Anomalies," Father Oley Cutler continues the symposium in this issue with a definitive treatment of the related legal and moral considerations involving sex. He examines in depth the general problem area of sexual offenses and offers some extremely interesting and sound solutions. New York District Attorney John Casey will conclude the symposium with an article on the prosecution of sexual offenders which will appear in the next issue.

Illustrated on the immediately following pages are two attractive lithographs, titled "A Lawyer's Obligations" and "A Judge's Obligations." Prepared by the American Bar Association Committee on Public Relations, they are now available for national distribution. They represent the first effort on a national scale to acquaint the public with the basic tenets of legal and judicial ethics. Descriptive literature reproducing the Obligations in color and containing a special order form is available upon request to the American Bar Association, 1155 East 60th St., Chicago 37, Illinois.

A handwritten signature in black ink, reading "Edward Tegen". The signature is written in a cursive style with a long horizontal line extending to the right.

EDITOR

A JUDGE'S OBLIGATIONS

The Judicial Oath*

I do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially

discharge and perform all the duties incumbent upon me according to the best of my abilities and understanding, agreeable to the Constitution and laws of the United States. So help me God.

** This form of oath is prescribed for all judges of the United States Courts. Judicial oaths of state judges vary in form, but not in general principles.*

The Judge's Code of Ethics

Under the Canons of Judicial Ethics, it is the Judge's duty:

To support the Constitution of the United States, and the Constitution of the State whose laws he helps to administer; in so doing, to observe and apply fearlessly their fundamental limitations and guarantees.

To serve the public interest by promoting justice; to avoid, in official conduct, any impropriety or appearance of impropriety.

To administer his office with due regard to the integrity of the system of law itself, "remembering that he is not a depository of arbitrary power, but a judge under the sanction of law."

To be "temperate, attentive, patient and impartial," diligent in ascertaining facts and prompt in the performance of his judicial duties.

To be considerate of jurors and witnesses, and courteous to counsel and to other judges, cooperating with them to promote the more satisfactory administration of justice; so far as his power extends, to enforce courtesy and civility on the part of other Court personnel in their relations with all persons having business in the Court.

To be neither swayed by partisan demands, public clamor or considerations of personal popularity, nor apprehensive of unjust criticism.

To abstain from performing or taking part in any judicial act involving personal interest, or from using the power of his office or the influence of his name to promote the business interests of others.

To conduct proceedings in Court with fitting dignity and decorum, reflecting the importance and seriousness of the inquiry to ascertain the truth.

To utilize his opportunities to criticize and correct unprofessional conduct of attorneys and counselors including, if need be, referral of infractions to the proper disciplinary authorities.

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"In every particular, the judge's conduct should be above reproach . . . He should administer justice according to law, and deal with his appointments as a public trust; he should not allow other affairs or his private interests to interfere with the prompt and proper performance of his judicial duties; nor should he administer the office for the purpose of advancing his personal ambitions or increasing his popularity." CANON 34

A LAWYER'S OBLIGATIONS

The Oath of Admission to the Bar *

I do solemnly swear:

I will support the Constitution of the United States and the Constitution of my State;

I will maintain the respect due to Courts of Justice and judicial officers;

I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, nor any defense except such as I believe to be honestly defensible under the law of the land;

I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor and will never seek to mislead the Judge or jury by any artifice

or false statement of fact or law;

I will maintain the confidence and preserve inviolate the secrets of my client, and will accept no compensation in connection with his business except from him or with his knowledge and approval;

I will abstain from all offensive personality, and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged;

I will never reject, from any considerations personal to myself, the cause of the defenseless or oppressed, or delay any man's cause for lucre or malice.

So help me God.

* The American Bar Association commends this form of oath, but the form varies in some parts.

The Lawyer's Code of Ethics

The duties of the lawyer under the Canons of Professional Ethics include the following:

As an officer of the Court, the duty to aid in the administration of justice and to maintain toward the Court a respectful attitude not for the sake of the temporary incumbent of the judicial office, but for the maintenance of its supreme importance.

The duty to give candid counsel and undivided fidelity to his clients; to respect their confidences; to be candid and fair to his fellow lawyers; to avoid ill will and personalities, but to expose to proper tribunals unethical or dishonest conduct on the part of a member of the profession.

The duty to treat adverse witnesses and suits with fairness and due consideration.

The duty and right to undertake the defense of an accused person regardless of his personal opinion as to that person's guilt or innocence and the duty to do so when assigned by the Court. Otherwise, "innocent persons, victims only of suspicious circumstances, might be deprived of life and liberty without due process of law."

Having undertaken such defense, it is the lawyer's duty to accord the accused, in the judicial forum, the benefit of every remedy and defense authorized by law. This involves the correlative duty on the part of the public, not to impute to the

lawyer the reputation, views or character of his client, no matter how unpopular the cause.

The duties to acquire no interest adverse to, or in conflict with, that of his client; to report and account promptly for clients' monies or trust property.

The duty to strive "at all times to uphold the honor and to maintain the dignity of the profession" and to serve justice, steadfastly bearing in mind that the great trust of the lawyer does not permit, much less demand, violation of law in any manner of fraud or chicanery in the representation of a client.

The obligation to decline professional employment if he believes it is intended merely to harass or to injure the opposite party, or to work oppression or wrong; the duty to refrain from solicitation of professional employment by direct or indirect means, and to avoid the stirring up of litigation.

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"Above all, a lawyer will find his highest honor in a deserved reputation for fidelity to private trust and to public duty, as an honest man and as a patriotic and loyal citizen." *CANON 32*