

The inclusion of a separate division of social limitations on the disposition of property is a decided step forward. But the omission from it of the subject of restraints on alienation is open to criticism. It is true, that subject is not peculiar to the law of future interests, and its omission from that course may be justified. But to study spendthrift trusts adequately, one should have that material as a background. In an earlier chapter we find an extract from Gray's "Restraints on Alienation" in connection with a study of powers of termination. And the material on spendthrift trusts appears in the chapter on subjection to the satisfaction of claims of creditors.

The consideration of all types of future interests together is a decided step in advance of earlier casebooks. This is carried even farther than in Professor Powell's casebook on Future Interests. The writer wonders, however, just how it can be said that a power of appointment is necessarily a future interest, though it apparently is so classified in Chapter 13.

Teachers of Future Interests are likely to experience some surprise to find cases on the destructibility of contingent remainders in the last chapter. It is true, the subject is referred to at other points earlier in the course. Of course, the destructibility rule is now recognized in only a few jurisdictions. But, if the student is to grasp fully the historic distinction between contingent remainders and executory interests this subject might well be studied in its entirety before the end of the course.

A teacher of wills who is prone to magnify his own subjects will not accept this book without some criticism. Only 88 pages are devoted to the execution of wills, exclusive of questions of fraud, mistake and undue influence. But, after all, why should students devote weeks of time to the question of determining when a will is signed "at the end thereof" or the question of what constitutes a signing "in the presence of" witnesses or testator? The omission of materials on the administration of decedents' estates is more questionable. But one must stop somewhere, even in admitting materials to a course on trusts and estates; and there is plenty of precedent for omitting most of the material on administration of estates from the course in wills and administration.

The publishers are to be commended, not only for the attractive appearance of the pages and the freedom from typographical errors, but also for undertaking the publication of a book embodying a distinctly new departure in legal education.

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Cases and Other Authorities on the Legal Profession and Its Ethics. 2d edition. By George P. Costigan, Jr. St. Paul: West Publishing Co. 1933. Pp. xxiv, 768.

Professor Costigan's book provides extensive and varied sources for the study of ethical standards in the legal profession. There are excerpts from legal histories to show the development of the profession in England and the distinctions between barristers and solicitors. The greater part of the material consists of opinions by English and American courts in cases of discipline, advisory opinions of committees on professional ethics throughout the United States on questions of conduct submitted to them, and accounts of behavior of lawyers both right and wrong from the biographies or reminiscences of famous advocates and judges.

The author adheres to the same plan of classification adopted in the first edition. He begins with the history and organization of the profession in England and the United States, and the procedure of admission and discipline of lawyers. This comprises

about the first third of the book. Then follow successively the duty of lawyers to the courts, the ethics of legal employment with the disapproval of solicitation, the ethical duties of lawyers in criminal and civil cases, and the pecuniary relations of lawyers and clients.

To the reviewer it seems that a somewhat different proportion and sequence would be better. While perhaps the young lawyer should know in a general way the methods followed in disciplining offenders, the initial position and prominence of this subject seem unfortunate. The reviewer prefers to focus the attention of candidates for the bar upon the opportunities for affirmative service, and to show the way in which the upright lawyer can contribute to the smooth functioning of the social mechanism. It is difficult at the best to keep legal ethics from being largely negative, a catalogue of professional sins. Discussion at the outset of the types of conduct which have been held to require disbarment or discipline increases this danger. It is a little like trying to inculcate courtesy by a book of etiquette or citizenship by instruction in the criminal code.

Then, as suggested, the reviewer would favor a different order of arrangement. It seems natural before dealing with the lawyer's duty to the courts, to consider what comes first in time: the establishment of the relation between lawyer and client. Then would follow logically the duties to the client, and in that connection standards of compensation for services, and the duties of fairness to the adversary and opposing counsel involved in the discharge of the trust to the client. Finally, come the duties of the lawyer to the courts and broadly to the society of which he is a part.

The reviewer realizes the difficulty of finding materials to illustrate the positive virtues of lawyers. It is only instances of wrongdoing that find their way into the decided cases. To a degree any source material is necessarily negative. Furthermore by the liberal use of committee opinions relating to borderline questions of conduct, and even more by reference to the observations of legal philosophers, Professor Costigan has illuminated the spirit underlying the letter of codes of conduct. The comment here is intended not so much as a criticism of Professor Costigan's book as a suggestion of constructive imagination in the use of it.

The specific prohibitions of numerous unethical practices illustrated in the book, have unity only by relation to some central conception of a lawyer's duty, the nature of his function. What is it? It is by helping students to answer that question that the teacher of legal ethics can be of the greatest service. A right conception in which mind and conscience concur will insure right conduct. Without it knowledge of the canons may produce outward conformity with the conventions but no inward loyalty to justice.

The reviewer will not presume to say what is the unifying conception underlying legal ethics. Perhaps it is that a lawyer is a minister of justice and that all his acts should be controlled by that idea. It seems to the reviewer, however, that beside this, not in any sense as an alternative or incompatible with it, there may be considered the function of the lawyer in the social order. Civilization results from the co-operation of innumerable individuals. As industry and society become more complex and the division of labor proceeds ever apace, the number of contacts and relations between individuals increases almost infinitely. Thus the effectiveness of each individual is multiplied. But also each point of contact is an occasion of possible friction. The prevention and overcoming of this friction in personal relations is the work of the lawyer.

This idea supplies in the opinion of the reviewer a satisfactory and rather concrete

criterion in problems of professional conduct. Whatever makes for co-operation and the avoidance of disputes between individuals, and the just disposition of those disputes which are inevitable, is right; whatever obstructs this purpose and aggravates rather than minimizes misunderstanding is wrong. From this standpoint a lawyer in representing a client may not go to the point of injuring others. In drawing a contract it is his privilege to anticipate the probable contingencies and provide for them fairly in order to lay the basis for enduring association of the parties. Only a fair contract will last. As an advocate he is an instrument for presenting the considerations that may justly be urged in favor of his client in order that the decision may be an intelligent one. This is socially desirable. But if the advocate delays the disposition of the case and is guilty of deception and appeals to prejudice, he tends to pervert the operation of the courts. His conduct is anti-social and so reprehensible. This test can be applied in all the situations which confront lawyers. He who has a social conscience and follows it will not go wrong. By nothing else than a social conscience can a lawyer justify his place in the world. Without it he is a parasite and deserves to be banished.

Professor Costigan's book furnishes ample data for fruitful discussion of the lawyer's place in society and the right and wrong ways to discharge his obligations. It is a convenience to a teacher to have widely scattered sources brought together and laid down ready at his hand. But these sources need to be supplemented by the independent and thoughtful reaction of teacher and students, and above all by a search for the principles that underlie rules of conduct. In legal ethics as in other fields, it is true that, "The letter killeth, but the spirit giveth life."

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