

PROBLEMS IN LEGAL ETHICS

Fifth Edition

Mortimer D. Schwartz
Richard C. Wydick
Rex R. Perschbacher

American Casebook Series®



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Preface

This book is intended for use in law school courses that teach the fundamentals of legal ethics. The book is to be used in conjunction with the current edition of West's *Professional Responsibility Standards, Rules & Statutes* (John Dzienkowski, ed.). Either the full or the abridged edition of that book will suffice.

Chapter One of this book contains a set of readings on moral philosophy. The object is to help students see, at the outset, the connection between “legal ethics” and plain “ethics” or moral philosophy. The readings include parts of John Stuart Mill’s essay on utilitarianism, a discussion of the golden rule, and parts of Immanuel Kant’s discussion of the categorical imperative. We have been pleasantly surprised to find that law students generally welcome these readings as a refreshing change from their usual fare. Teachers who prefer to dive directly into the substance of legal ethics can begin with Chapter Two, either omitting Chapter One or assigning it as background reading.

The Fifth Edition includes the following features:

- *The Problem Method:* Each chapter begins with a set of problems for discussion in the classroom. Some of the problems are drawn from decided cases, ethics opinions, and the writings of scholars in the field. Others are drawn from our own experience in teaching and law practice and from discussions we have had with judges and practicing lawyers. We have attempted to provide realistic problems—the kind that arise with disturbing frequency in the daily practice of law.
- *Background Readings:* For each major topic, we have included background reading material that illustrates the variety of sources to which a lawyer or judge can turn when seeking answers to ethics questions. The materials include ethics rules, judicial opinions, ethics committee opinions, and excerpts from articles and books written by judges, lawyers, and law teachers.
- *Supplemental Readings:* In each chapter, we have suggested supplemental readings from *The Law of Lawyering* by Geoffrey Hazard and William Hodes, from *Modern Legal Ethics* by Charles Wolfram, and from the American Law Institute’s *Restatement (Third) of the Law Governing Lawyers* (2000).
- *Descriptive Text:* Some chapters include text in which we attempt to pack a lot of information into a few pages. Examples are Chapter Two, which includes a description of the organized bar and its functions; Chapter Four, which includes a history of lawyer advertising and solicitation; and Chapter Six, which includes a summary of the law of legal malpractice.



• *Multiple Choice Questions:* At the end of each chapter, except the first, we have included some multiple choice questions. The Appendix at the back of the book gives our proposed answers and the reasoning behind them. Some of the questions review material that is covered elsewhere in the chapter, and others cover points that are not otherwise mentioned in the book.

We wish to thank our friend and colleague, Mortimer Schwartz, who retired from full-time law teaching in 1991. His contributions to the first and second editions endure in this edition, and we are grateful for his continuing wise guidance and generous spirit.

We also wish to thank Scott Harkless for the excellent research assistance he has provided in preparing this Fifth Edition.

RICHARD C. WYDICK
REX R. PERSCHBACHER

Davis, California
November, 2000

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