

Our advice was to share two main courses, to have no entrée, to have a strawberry cognac soufflé between us and then to sample the mountain cheeses of the Pyrénées.

We chose firstly a "Noix de St. Jacques en fine croûte persillée". Wonderfully fresh large scallops in tissue paper thin pastry with fresh parsley in alternate layers of the pastry were served with finely sliced endive, tomato and fresh basil and were light and superb. The house white was a Chassagne Montrachet!

Next a Grabure Bernaise "d'après la recette du Bicentenaire". This was a peasant style white bean stew of the l'Adour region with preserved goose, ham, saucisse de maison, tomato, onion and garlic cooked long and with fresh spinach and green peas added later so as to be just cooked. The fat had been skimmed or sieved off in the process before the addition of the greens and the greasiness often associated with such peasant style food was completely absent.

Wonderful crunchy fresh bread was enhanced by the juices of the Grabure.

The soufflé was just perfect.

After a dignified pause, slivers of six regional cheeses and fresh bread were served, including a mountain goat's and a sheep's cheese, a wonderful blue and a Munster cheddar.

Too much; unreal; or whatever the right superlative is: "magnifique" perhaps.

□ John Coombs

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Immoral Advices

One issue on which professional conduct committees are frequently asked to give rulings is whether it is permissible to advise a client who wishes to know how he can lawfully dispose of his assets in the face of impending bankruptcy. Often the advice is sought in circumstances where the client believes that a person may have a claim against him and is concerned to organise his affairs so that there are no assets available for the putative creditor.

The correct position in relation to such advices is that the ethical rule is co-extensive with the legal rule. Counsel may not advise a person as to the manner in which he may successfully break the law without being found out. Similarly, counsel may not advise a person to do anything which is illegal. On the other hand, there is nothing wrong with counsel giving correct advice in relation to the law even if that advice facilitates an immoral purpose.

The main difficulty in this area has been a degree of ignorance by members of the Bar as to the true legal position of a person disposing of assets. The first matter of which members should be aware is that a conveyance of assets may be a fraudulent conveyance (ie. a conveyance with intention to defraud creditors) even though at the time one has no creditors in existence. It has been held, for example, that a person embarking upon speculative futures trading who deliberately divests himself of assets so that he will be unable to meet his liabilities if his trading fails has made such a disposition. See Ex parte Russell; re Butterworth (1882) 19 Ch. D. 588. Cf. Perpetual Executors Limited v. Wright (1917) 23 CLR 185 at 193, 198 where it was held that the transaction was not void if it ultimately turned out that no creditors came into existence.

The second matter of which members advising in this area should be aware is that Section 266 of the Bankruptcy Act provides a criminal sanction for a fraudulent conveyance in certain circumstances. The invalidating provision (which has no time limit) is Section 121 of the Bankruptcy Act.

Thirdly, there are new provisions in Division 4A of Part IV of the Bankruptcy Act which deal with the situation where a debtor works for a family company or family trust so that the whole of his income goes into that company or trust rather than to him.

So long as the member correctly advises his or her client as to the law, there is no ethical problem in advising a client what he or she can and cannot do in the face of impending bankruptcy. It must be remembered, of course, that the "cab rank" rule does not apply to legal advice so that a member is not bound to advise on this area if he or she does not feel comfortable doing so. □