University of Louisville

ThinkIR: The University of Louisville's Institutional Repository

Electronic Theses and Dissertations

5-1922

A study in professional ethics.

Lewis William Dockery
University of Louisville

Follow this and additional works at: <https://ir.library.louisville.edu/etd>

Recommended Citation

Dockery, Lewis William, "A study in professional ethics." (1922). *Electronic Theses and Dissertations*. Paper 361.
<https://doi.org/10.18297/etd/361>

This Doctoral Dissertation is brought to you for free and open access by ThinkIR: The University of Louisville's Institutional Repository. It has been accepted for inclusion in Electronic Theses and Dissertations by an authorized administrator of ThinkIR: The University of Louisville's Institutional Repository. This title appears here courtesy of the author, who has retained all other copyrights. For more information, please contact thinkir@louisville.edu.

UNIVERSITY OF LOUISVILLE

* * A STUDY IN PROFESSIONAL ETHICS * *

A Dissertation
Submitted to the Faculty
Of the Graduate School of Arts and Sciences
In Partial Fulfillment of the
Requirements for the Degree
of Master of Arts

Department of Philosophy

By

Lewis W. Dockery

1922

A STUDY IN PROFESSIONAL ETHICS

. TO
MY MOTHER
WHO TAUGHT ME TO LOVE
THAT WHICH IS
GOOD

PREFATORY NOTE

It is the wish of the author that the reader begin with chapter one and read each chapter as it comes. Unless this is done the reader may miss my point of view.

If, however, a member of a profession desires to read only that part of the dissertation which refers most specifically to his profession he may read chapters one, two, the chapter on the ethics of his profession, and chapter seven, in the order in which I have named them. In no case should chapters one, two, and seven be omitted.

LEWIS W. DOCKERY

LOUISVILLE, KY.

MAY 8, 1922

A STUDY IN PROFESSIONAL ETHICS

TABLE OF CONTENTS

	Page
CHAPTER I. INTRODUCTION.....	1
CHAPTER II. PLEASURABLE ACTIVITY.....	28
CHAPTER III. MEDICAL ETHICS.....	40
CHAPTER IV. LEGAL ETHICS.....	83
CHAPTER V. PEDAGOGICAL ETHICS.....	112
CHAPTER VI. MINISTERIAL ETHICS.....	139
CHAPTER VII. CONCLUSION.....	165
APPENDIX.....	174
BIBLIOGRAPHY.....	209
INDEX.....	213

CHAPTER I.

INTRODUCTION

CHAPTER I.

INTRODUCTION

DEFINITIONS AND DISTINCTIONS

Professional ethics does not differ in its essential nature from general ethics; both are concerned with problems of human conduct. The difference between the two is a difference of scope but not of nature. The scope of general ethics is as broad as the purposive acts of rational persons, while the scope of professional ethics is limited to the purposive acts of lawyers, physicians, teachers, clergymen, and other professional persons. The former includes all normal persons irrespective of their vocations; the latter includes only persons who are in professional life. Professional ethics takes the field of general ethics for granted; that is, it is assumed that professional men (using the term "men" in the generic sense) should live according to the principles of ethics in general. The problems of professional ethics are those problems that are peculiar to the professions. For example, medical ethics deals with the problems of conduct that arise in the professional experiences of the physician. Legal ethics deals with the problems of conduct that arise in the professional life of the

lawyer. Professional ethics may be thought of as general ethics applied to the life and work of professional men.

When we say that professional ethics takes general ethics for granted we do not mean that all professional men would accept as their common basis the same theory of ethical principles. For example, of two lawyers one might be a hedonist and the other a rationalist; the former would claim that the end to be sought is pleasure for its own sake, say, for instance, bodily pleasure; but the latter would claim that the end to be sought is wisdom at the sacrifice of bodily pleasure if necessary. In order to presuppose general ethics in both cases it is not necessary that both should presuppose the same theory. The former lawyer would take for granted the general theories of hedonism and seek to apply them to the practice of law; the rationalistic lawyer would take for granted the general theories of rationalism and seek to apply them to the practice of law. Again, when we say that professional ethics presupposes general ethics we do not mean that we shall not criticise certain phases of the various systems of general ethics. If we are to take general ethics for a basis of professional ethics, what system of general ethics shall we take? What point of view shall we adopt in the discussion of the subject of professional ethics?

By what standard shall we judge whether an act is right or wrong, good or bad, if done by a professional man? Before we formulate a statement on this point it will be well to notice some of the fundamental problems of ethics in general.

One of these problems is that of ascertaining whether ethics shall take into account the relationship that exists between volition and the deed, or deeds, that result from volition. As an example of volition let us imagine that Mr. Smith has a will, or disposition, to feed hungry persons. As an illustration of a deed that results from volition let us imagine that Mr. Smith feeds a hungry man, Mr. Jones. Which of these illustrations represents the good in Mr. Smith. We have two answers: "Formalism" answers that the "good will" represents the good; while "teleology" answers that both the "good will" and the act of feeding Mr. Jones must be taken into account in defining the good.

Formalism maintains that the absolute good does not extend beyond the "good will." "There is nothing in the world," says Immanuel Kant, "which can be termed absolutely and altogether good, a good will alone excepted....A good will is esteemed to be so, not by the effects which it produces, nor by its fitness for accomplishing any given end, but by its mere good volition, i.e., it is good in itself." ("Metaphysic of Ethics," pages 3,4.)

Teleology, on the other hand, maintains that both the "good will" and the "good acts" resulting from the volition are elements in the ultimate definition of the good. There are, indeed, several forms of teleology but these will be considered later. Let us turn now to the theory of formalism and point out some of the reasons why it cannot be accepted as an adequate basis for professional ethics.

THE INADEQUACY OF FORMALISM

In the first place, formalism is impracticable. Professional men are those who do not merely "will" things but also "do" things. The physician is concerned with acts of fighting germs and bringing health to the human body. The teacher is concerned with acts of teaching processes and of learning processes. So are other professional men concerned with actual deeds and not merely with a "good will." A lawyer cannot satisfy his client nor win his case by merely telling his client that he hopes, or "wills," that he will be kept out of jail. A lawyer must put his "good will" into action and plead for his client. The lawyer as well as other professional persons needs a theory that is applicable to men of action and not merely to men of "good intentions." Formalism, therefore, is impracticable.

Again, formalism is individualistic. It limits the "good" to the individual person

and does not take into account the necessary social relations of men. According to formalism it matters not how the consequences of an act of the will affect others so long as one has a "good intention." A physician intends to write "quinine" on a prescription but by mistake writes "strychnine" and the death of his patient results. But that makes no difference so long as the physician "intended" to cure his patient, says the formalist. Formalism may be a good theory of ethics for Robinson Crusoe, but it is not a good one for men who live with others. Formalism does not ask: "What is good for mankind?" It asks: "What is good in the individual?" But professional persons must have a standard of conduct that guides them in their social relations. They must, therefore, look to some other theory of ethics than that of formalism.

Furthermore, formalism is indefinite. It tells a man to have a "good will" but it does not tell him what a good will is. Kant is quoted as saying: "So act that you can will that the principle of your action will be universal." But suppose a thief steals a watch and wishes that all other persons would do likewise. Would his "will that watch-stealing were universal" be good? The only way to decide is to appeal to the acts themselves. But acts lie outside the field of formalism. The theory itself does not say what a good will is; it only says that the will is good.

Formalism is like "Royce's Loyalty," -- it does not tell us to what one should be loyal.

Finally, formalism is based upon unwarranted assumptions. It assumes that "the concepts good and bad, taken in their moral sense, designate an absolute quality of the will, without any regard to the effects of acts or modes of conduct; that this quality cannot be further explained, but must be accepted as a fact."

(Paulsen, "A System of Ethics," page 222.)

But why accept it "as a fact?" One might as well assume that the good lies in "the modes of conduct" and ask that this be accepted as a fact.

Another unwarranted assumption is the conclusion drawn from the theological statement of the doctrine. The statement is as follows: "God is the source of an absolute, unconditional law, which is good because He wills it." But even though it should be granted that this statement is true with reference to God (which I doubt if modern theologians would be willing to grant) it would not, therefore, follow that the statement is true with reference to man. But formalism assumes this, and in so doing is guilty of the fallacy of "non sequitur." Granted that God's will is good just because He "wills," it does not follow that man's will is good just because he "wills." God's will is perfect, man's imperfect. That the human will is imperfect is evident when

considered from the view point of modern psychology. The will, according to Pillsbury, "is a term to designate the whole man active....not a word to designate any....distinct entity." ("The Fundamentals of Psychology," page 525.) The will is not a "faculty" of the mind separated from the other functions of the brain; it is related to, and largely dependent on, other processes of the brain, and in some measure on the processes of the body as a whole. If the will is an activity of the "whole man," it is clear that it could be perfect only on condition that the "whole man" should be perfect. That the "whole man" is not perfect is too obvious for argument.

Formalism is therefore inadequate as a theory of ethics.

TELEOLOGY

Our first problem was to decide whether the ultimate good is to be found in a "good will" merely, or in both the "good will" and the "good acts" resulting from such a will. The former theory, that of formalism, we rejected as inadequate. We recognize that formalism emphasizes an important phase of the good, but it does not go far enough; it includes only a part of the good; it puts all the emphasis on the "good will" and does not include "good acts."

Granting, therefore, that the "good will"

is an element--but only an element--in the good, we look beyond this subjective element and take into account an objective element also.

Referring to our illustration of Mr. Smith and Mr. Jones, we grant that the "good will" of Mr. Smith to feed hungry persons is a good thing, but we do not stop with the "good will", as if that were all that is necessary; we see Mr. Smith feeding Mr. Jones and judge that to be a "good act." But suppose Mr. Smith would have passed on, and only said: "Mr. Jones, I am sorry for you," but would not have given food to Mr. Jones? We would judge that to be a "bad act." But why do we say one is "a good act," and the other is "a bad act?" Paulsen says that "acts are called good when they tend to preserve and promote human welfare; bad, when they tend to disturb and destroy it." ("A System of Ethics," page 222.) Such a method of judging conduct is "teleological," and the theory that maintains that this is the true method is termed "teleology." (From the Greek word, "TELOS" meaning "end", "purpose.")

SOME GOOD POINTS CONCERNING TELEOLOGY

We shall suggest some of the reasons why it is necessary to consider "acts" and not merely a "good will" in judging whether or not the conduct of a person is good.

1. The Influence of Acts upon the Will.

It is necessary to take into account "acts" because of their influence upon the will. The will is no longer thought of as something separated from the rest of the self; it is moulded and influenced by the environment as truly as the other aspects of mental life. We are not drawing the distinction between "free will, and determinism," because that is not necessary in order to prove our point; the "freewillist," admits this to be true. Professor James says: "When a particular movement having once occurred in a random, reflex, or involuntary way, has left an image of itself in the memory, then the movement can be desired again, proposed as an end, and deliberately willed. But it is impossible to see how it could be willed before. A supply of ideas of various movements that are possible left in the memory by experiences of their involuntary performance is thus the first prerequisite of the voluntary life." (Principles of Psychology," Vol.II, 487-488.)

The point I wish to stress, that the "will" is dependent upon "movements;" "acts." The involuntary experience must precede the voluntary. The will is dependent for its existence upon acts.

If we press the matter a step further we may see how "acts" themselves influence the will after the will has been formed. This may be in either one of two directions; the will

may be strengthened, or weakened through acts. It is a well known fact that a child may be required to do certain things until the child comes to enjoy doing that which he at first "willed" not to do; the child comes to "will" that which he formerly "willed" against. This a case showing how the will may be reverted. A weak will may be strengthened through repeated "acts." A man with a "weak will" to attend the meetings of his lodge may attend so regularly that later on he has a "strong will" to attend. Or, on the other hand, a "strong will" may be weakened through one's neglect to repeat certain "acts." A man may have a "strong will" to arise by the alarm clock, but if he refuses to arise for a few consecutive mornings he will soon have a "weak will" to get up.

It seems clear, therefore, that acts have a reflex influence upon the will.

2. The Acts of One Person as Influences upon Other Persons. It is necessary to take into account "acts" because of the influence they have on others. What one does influences others. What one does makes the lives of others better or worse as the case may be. Acts are a part of the environment of others. Acts influence every life they touch. A "good will" is no environment except as it expresses itself through acts. All conduct is motor. A man may lie motionless and

have a "good will" but no one would ever know whether the will was good or bad, or whether there was a will at all, unless it is expressed in acts. But when it is expressed it becomes conduct. It may be expressed through the act of speaking, gestures, and the like. But until it is expressed it has no influence on others. It is the expressions of the will--the acts themselves, that influence others.

A good illustration of this is found in the experiences of the Apostle Paul. (We do not give this illustration as a Bible proof of our point, but merely as an illustration.) Paul is confronted with the question of whether he will eat the food that has been used in pagan sacrifices. So far as his conscience is concerned it is good to eat the meat that has been offered to idols. To him such food is as good as it would have been if it had not been offered to idols. So far as his "will" is concerned it is good to eat such food. But he considers the influence which the act of eating such meat may have on others. He knows that there are those who think that such a practice is wrong, and that if they should eat such food, or if they should see others eating such food, they would be offended. In view of this danger Paul says: "If food makes my brother to stumble, I will eat no flesh for ever more." (First Corinthians, 8:13.) This is an example of

an act being good in itself, but being evil in certain cases. The will may be good and the act evil. The effect of the act on others is what makes it good or bad. Teleology alone can decide questions of this nature.

3. The Influence of Acts on Moral Progress. It is necessary to take into account "acts" because of their influence upon moral progress. History shows that not mere "volition" but "volitional conduct" has guided the human race, in the elevation of its ethical standards, in the development of civilization in general, and in all the changes good or bad through which the human race has gone. It was not the mere "will" of Miltiades that saved Greece from the attack of the Persians; it was his "will in action" that won the battle of Marathon, (490 B.C.). It was not the mere "will" of Charles Martel, but his "will in action" that checked the invasions of the Mohamedans at the battle of Tours, (732 A.D.). It was "will in action" that gave Kellermann success at the battle of Valmy against the duke of Brunswick, (1792 A.D.). "This engagement was a landmark in the world's history." (David Hannay, "The French Revolution.") It is interesting to note that this battle occurred only seven years after Kant wrote his "Grundlegung zur Metaphysic der Sitten," ("Fundamental Principles of the Metaphysic of Morals"). Other events in the

world's history point to the same conclusion.

"Acts," and not "mere will," are the things that shape the destiny of the world. May we not say that the only way we have of judging whether a will is good is by the acts it produces? This, of course, is not an absolute standard of judging whether the will is good because of the fact that it sometimes happens that a thing which is subjectively right turns out to be objectively wrong, as will be shown in the next paragraph.

4. The Relation between "Will" and "Conduct." It is necessary to take into account "acts" because of the inconsistency that sometimes occurs between the "will" and the "resultant acts." It sometimes happens that one possesses what is called a "good will" but does not do "good deeds." Saul of Tarsus thought that he was doing right when he was persecuting the Christians, but after his conversion to Christianity he admitted that he had done wrong. (Acts, 26.) Again it sometimes happens that an evil intent results in good acts. A thief may enter the house of a man and have a "will" to take the life of the man of the house. The thief shoots to kill but misses the man. In the meantime the report of the gun alarms a next-door neighbor who calls a policeman and the thief is arrested. The act of firing the gun was the result of an intent to kill but it turned out to be a good act in one respect; it caused the arrest of the thief.

Obviously, therefore, one must weigh the value of "acts" as they influence the changes that they cause in the progress of human life. This is not to say that the "will" is not important. The "will" is important, as will be shown at the proper time, but it is not sufficient as a standard to measure the quality of ethical conduct. As a rule a "good will" produces good deeds. The only point I make is that "acts" must be taken into account in measuring the quality of conduct. Conduct must be considered teleologically.

HEDONISM AND PERFECTIONISM

We come now to a second problem. If we say that the will is not sufficient but that acts must be considered, the question arises as to what kind of acts are good and what kind of acts are bad. By what standard may we judge whether an act is good or bad? We have two answers. One answer is, "Pleasure is the standard." According to this standard an act is good when it produces or tends to produce pleasure. The other answer is, "The full and harmonious development of human capacities is the standard by which one may judge whether or not an act is good or bad." According to this standard an act is good when it produces or tends to produce a state of self-realization.

The former answer is the answer of "hedonism," the latter the answer of those who hold to the doctrine of "self-realization." "The doctrine of self-realization" has been designated by many terms as, for examples, "energism," "perfectionism," and others. For convenience we follow professor Everett and designate this theory by the term "perfectionism." We adopt the term because it seems to be more inclusive than "energism," and is more felicitous than the term "the doctrine of self-realization." To the question: "By what standard may we judge whether an act is good or bad?" we have the answer of the hedonist, and that of the perfectionist. Both are teleological.

ADVOCATES OF HEDONISM

Let us take a brief glance at the leading advocates of hedonism. Of course, there are many forms of hedonism. Some say that the pleasure of the individual person is the ultimate good, while others say that it is the pleasure of the group that is the ultimate good. We shall not attempt to define all the various phases of hedonism. We wish only to mention some of the great advocates of the doctrine.

1. Aristippus (c.435-356 B.C.).--

According to Aristippus and his followers (the Cyrenaiæ) pleasure is the chief good.

According to Bakewell, the hedonists say "that there are two emotions of mind, pleasure and pain; that the one, namely pleasure, is a moderate emotion; the other, namely pain, a rough one....The Cyrenaics think that there is a distinction between the chief good and a life of happiness, for that the chief good is a particular pleasure, but that happiness is a state consisting of a number of particular pleasures." ("A Source Book in Ancient Philosophy," page 143.)

2. Epicurus (341-270 B.C.).-- According to Epicurus "we have need of pleasure when we grieve, because pleasure is not present; but when we do not grieve, then we have no need of pleasure; and on this account, we affirm, that pleasure is the beginning and end of living happily; for we have recognized this as the first good, being connate with us....On this account we do not choose every pleasure, but at times we pass over many pleasures when any difficulty is likely to ensue from them; and we think many pains better than pleasures, when a greater pleasure follows them, if we endure the pain for a time." (Diogenes Laertius, "Lives of the Philosophers," pages 470-471.)

3. John Stuart Mill (1806-1873 A.D.).-- We mention Mill because he lays so much stress on pleasure in his theory of utilitarianism. Mill thinks that "there is in reality nothing desired except happiness. Whatever is desired otherwise

than as a means to some end beyond itself, and ultimately to happiness, is desired as itself a part of happiness, and is not desired for itself until it has become so. Those who desire virtue for its own sake, desire it either because the consciousness of it is a pleasure, or because the consciousness of being without it is a pain, or for both reasons united." ("Utilitarianism," page 58.)

A good summary of the ethical teaching of Mill is made by professor Thilly. He says that according to Mill, "actions are right in proportion as they tend to promote happiness; wrong, as they tend to produce the reverse of happiness." ("Introduction to Ethics," pages 169-170.)

Among other advocates of hedonism are the following: Thomas Hobbes; John Locke; David Hume; William Paley; and Jeremy Bentham. The cardinal principle of the teaching of all these is that pleasure in some of its forms is the ultimate good. They subordinate everything to pleasure, or, as some term it, to happiness.

ADVOCATES OF PERFECTIONISM

We shall give a few names of those who hold to the theory of perfectionism in some of its forms. We shall give quotations from each one we mention so that we may represent the view of each one accurately.

1. Plato (427-345.B.C.).-- "On the subject of good and evil, there were his sentiments:

that the end was to become like God; and that virtue was sufficient of herself for happiness, but nevertheless required the advantages of the body as instruments to work with; such as health, strength, and integrity of the senses, and things of that kind; and also external advantages, such as riches, and noble birth, and glory. Still that the wise man would be not the less happy, even if destitute of these auxiliary circumstances." (Diogenes Laertius, "Lives of the Philosophers," page 140.) "Of things existing, some are bad, some are good, and some neither one thing nor the other. Of these, we call those things bad, which are invariably capable of doing injury, such as intemperance, folly, injustice, and things of that sort. And the opposites to these qualities are good. (Good is divided into four kinds. One the having virtue; another virtue itself; a third, useful food and exercise; and fourthly, we call skill in flute playing and acting, good.) But those things, which may at times be beneficial, and at times injurious, such as walking, sitting down, and eating; or which have absolutely no power in any case to benefit or injure any one; these are neither bad nor good. Of things existing then, there are some bad, and some good, and some of a neutral character, neither good nor bad." ("Diogenes Laertius, "Lives of the Philosophers," page 148.) In giving a summary of Plato's doctrine one should take into account his doctrine of Ideas. "According to Plato, the ideas

of forms are not mere thoughts in the minds of men or even in the mind of God; he conceives them as existing in and for themselves, they have the character of substantiality, they are substances.... the original, external transcendent archetypes of things, existing prior to things and apart from them." Frank Thilly, "History of Philosophy," page 63.) "Plato sought to lay the foundations of morality in his doctrine of ideas. He was not content until he had, as he believed, linked the temporal to the eternal order, and found the source of man's moral life at the very heart of reality." Everett, "Moral Values," page 80.) He sought to find the ultimate good in something perfect. He believed that happiness had some place in the good but, that knowledge was superior to, and better than, happiness. Neither pleasure nor knowledge, nor both combined are the ultimate good. "The objects of knowledge not only derive from the good the gift of being known, but are further endowed by it with a real and essential existence; though the good, far from being identical with real existence, actually transcends it in dignity and power." (Bakewell, "A Source Book in Ancient Philosophy," page 198.)

2. Aristotle (384-322 B.C.).-- Professor Everett gives a good statement of Aristotle's view. "Man's true excellence, or virtue,....consists in the proper functioning of the soul. The soul,

however, displays itself in two spheres, a higher and a lower. The higher sphere is that of its reflective, speculative activity, its thinking and knowing in the interests of pure knowledge. The lower is that of the impulses and appetites in which practical activity is rooted." ("Moral Values," page 84.) "Virtue,....is a habit of choice, the characteristic of which lies in observing the mean relatively to the persons concerned, and which is guided by reason, i.e., by the judgment of the prudent man." ("Nicomachean Ethics," quoted by Bakewell, "A Source Book in Ancient Philosophy," page 258.) "The good (TO AGATHON) has well been defined," says Aristotle, "as 'that which all things aim at.' But there appears to be a kind of difference in ends; for some are energies; others again beyond these, certain works; but wherever there are certain ends besides the actions, there the works are naturally better than the energies....The chief good appears to be something perfect; so that if there is some one end which is alone perfect, that must be the very thing which we are in search of; but if there are many, it must be the most perfect of them. We call that completely perfect, which is always eligible for its own sake, and never on account of anything else." ("Nicomachean Ethics," pages 1,2,14.)

3. Friedrich Paulsen.-- A good representative

of the modern view of perfectionism is Friedrich Paulsen. He says that "the will does not aim at pleasure, but at an objective content of life, or, since life consists solely of action, at definite concrete activities....My view may....be characterized as teleological energism....Such modes of conduct and volitions are good as tend to realize the highest goal of the will, which may be called welfare. I mean by it the perfection of our being and the perfect exercise of life." ("A System of Ethics," page 223.)

4. J.S.Mackenzie.-- According to Mackenzie "the true self is what is perhaps best described as the rational self. It is the universe that we occupy in our moments of deepest wisdom and insight. To say fully what the content of this universe is, would no doubt be impossible. The content of the universe of rational insight is as wide as the universe of actual fact. To live completely in that universe would be to understand completely the world in which we live and our relations to it, and to act constantly in the light of that understanding. This we cannot hope to do. All that we can do is to endeavour to promote this understanding more and more in ourselves and others, and to act more and more in a way that is consistent with the promotion of this understanding. So to live is to be truly ourselves." ("Manual of Ethics," pages 251-252.)

A CRITICAL ESTIMATE OF HEDONISM AND OF PERFECTIONISM

As to hedonism we may say that there are some good points in this system. For example, there are no doubt certain forms of pleasure that are good. Take happiness out of the world and there would be regret. There is a pleasure in good health which is worth seeking. There is a pleasure in knowledge that is worth while. There is a pleasure in some forms of religion that is beneficial. These and other pleasures are good. On the other hand, there are certain forms of pleasure that are not good. Pleasures that tend to weaken the body, vitiate the mind, and to cause a person to lose his self-respect are unquestionably bad. The system as a whole, therefore, we reject.

As to perfectionism we may say that there are also good points in this system. Without doubt every human being should strive toward some goal that is higher than himself. But what is this goal? Paulsen says that it is "welfare." But when we ask him what he means by that term he answers by putting the goal farther from us; he says: "By welfare I mean the perfection of our being and the perfect exercise of life." ("A System of Ethics," page 223.) Others say that "perfection" means a life under the control of reason. But the term "reason" is not interpreted by all to mean the same thing.

A thing may seem reasonable to one person but unreasonable to another person. Human life is full of examples of this. To one person it is reasonable to give up the society of the world and to retire to a quiet place in the desert and there live and die in "a mystical fellowship with God." To another person it is unreasonable to do this; it is, rather, reasonable to live in the social group and to help make the group better. Does "perfection" mean a perfect physical development for the sake of bodily health, or does it mean giving up present bodily values for the sake of spiritual, or mental, perfection in some future heaven? In short, what is reasonable? The answers are as numerous as individuals. The term is not clear. Perfectionism, therefore, is vague and indefinite. It does not tell us what that far distant goal of perfection is. Thus we are left in the wilderness, unable to choose that road which leads to the vague distant goal.

A SCALE OF VALUES NECESSARY

If we reject hedonism and perfectionism as standards inadequate for professional ethics, what standard may we adopt? This problem will be discussed in the next chapter. We pause here only to point out the necessity of a scale of values in judging whether a certain act if done by a person is good or bad. We shall then seek to show how this is necessary in the vocation of all professional persons.

Professional persons are concerned with "the concrete." They may, in their reflective moments, entertain themselves with thoughts on ultimate standards and wonder about them, but in their actual practice they must concern themselves with standards that are proximate. The physician in his reflective moments may wonder what the ultimate reason for good health is, but in his practical life he is busy in his efforts to restore, or to maintain health, among his patients. Likewise, the lawyer may sometimes wonder what the ultimate reason for justice is, but in actual practice he is concerned with systems for establishing and dispensing justice. So the teacher also is concerned with proximate standards. The teacher as such is not concerned primarily with the problem of whether knowledge is the ultimate good, but the teacher is concerned especially with the problems of how to increase knowledge in the minds of those whom he teaches. The true preacher is not an exception. He may reflect on the "glories of the life eternal in the heavens," but in actual practice he is concerned with the problems of how to bring heaven among men on earth. Professional persons have to deal with proximate matters rather than with ultimate ones. They do not indeed shut themselves up in a circle bounded by the needs of the moment, nor by the needs of the present generation. Their standards may be permanent but not necessarily

ultimate. Their standards are results of experience of the human race. Their standards are teleological but the ends are concrete rather than abstract.

What are these ends? According to E.C. Hayes, "Sociology and Ethics," there are five chief ends, or values. We give them as they are stated in his book. They are stated as follows.--

1. "The first class of good human experiences is physical and is represented by the comfort of warmth and ease, the exhilaration of muscular movement, and the gratification of bodily appetites." (Page 129.)

2. "Second may be named the esthetic pleasures. The experience of beauty has an immense range of variety. At one time its chief character is tenderness, at another it is exaltation, yet it is one distinct class of experiences which we know in our consciousness, and the presence of which we evince to others, and which we with conscious purpose evoke in others." (Page 132.)

3. "The third great class of values which life contains is made up of satisfactions that accompany the active exercise of the intellectual powers, the satisfaction of interest, the joy of comprehension, the zest of mental application rewarded by perceptions and insights." (Page 135.)

4. "Fourth among life's values are the social experiences, experiences of a peculiar character and flavor, which are conditioned by our thoughts of our associates." (Page 136.)

5. "The fifth form of value realized in experience is that which accompanies one's thought of himself. This we may call the personal satisfaction, for it is the sense on one's own personality. It has its roots in social experience....We find it hard or impossible to think well of ourselves when all others think ill of us." (Page 138.)

Professor Everett ("Moral Values," page 182,) classifies these values under eight general heads, as follows.--

1. Economic Values.
2. Bodily Values.
3. Values of Recreation.
4. Values of Association.
5. Character Values.
6. Aesthetic Values.
7. Intellectual Values.
8. Religious Values.

Men may differ as to what the chief values are but it is clear that all values are not of equal worth. Some are transient others permanent; some are inner others external in their nature; economic values are extrinsic others intrinsic, in their nature. Some are, in the nature of the case, worth more than certain others. Hence we must recognize a scale of values. This does not mean that one value is always worth more than a certain other

value. At one time a bodily value might be of more worth than a religious value, but at another time a religious value is worth more than a bodily value.

But why do we say that one value is of greater worth than another value? This question cannot be answered in a few words. We shall therefore take up the answer to the question in the next chapter, in which we shall attempt to show that the one standard by which all values must be measured is a standard including certain elements of formalism, hedonism, and perfectionism, a standard which we might for convenience term pleasurable activity.

CHAPTER II.

PLEASURABLE ACTIVITY

CHAPTER II.

PLEASURABLE ACTIVITY

In giving our review of the various theories of ethics we found that no one theory was complete. We found, however, good points in all of them. We shall attempt now to state a theory of ethics which is broad enough to include the good points of all other systems and is concrete enough to be applicable to the work of the members of the professions.

THE GOOD WILL

In our theory we include the "good will." The "good will" is our starting point. We wish to make a distinction between the "good" will, and the "good will." The latter may mean merely a good intention, but the former is intended to mean a will that is good--one that is in perfect accord with the divine will of God. We shall not attempt to tell how an "evil" will may be transformed into a "good" will; that is a question pertaining to theology. We may say however in passing that true religion and the good will are closely related. We believe that Charlotte Aikens is right when she says that "the subject of ethics in some respects resembles a tree, with roots deep down and with branches

out in several directions. If we do not notice the roots of the tree we may expect to develop branches and fruit and have them flourish without roots. The roots of the tree we may designate as religion which some writer has said is 'the relation which an individual fixes between his soul and his God.'" ("Ethics of Nursing," page 49.)

We shall not attempt to set forth the means of acquiring a "good" will; we assume that a "good" will is necessary to a good life. The will in one sense is the determining or directing power of the mind. If the will be evil the conduct must be evil; if the will is good the conduct must be good. Of course we take into account the fact that exceptions may occur in which an evil will may produce conduct that may turn out to be good conduct, or vice versa, but, as a general rule, the type of will will determine the type of conduct.

PLEASURE

In our theory we include certain pleasures. We do not agree that pleasure in the ultimate good toward which all our energies should be directed; we only say that a certain kind of pleasure in life is desirable and good.

SELF-DEVELOPMENT

In our theory we include self-development as an element in the good life. We do not mean a self-development that is void of pleasure

but a self-development, or an activity, that is pleasurable.

In a few words we may state our theory, as follows.-- The highest good is a good will expressing itself in the highest possible pleasurable activity. By the term "good will" we do not mean a mere "good intention;" we mean a will that is good; one that is inclined to virtue and is opposed to evil. What the good is, toward which the good will should be bent, will be mentioned at the proper time. By the term "pleasurable" we mean the desire for an experience to continue. It is the reverse of displeasure which is the desire for an experience to discontinue. By the term "activity" we mean the normal, or healthful, development and exercise of the entire emotional, intellectual, and volitional aspects of the self. The highest objective good then is the highest possible form of pleasurable activity, not for any one person nor for any one age, but for all persons for all time. As related to actual life it is the best or highest possible form of pleasurable activity for the greatest possible number. To restate our definition of the "good will" in the light of our theory we may say that a "good will" is one that is inclined egoistically and altruistically toward the highest and most permanent pleasurable activity. Thus there is both a subjective element and an objective element in the ultimate good; a good

will, or a good person, is the subjective element, and, good conduct is the objective element.

OUR THEORY AS RELATED TO LIFE

We shall point out some of the relations which our theory bears to the various phases of human life.

1. The pleasurable activity theory is closely related to religion. Time and space forbid an elaborate discussion of how all the good points of the various religions of the human race may be included under the term pleasurable activity. We merely mention the fact that there is no good thing in any religion that is not included in our theory. We do not mean that the ethics of any one religion except that of Christianity is as high as the ethical standard we set up, we mean that our standard is broad enough to include the broken fragments of ethical standards as they may be found in any religion. Pleasurable activity includes the "good thought, the good health, and the good character," elements of the religion of Zoroaster; it includes the "right views, right aspirations, right speech, and the right rapture, of Buddhism; it includes the practical, "well-thought-out principles" of Confucianism; it includes the ethical standards of the prophets of Judaism; and the good points, if there be any, in Mohammedanism.

If we consider Christianity, the

religion that incorporates the highest ethical principles, we find that the theory of pleasurable activity is in perfect accord with Christianity. Nothing is clearer in that religion than the necessity for a good will; "Peace on earth, and good will," rings from the hills of Bethlehem to the dark valleys of all the earth. Indeed the history of Christianity has its dark pages but these are the result of perversions of the teachings of Jesus Christ. It is also clear that in the religion which Jesus gave to mankind is a place for happiness; in fact, the happiness in Christianity is not for this present life only but also for an eternal life beyond physical death. Again we find in Christianity the principle of self-development. In the first place the self must be made into a true self; man must be redeemed from sin and purified before his Maker. In the second place Christianity means growth. Jesus is not a builder of pyramids; he comes "to give life"--life that grows and multiplies through the ages; true Christianity is the application of the principles of Jesus to the ever changing needs of man. Finally, in this religion we find a scale of values. If sacrifice is required it is always in order that a higher value may be obtained. The observance of the Sabbath is important, but in certain cases other things are more important; the temple is

sacred but human life is more sacred; clothing is necessary but "life is more than raiment." All these elements illustrate a scale of values. In conclusion, therefore, the elements included in the theory of pleasurable activity are the same elements that are included in the ethical teachings of Jesus of Nazareth.

2. The Individual and Society.-- We hold that the unit of pleasurable activity is the individual, and, that the group of individuals forms a permanent basis for the elements included in this theory. The good (pleasurable activity) of a group of individuals takes precedence over the good of any single individual--provided, of course, that each individual of the group is of equal importance to the good of the group as a whole. It might sometimes happen that the life of one person, as for example, that of a general of an army, is worth more than the lives of a group of private soldiers. In a perfect state of society there would be no conflict between the good of the individual and that of the group, but our society is not perfect.

We find conflicts between the happiness of the individual and that of the group; between the self-development of the individual and that of the group; between the life of the individual and that of the group. In such a conflict we hold that it is better to sacrifice certain individuals, if such sacrifice should be necessary to the best interest of the group, that through lack

of such sacrifice to allow the group to perish. A case in point is found in the experiences of war. To the true soldier the happiness and the self-development of all the persons of his country are worth more than his individual life. He sacrifices his personal happiness for the general and the permanent happiness of his fellow men.

3. Different, and Conflicting, Personal Values in the Light of Our Theory.-- In the life of any person there are more possible values than there are actual values. A person must necessarily choose some things and reject others. For example, two pleasurable experiences may be before him: (1) Interesting study of the subject of medicine; and, (2) a fishing trip. He cannot do both. He must sacrifice one. Which? There are cases when it would be better to remain in his study. For example, suppose he is making a study of certain tissues through which he must cut in a certain surgical operation that he is to perform the following day. If he goes on the fishing trip he must neglect his study and must therefore go to the operation unprepared to do his best work. In this case he should sacrifice the pleasure of the fishing trip. But there are cases when it would be better to give up his study for an afternoon and go on a fishing trip. For example, suppose he is tired and needs rest. His work is not pressing. He needs relaxation and recreation. Fishing furnish-

es the pleasurable activity that he needs. In this latter case he should sacrifice study for recreation. It is a question concerning the achievement of the greater value.

Likewise the pleasure of possessing knowledge may involve conflicts. In such a conflict one should choose that knowledge which is of most worth, or that which will tend to produce the greatest possible pleasurable activity for the greatest possible number. It is obvious that knowledge of the fact that malaria is carried from one person to another by a certain species of the mosquito is worth more than a knowledge of the number of leaves there are on a certain tree in a swamp in Mississippi.

In like manner, some activities are of more worth than others. It is worth more to society if a man uses his time in making valuable inventions, as for example, the work of Edison, than, it is for a man to spend his life gathering a variety of match boxes, as does one of the characters in "Le Crime de Sylvestre Bonnard," by Anatole France.

4. Reason in the Light of our Theory.--

On page 22 of this dissertation we said that the term "reason" is not clear to all. It seems well therefore to define our meaning of the term as we here use it. We mean by the term simply the processes of the mind by which experiences are

analyzed, classified, organized, and utilized. It is the power to compare judgments and decide whether or not they agree. For illustration suppose a person has learned by experience that certain fancy foods although pleasing to the taste if eaten are always followed by a headache. Through processes of analysis the person judges that some foods are not good for his best health. He places such foods in a class. He organizes his experience and uses it. We say he uses "reason" if he refuses to eat the appetizing thing that would cause a headache.

Reason is of great value in telling us what is of most value. It tells us what is the best method of securing the greatest, the most permanent, and the most productive values. It helps us to look into "the far distant future, and discern there all the consequences of the act we are about to do." (James Seth, "Ethical Principles," page 63.) Through processes of reasoning we discard certain negative values. Reason helps us to compare values. Through reason one value is compared with another one and is either chosen or rejected as the individual deems wise. Mere feeling is not sufficient. A person may feel like walking a mile when to do so would mean a month in bed. A person may feel like it is worse to take medicine than it is to be sick but the former is often better. Reason helps us to solve problems. The highest civilization implies the highest ethical standards. Reason and ethical standards advance together.

5. Conscience.-- In any attempt to analyze the nature of conscience it should always be remembered that any analysis must be more or less superficial. Conscience is not a separate entity existing apart from the self; it is related to the entire emotional, intellectual, and volitional aspects of the self. It is not some mysterious infallible guide placed in the life of man apart from experience. "No man is born with a conscience any more than he is born with a language. Though every normal person is born with capacity to acquire both a language and a conscience." (E.C.Hayes, "Sociology and Ethics," page 185.) Conscience is a development. It takes the form of a self-judgment,—pleasant if the idea of moral law is fulfilled, unpleasant if the idea be violated. It presupposes a moral law. It does not examine into the validity of the law—that is the work of reason; it does not determine whether the law is good or evil, perfect or imperfect; conscience only says, "do right." It does not tell one what the right is.

History shows that men of a "clear conscience" have done deeds which in themselves were negative values. Byron has been quoted as saying that "a quiet conscience makes one so serene! Christians have burnt each other, quite persuaded that all the apostles would have done as they did." In this example we see that the

conscience is not always a safe guide. It is also conceivable that a child may be taught that it is wrong to do things which in reality are not wrong.

We hold that in the processes of human development the conscience will become more and more influenced by true moral standards, and will therefore become more and more nearly perfect. In the light of our theory the conscience may be developed and used in the choice of the greater values but only when there is perfect reason can there be a perfect conscience.

In conclusion we may say that the theory of pleasurable activity is in perfect accord with true religion and with the highest possible personal development of the human individual. It is teleological in the sense that it looks ahead and considers the outcome of future experiences as well as the result of present experiences. It takes into account the welfare of the individual and that of the group. It recognizes the necessity for growth toward perfection; for increase in virtue, and in self-development. It goes farther than perfectionism in that it points out what kind of self is to be developed. It takes root in true religion and develops into a self broad and vital enough to include the moral needs of all humanity.

With this theory before us let us now turn to the subject of professional ethics and seek to apply its standards to the specific problems in the lives of professional men.

For two reasons we shall limit our discussion to four professions, namely, --the practice of medicine, the practice of law, teaching, and preaching.

The first reason is, that the four professions named are representative of all other professions. For example, under medical ethics we may include surgical ethics, dental ethics, pharmaceutical ethics, and the like.

The second reason why we limit our discussion to these four professions is, that these professions relate themselves to the most vital needs of human life. Medical ethics relates to the physical needs of man, legal ethics to the social needs, pedagogical ethics to the intellectual needs, and ministerial ethics to the spiritual needs. Of course no one of these professions is limited to any one value. Each one includes a number of values. I have made it emphatic that each profession is concerned primarily with some outstanding value which is most nearly related to it.

The order in which each of these will be discussed is as follows: (1) medical ethics, (2) legal ethics, (3) pedagogical ethics, and (4) ministerial ethics.

CHAPTER III.

MEDICAL ETHICS

CHAPTER III.

MEDICAL ETHICS

We may well preface our discussion on medical ethics with a brief history of the code of medical ethics.

HIPPOCRATIC OATH

The basis of medical ethics is the "Hippocratic Oath." This oath has been subscribed to for nearly twenty-five centuries. It was written by Hippocrates, a Greek physician, (about 460 B.C.). Hippocrates is recognized as the founder of medicine. He not only practiced the art of medicine but also wrote a code of medical ethics. This code, or oath, is as follows.-- "I swear by Apollo, the physician, and Aesculapius, and Health and All Heal and all the Gods and Goddesses, that according to my ability and judgment, I will keep this oath and this stipulation; to reckon him who taught me this art equally dear to me as my parents; to share my substance with him and relieve his necessities if required; to look upon his offspring on the same footing as my own brothers and to teach them this art if they shall wish to learn it, without fee or stipulation, and

that by precept, lecture, and every other mode of instruction, I will impart a knowledge of the Art to my own sons and those of my teachers, and do disciples bound by a stipulation and oath, according to the law of medicine but to none others; I will follow the system of regimen which according to my ability and judgment, I consider for the benefit of my patients, and abstaining from whatever is deleterious and mischievous, I will give no deadly medicine to any one if asked nor suggest any such counsel, but with purity and holiness I will pass my life and practice my art. Into whatever houses I enter I will go into them for the benefit of the sick, and will abstain from every voluntary act of mischief and corruption, and further from the seduction of females or males, of freemen and slaves. Whatever in connection with my professional practice or not, I see or hear, in the life of men, which ought not be spoken of abroad, I will not divulge as reckoning that all such should be kept secret. While I continue to keep this oath unviolated, may it be granted to me to enjoy life and practice of the Art respected by all men in all times. But should I trespass and violate this oath may the reverse be my lot." (Quoted by Dr. Weaver in "Medicine as a Profession," pp. 164f.)

HISTORY OF THE PRESENT CODE OF MEDICAL ETHICS

The earliest code I know of in English was written by Dr. Thomas Percival, an English physician and philosopher (1803). This code, however, was not written for the public, nor for physicians, in general; it was written as private advice to his son who was about to enter the medical profession. This code, or this advice, however, became known to a great number of physicians who used it as a guide in their practice.

In 1834 this code of Dr. Percival, after careful revision, was adopted by the New York Medical Society of the United States of America.

The state and medical societies of New York discarded the code in 1883 and adopted a substitute which omitted more than half of the code of Dr. Percival as revised in 1834.

The American Medical Association abolished the code in 1903 and substituted a similar one under the name of the "Principles of Medical Ethics."

This "Principles of Medical Ethics" was revised in 1912, and remains the standard of medical practice until the present. It was adopted by the House of Delegates at Atlantic City, N.J., June 4, 1912.

ANALYSIS OF THE CODE

In the appendix we give the code of medical ethics as it stands today. Here we give the main points, or an analysis of the code, as follows.--

I. DUTIES OF PHYSICIANS TO THEIR PATIENTS.

1. Readiness to obey sick calls.
2. Sacredness of their calling, to be remembered.
3. Faithfulness in duties.
4. Secrecy of patient's ills.
5. Sufficient number of visits.
6. Not too many visits.
7. Never to act on mercenary motives.
8. Should not give gloomy forebodings.
9. Should inspire patients with confidence, courage and fortitude.
10. Should state the true nature of the case....
tell the truth. (Provided the patient is of sound mind, and is strong enough to receive it. The patient has a right to know the truth. It may be best told by a tactful friend.)
11. Should continue visits in incurable diseases.
12. May decline to attend patients when their self respect requires this step (e.g., when a patient refuses to comply with directions.)
13. Consultation in difficult or protracted cases.
14. Exercise a moral influence over patients.

II. DUTIES OF PATIENTS TO THE PHYSICIAN.

1. Should not over-work him.
2. Should select those in whom they have confidence.
3. Should confide in them freely.
4. Should not change physicians for light reasons.
5. Should consult them as early as possible, i.e., early in the history of the case.
6. Should be frank and truthful in telling of the malady.
7. Should obey the physician's injunctions.
8. Should never take medicine not prescribed.
9. Should not speak of disease to other physicians.
10. Should never send for others without consulting their attendant physicians.
11. If they wish to dismiss their physicians they should do so frankly and give reasons.
12. If possible they should notify the physicians of their maladies early in the morning.

III. DUTIES OF PHYSICIANS TO EACH OTHER AND TO THE PROFESSION AT LARGE.

1. To elevate the position of the profession.
2. To measure up to the standard in personal character.
3. Should not resort to public advertisements.

4. Must not hold a patent for any nostrum or any surgical instrument or appliance.

5. Should study new remedies, and new processes of preparing medicines.

6. Should enrich medical science.

7. Should do free work for each other, their wives, and children.

8. Should pay expenses of travel if another physician out of the city should be called.

9. Should not charge for helping other physicians when the latter are on vacations.

10. Cases involving fatigue and responsibility should allow the fees to go to the one attending such cases.

11. A good practitioner should not be excluded from fellowship merely because he lacks ability.

12. No test of orthodoxy should be made in consultations.

13. Strict punctuality in consultations should be observed.

14. The attending physician takes the responsibility of consultation, asks the first questions, gives his own opinion first, and delivers the decision to the patient.

15. No rivalry or jealousy should be indulged in.

16. Candor should be adhered to.

17. No ill-will toward other physicians should exist.

18. Liberal and fraternal thoughts of each

should be held.

19. Should not pry into the cases of other physicians.

20. In cases of emergency they should answer any calls.

21. A wealthy physician should not give free advice on that account.

22. Fees for midwifery should go to the physician attending.

23. All contention, when it occurs, should be speedily terminated.

24. Physicians of a locality should agree on a schedule of fees.

25. Should protect themselves against maligners.

IV. DUTIES OF THE PUBLIC TO PHYSICIANS.

1. To remunerate them for services.

2. To appreciate their work.

3. To encourage medical education.

V. DUTIES OF PHYSICIANS TO THE PUBLIC.

1. Should be vigilant for the welfare of the community.

2. Should bear a part in sustaining its institutions and burdens.

3. Should be ready to give counsel to the public, e.g., locations of certain buildings, drainage, etc.

4. Should be ready to enlighten the coroner's inquest, and courts of justice.

5. Should make post-mortem examinations.

The code of medical ethics is only an outline of rules. It does not pretend to set forth the ultimate ground of medical ethics. The code, or the "Principles of Medical Ethics," assumes that health is desirable but it does not attempt to say why health is a good thing. In the words of J. S. Mill, "The medical art is proved to be good, by its conducing to health; but how is it possible to prove that health is good?" ("Utilitarianism," page 6.)

VIEWS OF WRITERS ON MEDICAL ETHICS

It seems that no ultimate standard of conduct has a large place in the thinking of the average physician. It is nevertheless possible to deduce such a standard from the combination of moral elements found in the writings of physicians who have ventured to set forth ethical standards or rules of medical conduct, with moral elements found in the actual conduct in medical practice. If we turn to the literature on the subject of medical ethics we find confusion. Some writers on the subject suggest that the ultimate standard of medical ethics is utilitarianism, but when we study their works more closely we find that their use of the term is ambiguous. Other writers say that the "Golden Rule" is the ultimate standard.

Others say that we cannot go farther than the "health of the patient."

We shall now give one or two examples of the opinions of writers concerning the ultimate standard of the practice of medicine. According to Dr. D. W. Weaver, "the great principles upon which Medical Ethics are based are these: the great end and object of the physician's efforts should be 'the greatest good to the patient.' The rule of conduct of physician and patient, and of physicians toward each other should be the Golden Rule: 'As ye would that men should do to you, do ye also to them likewise.' The various articles of the code are only special applications of these great principles." ("Medicine as a Profession," page 165.)

Dr. W. G. A. Robertson seems to take a similar view. He says.-- "That branch of ethics which deals with a man's moral duty to the community or people generally, as well as to the lower animals, is known as UTILITARIANISM. This has often been stated as 'the chief end,' or 'supreme good' and means the greatest possible good to the greatest number of persons. From our point of view, and in actual practice, the whole scope of medicine in relation to the public health is based on this aspect of ethics." ("Medical Conduct and Practice," page 2.)

Dr. Austin Flint is of the same

opinion. He says.--"There can be no better rule than to pursue the course which will do the least harm or the most good to all concerned." ("Medical Ethics and Etiquette," page 14.)

The old question of what is the "good" comes back to us as we read the works of these writers. Both, Dr. Robertson and Dr. Flint, say that the greatest good is the "greatest good to the greatest number." Dr. Robertson frankly identifies this greatest good with utilitarianism. But what is meant by the "good," and by "utilitarianism?"

Both terms are ambiguous. The "good" may be thought of as "good will," "mysticism," "pleasure," or "perfection." The term "utilitarianism," may mean either "altruistic hedonism," or "teleological energism." That the term is thus ambiguous may be shown by the fact that different great writers on the subject of ethics use the term in different senses. One writer, Thilly, says that "Mill's utilitarianism is universalistic hedonism." ("Introduction to Ethics," page 126, note 2.) On the other hand, Paulsen thinks that the true meaning of the term connotes perfectionism rather than hedonism, and, that the term has been connected with hedonism through a misunderstanding of the term. In fact, the only reason that Paulsen does

not use the term "utilitarianism" rather than the term "energism" is that "it originated in Bentham's school; John Stuart Mill confesses....that he coined the term....It is....inseparably connected with hedonism; hence the critics who have had time for nothing but a superficial glance at the terminology employed in my ethics have insisted on confusing it with Bentham's system. In order to prevent the recurrence of this error, I have substituted for the term 'utilitarian' the term 'teleological!'" ("A System of Ethics," page 223.) Thilly in another work says that "Mill's Utilitarianism, like many other of his theories, vacillates between opposing views; in addition to the empirical association-psychology with its hedonism, egoism, and determinism, we find leanings towards intuitionism, perfectionism, altruism, and free will." ("Modern Philosophy," page 533.) It is obvious, therefore that the term "utilitarianism" is ambiguous.

Whatever the writers on medical ethics mean by the terms "utilitarian" and "good" I am certain that a study of their works as a whole, combined with a study of the conduct of physicians in general, will reveal that these writers do not mean to use these terms exclusively in a hedonistic sense.

THE PLACE OF PLEASURE IN MEDICAL ETHICS

Although pleasure as such is not primary, as I understand the aims of physicians, it is nevertheless true that pleasure does have a great place in the practice of medicine. One of the functions of physicians is to "relieve pain" and pain is usually accompanied by displeasure. Dr. D. W. Cathell says that the "end and aim of medical practice (is) to relieve, to cure and prevent death." ("The Physician Himself," page 225.) In another place he says.--"We have to do not only with sickness, but with the sick; not only with death, but the dying. It is, for several reasons, better never entirely to abandon a patient with consumption, cancer, etc., even though he be incurable, or in the last stages of a fatal malady; on the contrary, keep him on your list and visit him, at least occasionally, not only that you may give him all the comfort you can, by suggestions for the relief of pain and mental anguish, but that his sorrowing friends....may have....great consolation." (Ibid. 139f.)

Dr. A. H. Stevens is quoted as saying that the profession of medicine "is the link that unites Science and Philanthropy....Its aim is to add to the comfort and duration of

human life." ("Medical Ethics," by Flint, page 28.)

We quote still one other writer, Dr. W. G. A. Robertson.~"If your daily work is done as a task to be got over, and not as a pleasure, then you are doing a slave's work, and its value to yourself and to others will be equally worthless." ("Medical Conduct and Practice,"page 6.) He, speaking of the virtue of kindness, says that "kindliness of nature is....an attribute which not only affords pleasure to its possessor, but sheds happiness around." (Ibid. page 9.) If we take into consideration the actual practice of physicians we shall find there as well as in the writings of physicians that pleasure occupies a great place in the aims of men who practice the art of medicine.

Pleasure, therefore, both in theory and in practice occupies a place in medical ethics. But it is not the ultimate end.

GOOD WILL IN MEDICAL ETHICS

But pleasure is not the only element. We find that there is emphasis on the "good will." Among certain answers to a questionnaire which I mailed out to a number of physicians I find many answers like the following: "Strive to do the right thing, i.e., cultivate a will to do right."

Perhaps Charlotte Aikens emphasizes the importance of the "good will" as much, if

not more, than any other writer on the subject of medical ethics. She says that "principles do not change; these are based on the world-old law of GOOD-WILL." ("Studies in Ethics," page 18.) Again, "The training of the will until right habits are formed, and certain courses are taken, or things done unconsciously or with effort of will, is at the bottom of character building." (Ibid. page 30.) I do not classify this writer as a formalist, because her writings as a whole show that she is not a formalist. I merely give these quotations to show that the "good will" is recognized by physicians and by writers as having an important place in medical ethics.

SELF-DEVELOPMENT

There is still another element of the moral life which is emphasized in the practice of medicine. The element which I refer to is that of self-development, or perfection. The code of ethics contains the following sentence: "In no other profession should a higher standard of morality and greater purity of personal character be required." Dr. D. W. Cathell says.-- "Be careful...to note the great....advantage that refined people, with virtuous minds, pure thoughts, and courteous language, have, in every station of life, over the coarse and the vulgar; and in view thereof let your manner, conversation,

jokes,....be always chaste and pure....School yourself to avoid all and every impropriety of language and manner, and never allow yourself to become insensible to the demands of modesty and virtue. Chasten every thought, weigh well every word, and measure every phase of your deportment."("The Physician Himself," page 46.)

Some of the answers to the question, "What are some of the duties that a physician owes to himself?" (A question in my questionnaire), are examples of the fact that physicians recognize the importance of physical, mental, and spiritual self-development. One says, "A physician should do all that he can to secure power of resistance against the many diseases with which he comes into contact." Another says, "Keep up with the progress of medical science." Others say, "Be efficient," "Be truthful," "Be honest," "Be a Christian gentleman," "Develop the man inside." Many other examples could be given to show that personal and social development have a great place in the thinking of physicians and in the practice of medicine.

We have mentioned pleasure, good-will, and self-development, as some of the elements of importance in the theory and practice of medical ethics, but no one of these elements can be made the ultimate standard. What, then, is the one great principle by which all physicians should

govern themselves? Judging from the statements of physicians that I have read, or gained in conversations with physicians, I would say that utilitarianism, in the sense of universalistic hedonism, is not the logical outcome of the thinking and practice of most physicians. On the otherhand we see clearly that physicians take into account the "good will" and "self-development" as well as "pleasure." Physicians do not attempt to say what is the ultimate good; they are guided in their conduct, or should be guided, by a scale of values. They recognize that some things in life are more desirable than other things. Some things are bad, some good. Of the good things some are better than others.

Mention has been made in this paper (chapter two) of the importance of bodily values in the practice of medicine. It should not be thought, however, that the physician is concerned exclusively with bodily values; he is concerned also with other values. In fact one paragraph in the code of medical ethics is given to the statement of the importance on the part of the physician of developing character values. We quote part of the statement, as follows.-- "The intimate relations into which the physician is brought with his patient give him opportunity to exercise a powerful moral influence over him. This should always be exerted to turning

him from a dangerous or vicious life. The physician is sometimes called to assist in practices of questionable propriety, and even of a criminal character. Among these may be mentioned the pretence of disease, in order to evade services demanded by law, as jury or military duty; the concealment of organic disease or of morbid tendencies, in order to secure favorable rates of life insurance, or for deception of other kinds; and especially the procurement of abortion when not necessary to save the life of the mother: To all such propositions, the physician should present an inflexible opposition. It is his duty, in an authoritative, but friendly manner, to explain and urge the nature, illegality and guilt of the proposed action, and to use every effort to dissuade from it, and to strengthen the patient's virtue and sense of right." This quotation from one of the revisions of the code calls attention to the fact that a physician is concerned with other than bodily values. There are many values with which he is concerned. In fact there are so many that he is sometimes at a loss to know just what thing is of more value in certain situations. We may now turn our attention to some of these problems which involve a conflict of values.

PROFESSIONAL SECRECY

When we come to the question of secrecy on the part of the physician concerning his patient, or patients, we sometimes find a conflict between the interests of certain individuals and the interests of society.

In one section of the code is a paragraph to the effect that "the physician is bound to keep secret whatever he may either hear or observe, while in the discharge of his professional duties, respecting the private affairs of the patient or his family. And this obligation is not limited to the period during which the physician is in attendance on the patient. The patient should be made to feel that he has, in his physician, a friend who will guard his secrets with scrupulous honor and fidelity." In another section of the code, however, we find the following statement: "As good citizens, it is the duty of physicians to be vigilant for the welfare of the community." Here is a chance for conflict between personal values and social values.

Let us imagine an illustration of such a conflict. A man, who is infected with gonorrhoea, and, a woman, who is free from such infection (but is not aware that the man mentioned has venereal disease) have agreed to marry. The

man's physician suggests to him that the woman should know the fact. The man refuses to make the fact known. What is the physician's duty in the matter? If the physicians keep the fact a secret the man will accomplish his purpose finding pleasure for himself, but, his wife and his posterity, if there should be any, will suffer for sins they had no part in bring about. If the physician make the fact known, either to the woman or to someone who could better convey the fact to her, the man would be denied marriage but the woman's posterity by another would be free from this loathsome disease, and her own health would be retained.

Some states have laws relating to such cases. These laws recognize the importance of medical secrecy in cases of a purely medical nature but require a physician to make the facts concerning venereal disease known. Ohio, for example, recognizes that a physician should not, as a rule, betray certain secrets, "but a physician, knowing that one of the parties to a contemplated marriage has a venereal disease, and so informing the other party to such contemplated marriage, or the parent, brother, or guardian of such other party shall not be held to answer for betrayal of a professional secret, nor shall such physician be liable in damages for truthfully giving such information

to such other party, or parent, brother, or guardian of such other party." (Act April 26, 1915, Section 1275.) Another state, Vermont, has a law requiring physicians to report cases of gonorrhoea or syphilis to the state board of health. "A physician," says the law, "who knows or has reason to believe that a person whom he treats or prescribes for is infected with either gonorrhoea or syphilis, shall immediately report the name, address, age, and sex of such person to the secretary of the state board of health, for which report he shall receive the sum of 25 cents, to be paid by the state board of health. A physician who fails to make such report shall be fined not more than \$200.00.) (Act no.198, March 23, 1915.) These two illustrations serve to indicate the growing belief on the part of the law-makers that the interests of society should take precedence over those of certain individuals. A scale of values is recognized.

In states where there are no such laws the physician is left to his own feeling of duty. I believe that most physicians would agree that knowledge of venereal disease should be used to protect a group of persons from suffering, if such knowledge could be so used, even at the sacrifice of certain interests of certain individual persons.

I have the opinions of many physicians

on this subject. A statement from a prominent physician of Kentucky is representative, I believe, of the general sentiment of other physicians. The physician of whom I speak says that "secrecy should be maintained on the part of the physician relative to a disease of a delicate and private nature of his patient, provided it does not conflict with his duty in the protection of the public." This physician does not limit the good to the interest of any one patient; he takes into consideration the interests of the group. This is the opinion of writers on the subject. B. J. Hendrick says that "no one now believes, of course, that a physician should protect a criminal in his crime....the only question remaining is whether he should keep silent on information that is of a purely medical nature." (World's Work, 33:208.)

The matter is one easy to decide when the individual is a criminal, but, it is not so easy when the individual is not a criminal. We hold that the merely individual interests of any individual, criminal or no criminal, if those interests impede the development and the happiness of a group of individuals, should be terminated or readjusted in some way, so that there would be no such conflict. The interests of the group may be said to be, as a rule, of more value than the interests on any one person.

The reasons for this are obvious.

Only by guarding against disease, both communicable and hereditary, can the race reach its highest bodily and mental development; only by such precaution can the race attain to the highest and most abiding happiness. The human race cannot attain to its highest goal so long as it permits negative values to destroy the basis of its growth. If in the present stage of human development such action, as I advocate, interferes with the interests of certain individuals it will only be for the benefit, and to the interests, of the group. If individuals who would multiply negative values be required to make certain sacrifices they should not complain; if such individuals are personally responsible for being infected with communicable or hereditary diseases in their own bodies they should not complain if the group denies them certain pleasures. If they are not responsible for being so infected, then they may, through sacrifice, become praiseworthy examples to others who through sacrifice of personal pleasures make it possible for the human race to attain more and more nearly to that state of civilization that finds the highest possible happiness in all its activities. Here there would be no conflicts. But while there are conflicts the welfare of the greatest possible number must come first.

ADVERTISING

Physicians consider advertising as a thing which is ethically wrong. In the questionnaire which I sent out to physicians was a question as follows: "Why do physicians consider it unprofessional to advertise?" I have received various answers. One physician says that "a proven remedy, medical or mechanical, may produce an opposite effect upon some cases, and the treatment applicable in one case may be contradicted in another case of the same affection-- 'every case is a case unto itself; 'hence when a physician advertises to cure a disease (a cure is always implied in his advertisement) he does not recognize the foregoing contingencies, which may lead to a deception, thereby defrauding the public by obtaining money under false pretenses, which is incompatible with a good moral character." Another physician says that "it would tend to lower the profession to the standards of commercialism." Still another claims that "it would place physicians in a class with quacks."

Dr. Cathell explains that with quack-ing physicians the patient has not many safeguards; because their advertisements and puffs tell only half the story,--cures and successes,--and studiously omit the other half,--failures to cure and cases made worse,-- and, since strangers allured to physicians by them can neither compare

their skill, weigh their pretenses, nor gauge their honesty, all such resorts are deemed ethically wrong." ("The Physician Himself," page 104.)

The medical code, of course, condemns such practices as advertising on the part of physicians; "the physician should not resort to public advertisements, or private cards of hand-bills, inviting the attention of persons affected by particular disease, or publicly offering advice and medicine to the poor, gratis, or promising radical cures."

It should be remembered, however, that advertising is not synonymous with writing on questions pertaining to public health. Physicians often write articles for the newspaper. Such a thing is not considered as advertising even though it should bring the physician, who writes an article, into that relationship with the public that would increase his practice. Dr. R. C. Cabot says that "any doctor who writes to spread generally recognized truth about the public health and about the means of procuring and improving it, is now perfectly 'ethical' in the eyes of his professional brethren. He must not exploit in the public press his own discoveries nor recommend his own methods so that people shall come to him for help. But

whatever can be brought under the head of public health it is now ethical to expound when and whenever one can get a hearing." (Current Opinion, 61:186-187.)

The question arises as to whether the practice of not advertising on the part of physicians has more value for society than could be gained if physicians should advertise. Does the practice of refusing to advertise increase the value of physicians to society? I believe this question is correctly answered only in the affirmative. To advertise would tend to lower the prestige of the medical profession. It would mean that the ability to control and to eradicate disease would be more or less supplanted by the ability to write good advertisements; the physician who could write the best advertisement would not necessarily be the the best physician.

PATENTS

These fundamental reasons against advertising apply equally to a question closely related to the question of advertising. The problem which I have in mind may best be stated in the words of Dr. Hendrick. He says: "Why shouldn't a surgeon who invents a surgical instrument patent it and reap his inventor's profit? The rule says he must not, yet it does

not forbid him from copyrighting a book on surgery and taking an author's profit."(World's Work, 33:208.)

There is this difference between securing a patent and copyrighting a book; one, the former, tends to give to one physician too much control of the sale and use of a necessary surgical instrument, whereas the other, the copyrighting of a book, does not so limit the use of the knowledge, nor the dissemination of such knowledge, to the author of the book, from the fact that the knowledge or the theories contained in a book may be communicated without violating the copyright law.

PATENT MEDICINES

Concerning the problem of the physician's attitude toward patent medicines, we may say that in general physicians are against the use of patent medicines. One physician of Kentucky says that "patent medicines have no place in the regular physician's armamentarium. They are secret nostrums and therefore should not be used by a regular physician. Patent medicines are advertised and sold direct to the public. Advertising is an unprofessional act and therefore patent medicines should not be prescribed by a regular physician. Patent medicines, subjected to chemical analysis, dis-

close the fact that they do not contain remedies which produce the effects claimed by their exploiters; they are therefore fraudulent and should not be used."

Another physician sees altruism on the part of physicians in their refusing to prescribe patent medicines. He thinks that one who is altruistic will not patent a medicine and thereby limit its use. He says that "the patent medicine man puts out his nostrum and the first thing he begins to do is to commercialize his nostrum by getting a patent on it in Washington, D. C., by which act he prevents anyone from making it." Physicians do not patent surgical instruments nor medicines; they are altruistic--they use their skill for the benefit of mankind, nor for merely personal gain.

It is agreed by all regular physicians that a given drug will not have the same effect on every individual. Every case is a case unto itself. Physicians know the therapeutic action of drugs and therefore prescribe the drug, or the drugs, that will, according to their belief, have the desired effect. Only a physician who has studied the effects of a certain drug on a particular patient is able to prescribe properly for any patient. It is obvious that no patent medicine, no "cure all" remedy, nor any one drug or combination of drugs can cure all

diseases, nor the same disease in all persons.

Although I would admit that a limited amount of desirable effects may be obtained through the use of certain patent medicines, I believe that the attitude of regular physicians against patent medicines is not only justifiable but is also the only right attitude for them to take. Physicians are justified in condemning patent medicines because patent medicine men function against the usefulness of the medical profession. But physicians in condemning patent medicines are not merely fighting the patent medicine man; they are defending the interests of society against false methods of fighting disease; they are removing inadequate remedies, but, at the same time they are establishing adequate ones and methods of securing and of maintaining the health of the race.

In my opinion a state should not permit dangerous patent medicines to be advertised, nor sold in any way, whether through the mail or through the work of agents. If there are those which are beneficial let them be prescribed by regular physicians; if none of them are beneficial let them all be forbidden. State laws prohibit other evils, as for example, the liquor trusts from destroying the health of men with alcohol. It seems also that every state should prevent certain patent medicine

firms from destroying the health of men through patent medicines.

SHOULD A PHYSICIAN ALWAYS TELL THE TRUTH?

Should a physician tell his patient all the facts in all cases? To this question two answers have been given; one is in the affirmative, the other in the negative. On this question the doctors are divided. Before we go into the discussion of this subject we shall give opinions of physicians on both sides of the question.

Among those who think that there are cases in which a physician should not tell the patient the truth are, Dr. O. W. Holmes, and Dr. R. C. Cabot. Dr. Holmes says that "a single word of truth may kill a man as suddenly as a drop of prussic acid. In extreme cases a man may deal with truth as he does with food-- for the good of the patient." ("Modern Eloquence," Vol. 8, 677.) Dr. Cabot says "with regard to veracity, medical standards in general demand that the doctor shall never lie for his own benefit, but that in dealing with patients he shall be governed only by the patient's best interest....It is deemed right for him to save the patient rather than the truth--especially remembering (as he muddles accuracy with honesty) that the unpleasant truth which is suppressed may turn out to be no 'truth' at all." (Current

Opinion, 61:186.) Another physician says that by telling the full truth the physician might "rob the patient of what little hope he or she has." "Here," says one physician, "is a neurasthenic woman. If I tell her that she has incurable heart disease, she will collapse and fall to the floor. I have seen that very thing happen.... I am a humane man, and to ask me to deal frankly with her is to ask too much of human nature." (World's Work, 33:208, quoted by B. J. Hendrick.)

On the other hand there are those who believe that the truth should be told in all cases. "Tell the truth," (says one quoted by B. J. Hendrick, Ibid.) "whatever its immediate consequences on the individual patient. In the first place, there is no assurance that the truth will kill the patient or even exaggerate the malady; in actual practice it seldom does. Furthermore,....misrepresentation.... practically never deceives the patient. A reputation for lying is a bad thing for a great profession." One of the best physicians in Kentucky says: "Tell the patient the truth, because you are employed and paid by the patient for your knowledge of facts of his case; and our state requires the physician to inform the patient of the facts in some cases. The pa-

tient when acquainted with the facts generally will submit and adhere to the treatment more readily. In cases in which a doubt of recovery exists, facts should be made known to the patient, for the patient may have important questions and business to attend to, namely, making peace with God, advising his children and loved ones of how holdings are to be disposed of,--by will or otherwise. Exercise care and discretion and tact in making facts known to patient in extreme cases. I have never experienced any perceptible ill effects in the patient's condition, when apprised of the serious nature of his illness, if done in a tactful manner."

Thus we see that the physicians do not agree. This is a question which cannot be answered to the entire satisfaction of all. There are many interesting arguments on both sides. It is perhaps true that most writers on the subject of ethics have heretofore held to the view that it is better to deceive the patient in certain cases, especially when it is evident that certain deceptions are necessary to save the life of the patient. Of course the term "deception" is void of any connotation of sinister motives; it is not meant to injure but do good to the patient. I doubt, however, if deceiving the patient is for the patient's best interests. This statement requires some

discussion. I shall therefore go into the question in some detail.

It is my opinion that physicians will be able to be of good to society in proportion to the belief on the part of society that physicians tell the truth. It is because a patient has confidence in his physician that the physician is employed. Confidence on the part of the patient, according to many physicians with whom I have had interviews, is worth so much in the treatment of certain diseases that its value compares favorably with the value of the drug which the physician gives to the patient. If this confidence be destroyed, and it will be destroyed if society should learn that physicians cannot be relied on to tell the facts, then it is evident that the usefulness of physicians would be greatly decreased.

If it be objected that this policy might cause the death of the individual in extreme cases, it might be replied to, by pointing out the fact that if the patient loses confidence in physicians, the physician is in danger of losing his patient. It is reasonable to say that failure to tell the patient the truth might cause the death of a patient in some cases. The physician on the battle field finds a soldier who is wounded. The physician finds that a certain artery has been cut by a

bullet. The physician does not have enough material, nor sufficient instruments, to treat the wound properly, but does treat it in such a manner that it will be sufficient until the soldier can reach the field hospital if taken carefully in an ambulance. The physician deems it better to tell the patient that the wound is only external. The soldier enters the ambulance. On the way to the hospital a bomb falls in the road in front of the ambulance and makes such a pit in the road that the ambulance cannot pass. The wounded soldier, feeling strong, gets out and helps the driver repair the road. But in his over-exertion the increased blood pressure breaks the material with which the artery was tied and the soldier bleeds to death. If he had known the facts he would have remained quiet, and doubtless he would have lived. Thus it seems reasonable to say that failure to tell the truth, or rather that deceiving the patient, might be the cause of his death.

In the last analysis, however, it is not a question merely as to whether a truth, or an untruth, may benefit a particular patient as it is a question as to whether the physician should maintain that high degree of confidence on the part of society which alone will make it possible for him to be of the

of the greatest benefit to humanity. Furthermore, a physician cannot be his best if he gives way to a habit of misrepresenting the facts. Such a thing has a tendency to weaken his own character. Even though he should be conscious of a good intention to save the patient, he must also be conscious of the fact that he did not tell the truth, and such a fact as the latter cannot but make it easier for him to lower his ethical standards.

It is encouraging to note that under modern conditions truth-telling on the part of physicians is much easier than it was under former conditions. Modern methods of diagnosis are more certain than they were in other days. There was a time when the physician himself did not know the facts as he knows them today. Today physicians do know more, especially in surgery, than former physicians had the opportunity of knowing. This has a tendency to make the physician tell the facts rather than try to cover his ignorance by deceiving the patient.

Another condition in modern life makes it easier for the physician to tell the truth. People in general have been informed concerning many facts which were not known to the public formerly. A hundred years ago a patient would have dismissed his physician if the physician should have advised, or demanded, that the window be opened and the patient given

a good supply of fresh air. Today the public recognizes the need of fresh air, especially in the treatment of certain diseases, and a physician usually has no trouble in getting the window kept open. Thus we conclude that as civilization advances the information on the part of the patient will demand more and more that the story of the physician conform to the facts.

In view of the fact that it is extremely difficult to prove that telling a patient an untruth would save his life; considering the possibility of the prestige of the physician being lost or weakened by the practice of misrepresenting the facts; taking into account the fact that modern conditions require that the truth be told; these facts, combined with the arguments of those who believe in telling the truth in all cases, seem to make it clear that the physician should tell the patient all the facts in all cases, if such facts are asked for by the patient, or if conditions are such as to require that the physician tell the truth so far as he can know what the truth is.

EXPERIMENTS ON MAN

We now pass to the consideration of the question of experiments on man. To the question, "should experiments ever be performed on

man?" one physician says: "Never; experiment has no place in the practice of medicine." Another physician, however, says.--"Yes, medicine is not an exact science. The methods of medicine are scientific. Man is a legitimate subject of the application of scientific methods in medicine. Experiment is a scientific method, and, therefore, should be made on man. Again, all knowledge of medicine is acquired by experiment (there is very little accomplished in medicine by theorizing). There are some diseases that affect the lower animals that do not affect man; therefore, it is necessary to experiment on man in some diseases." Still another physician says that the term "experiment" is a misnomer. It seems to me that the term is not clear. In order to get the matter clearly before us I shall give an example of what I mean by the term "experiment."

The example I give is taken from "The Memoirs of a Physician," by Vikenty Veressayev. The author says.-- "I will now occupy myself with a question....which deals with gross and entirely conscious disregard for that consideration which is due to the human being....I shall restrict myself to the venereal disease....Venereal complaints are the exclusive lot of man, and not a single one of them can be transmitted to the lower animals (it has been possible to infect monkeys with syphilis). Owing to this,

many questions which, in other branches of medicine, find their answer in experiments on animals, can, in venerology, only be decided through human inoculation, and venerologists have not hesitated to take the plunge: crime stains every step made by their science....The specific micro-organism of gonorrhoea was discovered by Neisser in 1879.....Unfortunately, not a single animal, as we already know, is liable to gonorrhoea. Either the discovery had to remain doubtful, or else it was necessary to inoculate man. For himself, Neisser chose the first alternative. His followers were not so nicely conscientious. The first to inoculate man with gonococcus was Dr. Max Bockhart....Bockhart inoculated a patient suffering from creeping paralysis in its last stages with a pure culture of gonococcus: a few months previously the patient had lost his sense of feeling and his death was awaited very shortly....The inoculation proved successful, ...Ten days after inoculation the patient died of a paralytic fit. Autopsy showed acute gonorrhoeic inflammation of the urethra and bladder, with incipient kidney mortification, and a large number of abscesses in the left kidney; numerous gonococci were found in the pus taken from these abscesses." Pages 332-335.)

This is what we mean by an "experiment" on man. How can we show that such a thing is right? We assume the statements of the physician performing the experiment to be true. Granting, therefore, that it is true that the patient was in the last stages of creeping paralysis and insensible to pain; that such inoculation may be made only on man; granting these things, it seems that such an experiment is a good thing in view of the fact that through such experiments medical science is developed to the degree in which physicians can be of the greatest possible service to humanity. Without such knowledge, which is gained only through such experimentation, physicians could not have developed their present skill in the treatment and in the prevention of this and other like diseases.

We admit that in this case there was a hastening of the death of one who might have lived a while longer. But even so, who can tell the advantages this and other similar experiments have been, and will continue to be, to mankind? We would not consent for a moment to such a practice if done out of mere curiosity. But if done in such a way as to cause no serious loss to the individual and to secure such great advantages for the race it seems that such an experiment is justifiable. If it be objected that such an experiment demands too much from

certain individuals, it may be replied that it is not asking more of them than the nation asks of individuals in time of war. If individuals in war are required to give their lives for the good of the nation, then it is not wrong to ask certain individuals to give a short space of their lives to save thousands.

BIRTH CONTROL

The last problem of medical ethics we shall mention is the question of birth control. This also is a subject on which there has been, and there still is, much debate. During the past decade the papers have given much space to the discussion of this question. A typical example of views against the practice of controlling the birth rate may be seen in the Courier Journal, December 18, 1921. "Stop your ears to the Pagan philosophy," says the writer, "keep its literature from your homes as you would an abomination. Children troop down from heaven because God wills it. He alone has the right to stay their coming. He blesses at will some homes with many, others with few or none at all. They come in the one way ordained by His wisdom....To take life after its inception is a horrible crime, but to prevent human life that the Creator is about to bring into being is satanic. In the first instance the body is

killed, while the soul lives on; in the latter not only a body but an immortal soul is denied existence in time and in eternity."

On the other hand there are those who believe that wise birth control is better. There are, of course, various views; some are conservative, others are extremely radical. I should say that the greater number of physicians advocate the prevention of conception in certain cases--cases we shall mention later.

A summary of facts gathered from my interviews and my questionnaires are in favor of birth control in the sense of the prevention of conception in the following cases:-- (1) In cases when certain diseases would doubtless be transmitted from parent to offspring; (2) in cases where a deformity of the mother's parturient canal coupled with some physical malady which renders a surgical operation hazardous, thereby jeopardizing the life of both the mother and the child; (3) in cases where disease would entail invalidism upon the progeny, and in syphilis--a disease transmitted from parent to child, causing suffering and invalidism to the innocent that have neither control nor protection against an abominable, intractable and destructive disease,-- and in other diseases of like character.

We see in these thinkers just quoted

two classes, as follows:-- (1) Those who do not believe in birth control in any sense; and, (2) those who do believe in birth control in a limited sense. This latter class may be subdivided into two classes: (1) those who maintain that birth control should be limited to those who are incapable of giving birth to children, or those who are incapable of giving birth to children free from hereditary disease; and, (2) those who maintain that birth control should be exercised by a greater number of persons than those merely incapable of giving birth to children, or children free from hereditary disease, e. g., those who maintain that parents in poverty should limit the number of children to that number whom they can nourish and educate. Of course, the method of birth control in any case should be limited to wise methods of prevention of conception. Few, if any writers, advocate the practice of abortion.

We turn now to the consideration of the arguments of those who condemn birth control in all cases. They say that "children troop down from heaven because God wills it." But we raise the question, what sort of children does God will? Is it His will that children incapable of thought should fill our institutions for the insane? Is it His will that thousands of diseased bodies shall be brought into life-long misery? Not if my conception of God is a true one.

They say that "God alone has the right to stay their coming." But we ask may He not use human wisdom as methods of staying their coming? We agree that "to take life after its inception is a horrible crime," except in certain cases, e. g., when such a thing is necessary to save the life of the mother; but we cannot accept the dogmatic statement that "to prevent human life.... is satanic" in every case, because to prevent life in certain cases not only saves the life of the mother, but prevents the conception and the birth of degenerates who also would propagate their kind. This is especially true as long as we have women who are capable of bearing strong and healthy children.

This problem is one that concerns physicians as it concerns no other class of professional men. Should physicians disseminate information concerning birth control? This is a question which cannot be answered by a "yes" or a "no." There are cases, no doubt, where such information would be misused. There are other cases where such information would be a blessing. We do not assume the responsibility of suggesting how physicians may best impart information of this nature to their patients; we only make the point that the best interests of the human race demand that progeny be as free as possible from negative values which must result if concep-

tion is not prevented in certain cases.

SUMMARY

In this chapter we have made a review of medical ethics. We have found that there are problems arising in the practice of medicine which cannot be solved except by a scale of values. If values conflict the value which is less desirable must be sacrificed in favor of the value which is more desirable. If the interests of certain individuals conflict with the interests of the group then the interests of these individuals should give place to the interests of the group. Those values which are inner, permanent, and productive must come first.

CHAPTER IV.

LEGAL ETHICS

CHAPTER IV.

LEGAL ETHICS.

"A lawyer's dealings should be just and fair;
Honesty shines with great advantage there."
--Cowper.

It is not an easy task to give an estimate of the influence of morality on the practice of law. The difficulty in writing a history of legal ethics arises out of the fact that not until recently has there been any written code of legal ethics.

ROMAN JURISTS

The Roman jurists evidently had some sort of moral standard guiding them in their professional conduct, but their standard was one of morality in general and not one that dealt with the peculiar problems of their profession. In a general way lawyers through the centuries have pointed to the ten commandments as the foundation of all law but the lawyers did not, until a comparatively recent date, formulate a code of ethics for the practice of law.

HOFFMAN'S RESOLUTIONS

The earliest code of legal ethics, so far as I have been able to determine, was

formulated by David Hoffman (1784-1854), who, for many years, was a member of the Baltimore Bar. The ethical principles which he formulated were in the form of "Fifty Resolutions" which he urged his pupils to adopt as an ethical standard for their professional deportment.

SHARSWOOD

While lawyers recognize that the "Fifty Resolutions" are valuable as rules of professional conduct as applied to the legal profession they do not regard Hoffman as the greatest authority on legal proprieties. They give this honor to George Sharswood who was professor of law in the University of Pennsylvania from 1850 to 1868. In 1854 Sharswood published a treatise on "Professional Ethics." Though the title seems to include other professions the book is limited to the discussion of the subject of legal ethics. This book has gone through at least four editions. Sharswood discusses the subject under two general heads, as follows:-- (1) Those duties which the lawyer owes to the public or commonwealth; and, (2) those duties which are due from him to the court, his professional brethren, and to his client.

THE CANONS OF ETHICS

But the discussions on the subject of legal ethics had little influence on the

members of the bar in general. As the population of the United States increased, especially in the large cities like Chicago, and New York, there arose a number of shysters and pettifoggers. As a result of this number of unworthy members of the bar those lawyers who had high moral ideals began a reformation which resulted in the adoption of a code of legal ethics. This code was framed by a committee of fourteen lawyers and was adopted by the American Bar Association on August 27, 1908.

OATH OF ADMISSION TO THE BAR

Before we give an analysis of the code of legal ethics (known as the "Canons of Ethics") we may say that the general principles of legal ethics are set forth in the oath of admission to the bar in the state of Washington, (and in about sixteen other states). This oath is as follows.--

"I DO SOLEMNLY SWEAR:

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

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 debatable 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 consideration personal to myself the cause of the defenseless or oppressed, or delay any man's cause for lucre or malice. SO HELP ME GOD." (I received the copy of this oath from Eugene Ballard, Attorney at Law, First National Bank Building, Montgomery, Alabama.)

ANALYSIS OF CANONS

The main points in the canons are as follows.--

1. The Duty of the Lawyer to the Courts.--

(1) To maintain toward the Courts a respect-

ful attitude.

(2) To protect the Judge from unjust criticism and clamor.

2. The Selection of Judges.--

(1) Only those who have judicial fitness should be selected.

(2) The aspiration of lawyers for judicial position should be governed by an impartial estimate of their ability to add honor to the office.

3. Attempts to Exert Personal Influence on the Court.--

(1) A lawyer should not show undue hospitality to the Judge.

(2) He should not communicate privately with the Judge.

(3) He should not resort to any device to gain the special favor of the Judge.

4. When Counsel for an Indigent Prisoner.--

(1) A lawyer assigned as counsel for an indigent prisoner ought not to ask to be excused for any trivial reason.

(2) He should exert his best efforts in the prisoner's behalf.

5. The Defense or Prosecution of Those Accused of Crime.--

(1) It is the right of the lawyer to undertake the defense of a person accused of crime,

regardless of his personal opinion as to the guilt of the accused.

(2) Having undertaken such defense, the lawyer is bound by all fair and honorable means, to present every defense that the law of the land permits....by due processes of law.

(3) His prime duty is to see that justice is done.

6. Adverse Influences and Conflicting Interests.--

(1) It is the duty of a lawyer at the time of retainer to disclose to the client all the circumstances of his relations to the parties, and any interest in or connection with the controversy, which might influence the client in the selection of counsel.

(2) It is unprofessional to represent conflicting interests, except by express consent of all concerned. (Conflicting interest occur when a lawyer contends for that which is to the advantage of one of his clients but is to the disadvantage of another.)

7. Professional Colleagues and Conflicts of Opinion.--

(1) A client's proffer of assistance of additional counsel should be left to the client. But a lawyer should decline association as colleague if it is objectionable to the first original counsel.

(2) When a client's counsellors disagree the client must decide which advice he will follow. If this should involve sacrifice of principle on the part of either counsel that one has the right to be relieved by the client.

(3) One lawyer should not encroach upon the business of another; but it is the duty of a lawyer to advise against the employing on the part of a client of an unfaithful, or a negligent, lawyer.

8. Advising upon the Merits of a Client's Cause.--

(1) A lawyer should investigate before agreeing to represent a client.

(2) A lawyer should not give too much assurance to his client that he will win.

9. Negotiations with Opposite Party.--

(1) A lawyer should not communicate upon the subject of controversy with a client represented by counsel but should deal only with his counsel.

(2) A lawyer should not mislead a party.

10. Acquiring Interest in Litigation.--

The lawyer should not purchase any interest in the subject matter of the litigation which he is conducting.

11. Dealing with Trust Property.--

(1) Money of the client or other trust

property should be reported promptly to the client.

(2) Except with the consent of the client such money should not be used by a lawyer.

12. Fixing the Amount of the Fee.--

(1) A client's ability to pay cannot justify a charge in excess of the value of the services.

(2) Rules.--

- a. Consider time, labor, and skill required.
- b. Consider influence on other cases.
- c. Consider the customary charges.
- d. Consider benefits to the client.

(3) Due consideration, special and kindly, should be given to the widows and orphans of brother lawyers.

13. Contingent Fees.--

Contingent fees, where sanctioned by law, should be under the supervision of the Court, in order that clients may be protected from unjust charges.

14. Suing a Client for a Fee.--

Suing a client for a fee should not be resorted to except as a means to prevent injustice, imposition, or fraud.

15. How Far a Lawyer May Go in Supporting a Client's Cause.--

(1) It is a false claim which maintains that it is the duty of the lawyer to do whatever

may enable him to succeed in winning his client's cause.

(2) It is improper for a lawyer to assert in argument his personal belief in his client's innocence or in the justice of his cause.

(3) It is the duty of a lawyer to defend the cause of his client to the end that nothing be taken or be withheld from him, save by the rules of law, legally applied.

(4) The office of attorney does not permit violation of law or any manner of fraud or chicane.

16. Restraining Clients from Improprieties.--

(1) A lawyer should advise, if necessary, that his client do not do those things which the lawyer himself ought not do in the court room.

(2) If a client persists in wrongdoing the lawyer should terminate their relation.

17. Ill-Feeling and Personalities Between Advocates.--

(1) Whatever the ill-feeling between clients the lawyers in the case should not take up ill-feeling against each other.

(2) In the trial of a cause it is indecent to allude to the personal history and the idiosyncrasies of the counsel on the other side.

18. Treatment of Witnesses and Litigants.--

(1) A lawyer should treat adverse witnesses with fairness.

(2) The client has no right to ask his counsel to abuse a witness on the other side.

19. Appearance of Lawyer as Witness for His Client.--

(1) If a lawyer appears as a witness for his client the case should be given over to another lawyer.

(2) A lawyer should not testify in Court in behalf of his client except when essential to the ends of justice.

20. Newspaper Discussion of Pending Litigation.--

(1) Generally they are to be condemned.

(2) If justice demands newspaper discussion, such discussion should not be made anonymously.

21. Punctuality and Expedition.--

It is the duty of the lawyer to his client, to the courts, and to the public, to be punctual in attendance, and to be concise and direct in the trial.

22. Candor and Fairness.--

(1) A lawyer should never intentionally mislead the Court by misquoting the contents of a paper.

(2) A lawyer should not cite as authority a decision that has been overruled, or a statute that has been repealed.

(3) A lawyer should not offer as evidence

matters which he knows the Court will reject.

23. Attitude Toward Jury.--

(1) A lawyer should not flatter the jury.

(2) He should not converse privately with jurors. ,

24. Right of Lawyer to Control the Incidents of the Trial.--

(1) A lawyer should be liberal.

(2) One lawyer should not force the trial on a day when the opposing lawyer is under affliction, or bereavement.

25. Taking Technical Advantage of Opposite Counsel; Agreements with Him.--

(1) A lawyer should conform to known customs of the bar and the customs of the particular court.

(2) Important agreements should be reduced to writing.

(3) But advantage should not be taken because of lack of a written agreement; a verbal agreement should be as binding as a written one.

26. Professional Advocacy other than before Courts.--

(1) A lawyer may render professional services before legislative or other bodies.

(2) It is unprofessional for a lawyer under these circumstances to conceal the fact that he is a lawyer.

27. Advertising, Direct or Indirect.--

(1) The best advertisement is a worthy reputation.

(2) It is not improper to use simple business cards.

(3) It is unprofessional to use circulars, or to solicit business in any manner.

(4) Indirect advertising which defies the traditions and which lowers the tone of the profession is intolerable.

28. Stirring up Litigation, Directly or Through Agents.--

(1) Stirring up litigation is not only unprofessional, but is indictable at common law.

(2) It is unprofessional to hunt up defects in titles in order to bring suit, to remunerate policemen, court or prison officials, physicians, and the like.

(3) Any member of the bar, having knowledge of such practices upon the part of any practitioner, should immediately inform the proper authorities to the end that the offender may be disbarred.

29. Upholding the Honor of the Profession.--

(1) Lawyers should expose without fear or favor before the proper tribunals corrupt or dishonest conduct in the profession.

(2) A lawyer should accept without hesita-

tion employment against a member of the bar who has wronged his client.

30. Justifiable and Unjustifiable Litigations.--

(1) The lawyer must decline to conduct a civil cause or to make a defense when convinced that it is intended merely to harass the opposite party.

(2) The appearance of a lawyer in Court should be deemed equivalent to an assertion on his honor that in his opinion his client's case is one proper for judicial determination.

31. Responsibility for Litigation.--

(1) No lawyer is obliged to act either as adviser or advocate for every person who may wish to become his client.

(2) Every lawyer must decide what business he will accept.

(3) The responsibility for advising questionable transactions is the lawyer's responsibility; he cannot escape it by urging as an excuse that he is only following his client's instructions.

32. The Lawyer's Duty in its Last Analysis.--

(1) No client is entitled to receive any services or advice involving disloyalty to the law.

(2) A lawyer should advance the honor of his

profession and the best interests of his client.

(3) 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 a loyal citizen.

SUMMARY OF DUTIES

It is not necessary to study the canons in detail to see that the duties of a lawyer are many. Duties are on every side. There are duties to the client, duties to the adverse party, duties to other lawyers, duties to the courts, duties to the state, and general duties.

It will not be possible within a few pages to discuss these duties in detail. We wish only to point out the underlying principles of legal ethics, and to suggest the principle upon which the solution of all conflicting duties must be ultimately based.

If we look through the canons we cannot but be impressed with the number of duties that the lawyer owes to his client. In canon five we see that the lawyer has a right to defend a person accused of crime regardless of the fact that the person is guilty. In canon six we see that the lawyer must not represent

conflicting interests. In canon eight we find that a lawyer should investigate a case before agreeing to represent a client; and, that the lawyer should not give too much assurance to his client that the case will be won. Canon twelve is to regulate the amount of fees so that a lawyer will not make a charge in excess of the work done. In canon fifteen it is stated that the lawyer is not duty bound to represent a client. In sixteen there is provision for instruction on the part of the lawyer to his client as to how the client should behave in the court room. In twenty-one we see that a lawyer should be punctual in his duties to his client. In canon thirty-two we see that no client is entitled to receive any service or advice involving disloyalty to the law. There are many other duties mentioned, or implied, but the ones I have mentioned will serve to indicate the importance of the duties which a lawyer owes to the client he represents.

We see from these statements of duties, that a lawyer's relation to his client is based on several principles. In the first place it is the privilege of the lawyer to select, from among those who porffer his assistance, those whom he wishes as his clients. He is not obligated by the canons of ethics to take every case; he is left to his freedom of choice in

the matter as to whether he will accept or deny counsel to a prospective client. The reasons for this are many. One reason is, that, through wise selection of his clients a lawyer can refuse those cases which are not worthy of defense; those cases which are contrary to the good of society. If it be objected that such a client--as one who is an enemy to society--will find counsel from some other lawyer, it might be replied that such a client would of necessity be left to the counsel of a lawyer who would not have the best interest of society at heart--and such a lawyer must sooner or later be excluded from the practice of law. Such a practice on the part of a moral man, i.e., the practice of refusing advice to the unworthy, will be an asset in the development of a class of lawyers who will stand for the best interest of mankind in general. Furthermore, such a practice will eventually eliminate the already too large number of lawyers who take cases merely for the money they can get out of them.

Another reason why it is a good thing for a lawyer to have the privilege of choosing, or of rejecting, clients is that a lawyer may, through wise choice, limit his clients, or the type of clients, to those who will not only help him build a good reputation but will also help him place his energies along the line in which he

is most interested, or in which his talents can find their best and their most effective use. For example, a lawyer is prepared through his course in the law school to represent a certain class of clients. If he limits his clients to this class he will thereby develop himself most desirably; or at least, more desirable than he could by taking every case that comes to him.

Finally a lawyer should have the privilege of choosing his clients because in this way many unworthy cases may be kept out of court. A lawyer may not only help himself to build a desirable reputation but also may lend his influence in preventing those who are not ethically entitled to counsel from filling the courts with unworthy cases. This would be at least one step toward the improvement of the courts, an improvement which is very much needed, in this respect. But this is not the only improvement that is needed. There should be improvements in technical obstructions which sometimes hinder the cause of justice. If a person should steal a red hog and be accused before the court of stealing a white hog the prisoner would be freed. In England the case would be held up until the correction could be made. But this is asside from our immediate point. The point we make here is that through the proper selection of clients a lawyer may help in keepint unworthy cases out of court.

Upon the proffer on the part of a client, it is the duty of the lawyer to make such investigation of the case as to enable the lawyer to give to his client the best possible service. After a thorough investigation and when the lawyer is convinced that the case may be won, he may indicate to the client the reasons why he may expect to win, but in no case should the lawyer promise to the client to win his case. There are too many contingencies to make any case absolutely certain.

The chief duties which a lawyer owes to the adverse party are stated in canons nine and twenty-eight. When the adverse party is represented by counsel the matter is a simple one; in that case a lawyer deals only with the party's counsel and never with the party directly, except in the presence, and with the consent, of the adverse party's counsel. But when the adverse party is not thus represented the matter is not so simple. In this case there are two or three duties which a lawyer owes to the adverse party--duties which are fundamental.

One of these duties is to the effect that a lawyer should not stir up litigation. This is "not only unprofessional, but is indictable at common law." The matter of stirring up litigation is especially ethically wrong when such

conduct on the part of a lawyer is indulged in for the purpose of seeking to get revenge against some person against whom a lawyer has a grudge. Such conduct on the part of any lawyer is disreputable. The reason is clear. To stir up litigation under the circumstances mentioned would tend to bring reproach upon the profession, to injure unjustly the person who would be brought into such litigation, and to bring unnecessary expense upon the state. In some cases, however, it is the duty of a lawyer to volunteer his counsel, e. g., when ties of blood make it his duty to do so. But to stir up litigation for the purpose of seeking revenge cannot be justified on any ground.

Another duty that a lawyer owes to the adverse party is to refuse to advise him as to the law. At first thought it would seem that it is the duty of a lawyer to advise the adverse party, who has no counsel, as to the law, but, after a moment's reflection it seems obvious that it is a duty of the lawyer to refuse to advise him; because, there is too much danger of advising him wrongly. It is reasonable to suppose a case in which sincere advice on the part of the lawyer might, if acted upon by the adverse party, turn out to be to the disadvantage of the adverse party. In that case the lawyer would be under suspicion. Furthermore, a lawyer cannot be expected to advise

the adverse party because the party has the right to be represented by counsel even in case he should be unable to pay for counsel. These two duties are not the only ones a lawyer owes to the adverse party but they represent the essential points in the canons concerning a lawyer's duties to the adverse party.

A review of the canons shows several duties which a lawyer owes to other lawyers, and to the profession. These may be summarized under two heads, namely: justice, and a fraternal spirit. In canon seventeen is stated the duty of a lawyer to maintain a fraternal attitude toward other members of the profession. "Clients, not lawyers, are the litigants. Whatever may be the ill-feeling existing between clients, it should not be allowed to influence counsel in their conduct and demeanor toward each other." Without the spirit of fraternity, or benevolence, the efficiency of the profession would be greatly decreased.

An example of the duty to be just is found in canon seven. It is understood, of course, that a lawyer and every other person cannot be unjust with any person and be ethically right at the same time. The only reason for stating the question in this form is that there are some things peculiar to the practice of law that

emphasize the duty of justice. The fact that a lawyer is by profession a defender of justice makes an unjust act on his part conspicuous, and especially conspicuous in the sight of a brother lawyer. The ethical basis of these duties is not different from the basis of justice and benevolence on the part of other persons beside lawyers; it is only a principle of valuation of morals in conduct. The question of what the ethical basis of justice is will be discussed at the proper time but before we discuss this problem, and other problems that arise out of a conflict of duties, let us mention briefly a lawyer's duties to the court and to the state.

Canon one says that a lawyer should "maintain toward the Courts a respectful attitude." In canon twenty-one we find that "it is the duty of the lawyer....to the courts....to be punctual in attendance, and to be concise and direct in the trial and disposition of causes."

The reasons for these canons are that: (1) the importance of the judicial office should be maintained; (2) judges are not wholly free to defend themselves; (3) whenever there is proper ground for serious complaint it is the right of a lawyer to submit his grievance to the proper authorities; and (4) lawyers may

greatly assist the judge in preventing unnecessary delay in despatching the items before the court. The basis of all these reasons is the fact that the judicial office is a value in our social order and the office should therefore be maintained by the state and respected by the bar. The court is an instrument of justice. Such conduct, on the part of any lawyer, as disparaging the court, being discourteous to the judge, delaying trials, arguing upon matters not in evidence, --doing all such things tends to weaken a value in human life and is therefore ethically wrong.

A lawyer's duties to the state are primary. It is because newspaper publications of a pending litigation might influence the public to one side of the question without due consideration of the other side that such publications are condemned as ethically wrong. Suppose, for an example, that a person so influenced should be summoned for jury duty. Would there not be undue danger of justice being prevented? If so, the state, or the commonwealth, would be thwarted in its purpose, its purpose being to administer justice through the courts. For the same reason a lawyer owes it to the state not to sue on a groundless claim, nor to do any other thing that would hinder or prevent the state in

securing justice for the people as a whole.

CONFLICT OF DUTIES

This raises the question of the conflict of duties in the practice of law. In the preceeding paragraph I said that a lawyer's duties to the state are primary. This takes for granted that the state itself is right in its requirements that its laws be obeyed. But suppose the state has a law which upon its execution brings unnecessary destruction of human life? For example, in the first century Rome had a law which made Christianity a "religio illicita." As a result of this law thousands of Christian people were persecuted, or slain. The law was strictly enforced under Domitian (81-96 A.D.). In the light of present religious toleration in the United States it seems to an American that such a law is ethically wrong, and that the state that allows such a law to exist is guilty of sin against all persons which the state in this way persecutes. Fortunately, the laws of the United States are such (with perhaps a few exceptions) as to promote the welfare of the people as a nation, and as a result, the lawyer owes a duty to the state to see that the state has every advantage in the administration of its laws. When this is done to the disadvan-

tage of certain individuals there is only one principle upon which such a policy on the part of the state through its administrative officers can be justified--that principle is the welfare of the greater number of persons concerned. We, therefore, put moral law above statutory law because statutory law is only an attempt on the part of a community of persons to express their moral aims. So long as statutory law is a moral value it should be maintained and enforced, but when it ceases to be of moral value it should be repealed. Statutory laws should be just. But what do we mean by the term, "just?"

Justice must find its ultimate basis in the welfare of an individual, or of a group of individuals. "Justice," according to Ralph Barton Perry, "embraces....two ideas. In the first place, in estimating the goodness or evil of action, merely personal or party connections must not be admitted in evidence. In the second place, the deliberate judgment of any rationally minded individual is entitled to respect as a source of truth....A candid mind is the last court of jurisdiction." ("Moral Economy," page 66.) The moral law upon which all statutory law should be based is the duty of all the individuals of a community (be it a city or a nation) to respect all other individuals as persons and not as things. If there arises a conflict

between the merely personal interests of certain individuals and the best interests of the group, the interests of the group must take precedence over merely individual interests. For example, it may be to the so called interest of a thief that he should steal, but it is to the interest of a group of individuals that the thief be prevented from stealing, or, if a thief does steal, that he be punished. A lawyer, therefore, in representing a guilty man should see that justice is done to the state even though the lawyer should lose the case. It is, in the light of these facts, ethically wrong for a lawyer to strive to free a man whom he knows to be guilty. Duty to the state in dispensing justice is of prime importance.

The same principle applies when there is a discrepancy between the duties which a lawyer owes to his brother lawyer and the duties that he owes to the state. In fact it seems to be the opinion of some thinkers that lawyers are too often loyal to themselves rather than to the state. This, of course, applies to other professions as well. There is too much of the "guild spirit." E. A. Ross says that "in the codes of the professions it is possible to detect traces of a selfish guild spirit.... Even when the codes are flawless, the guild spirit is at work prompting

members of the same profession to hang together at the expense of the laity....The way judges will allow property to be devoured by the rolling up of big fees for imaginary or superfluous legal services by their brothers of the bar is nothing less than scandalous." ("Principles of Sociology," pages 478,479.) Ex-President Taft said, in an address before the Virginia Bar Association, "Of all the questions which are before the American people, I regard no one as more important than the improvement of the administration of justice. We must make it so that the poor man will have as nearly as possible an equal opportunity in litigating as the rich man, and under present conditions, ashamed as we may be of it, this is not the fact." ("Justice and the Poor," R. H. Smith, page 6.)

But we must not conclude that the great profession as a whole would sanction the guild spirit. The bar, like all other professions, is made up of men of various ethical standards, and, of some men who have scarcely any ethical standard at all. I agree with Roscoe Pound that "the fundamental difference between the law of the nineteenth century and the law of the period of legal development on which we have entered is not....due to the dominance of sinister interests over courts or lawyers or jurists. It is not a conflict between good men

and bad. It is a clash between old ideas and new ideas, a contest between the conceptions of our traditional law and modern juristic conceptions born of a new movement in all the social sciences." ("Justice According to Law," quoted by R. H. Smith, "Justice and the Poor," page 37.)

But whether we find a guild spirit among lawyers or not, it is true that in case of a conflict between duties which one lawyer owes to another lawyer, or to the profession, and those duties which he owes to the state-- in case of such a conflict, a lawyer should be guided in his conduct by a scale of moral values.

We may well close the chapter on legal ethics with a few suggestions as to how the practice of law may be brought more into accord with the highest standards of morality.

In the first place there should be a course of legal ethics in every law school. Almost seventy-five percent of the law schools have some sort of course in legal ethics. According to E. A. Ross, "About three quarters of the seniors in American law schools are receiving instruction in legal ethics." ("Principles of Sociology," page 480.)

Secondly, there should be more demand on the part of the state that the canons of legal ethics be obeyed. This seems to be the

way some thinkers view the situation, and I agree. Russell Whitman, Chairman of the Committee on Professional Ethics, Chicago Bar Association, in the American Bar Association Journal, says that "the Appellate Division of the New York Supreme Court (in re Gray supra, p. 650.) significantly remarks 'while this code has never been incorporated into our statutes, it has been so far recognized by the Supreme Court that it is now required that a copy of the code shall be furnished to each lawyer upon his admission to the bar.'" ("Problems of Professional Ethics," page 556.)

Finally, in the words of E. A. Ross, "Although the profession has been slightly socialized by the requirement that the lawyer be of good moral character and learned in the law and by theory that he is an officer of the court, the current conception of the lawyer's duty is still far too individualistic to justify the prominence given to lawyers in our judicial system or the maintenance of law schools at the public expense." ("Principles of Sociology," page 477.) The legal profession, then, should be socialized.

With the study of legal ethics in the schools of law there will come certain adjustments and modifications in the canons to meet

the changing need for a code of legal ethics. With the moral support of the people, legal ethics can be made as high as the standard of morality requires. And with the socialization of the profession the lawyer will come more and more to the realization of the fact that he is indeed a harbinger of justice to all.

CHAPTER V.

PEDAGOGICAL ETHICS

CHAPTER V.

PEDAGOGICAL ETHICS

"Education commences at the mother's knee, and every word spoken within the hearing of little children tends toward the formation of character."

-- Hosea Ballou.

We shall consider some of the problems of ethics as teachers find them. The subject may be discussed under three general heads, namely: (1) the importance of the subject; (2) moral qualifications of teachers; and, (3) some moral duties of teachers.

IMPORTANCE OF PEDAGOGICAL ETHICS

The importance of a high ethical standard for teachers grows out of several conditions. One of these is the nature of education. Education among primitive men was simple but not unimportant; it dealt with the problems of preserving life, especially that of the individual and that of the clan. The father taught the son to hunt and to fish. The mother taught the daughter to do the house work. Primitive education, simple as it was, grew out of human needs. It was a kind of second hand

experience which helped the learner to save time, and to do his work more easily than he could have done it without this second hand experience.

Fundamentally, education today is not different; it is a method of bequeathing to posterity equipment that makes for the personal and the social welfare of the race. A father who refuses to educate his son is selfish and unsocial, at least, in spirit. A parent who refuses today to educate the child is no better than the primitive man who refused to teach his son how to secure food. Under present conditions education is socialized. It has been transferred from the home to the school. Under present social organizations the need of wider education is imperative but the fundamental reasons for education are the same as they were under primitive conditions. The aims of education are to equip the individual in such a way as to make him live the best possible life, and to fit him for living that life in the social order of the present.

Some schools, unfortunately, exist only to impart skill without reference to the proper use of skill. For example it is conceivable that a course in certain schools may be taught merely to impart skill. Suppose a case where skill in political control is taught but in which there is no reference to the moral aspect of such activity. The result, too often,

would be the development of party politicians who would subordinate the good of the nation the the ambitions of partisan interests. I would not classify such a method as true education. True education is the process of organizing experience in such a way that it can be applied to the realization of moral values. The nature of true education, therefore, is such as to require teachers who have high ethical ideals and practice them. True education demands that a teacher show the bearing which the subject taught has on the welfare of the race. "A schooling that imparts knowledge or develops skill or cultivates tastes or intellectual aptitudes, fails of its supreme object if it leaves its beneficiaries no better morality. " (Government Bulletin, 1917 No. 51, page 7.)

Another reason why a teacher should have a high moral standard is the influence which a teacher has over his pupils. Perhaps no other person moulds so many characters as teachers. To no other person do so many open their lives as do pupils to teachers. The average pupil is ready to hear what his teacher has to say, and to believe it. But to no other person is a pupil so free and open in his attitude. It is most important, therefore, that a teacher be of such a moral character that he

may mould his pupils into that type of character that will be ethically right. This is especially true in the grades, but it is also true to a great extent in all schools.

This leads us to the second general division of our subject, namely, the

MORAL QUALIFICATIONS OF TEACHERS-

One of these is a proper temperament. No teacher can win the respect and the confidence of his pupils unless he is kind and sympathetic. This does not mean that a teacher should lack in firmness, but it does mean firmness together with kindness. A crabbed, harsh, unsympathetic teacher may frighten his pupils into doing the work required in the class but he will not make them better men and women. A teacher should be able to win the confidence of his pupils and to make them feel that he is their friend and not their enemy. If a person knows that he has a temperament which would hinder him to a great extent, he ought not to take up the profession of teaching. If, after beginning the profession, he should discover that he is temperamentally unfit, he should either cultivate a better attitude or else find another vocation.

The kind teacher who is wise and firm has a qualification which is conducive to morality. I have in mind two college professors; one a teacher of biology, the other a teacher of his-

tory. The former teacher was kind, the latter harsh. It is not necessary to say that the teacher of biology always had around him a group of interested students when he walked out on the campus, and that the history teacher usually walked alone. When a student was in trouble and needed advice he went to the teacher of biology. One of the most treasured memories of my college days is the influence of this teacher upon my life. All that I can say for the history teacher is that I passed his course. This teacher was temperamentally unfit and lacked an important qualification. Otherwise he was a good teacher.

Again a teacher should have the mental preparation that is necessary for teaching. Some of the essential mental preparations are as follows: (1) thorough understanding of the subject to be taught; and (2) a thorough understanding of the methods of teaching. A person aspiring to the profession of teaching should select subjects in which he is interested. A teacher cannot do his best work except he have an abiding interest in the subject which he is to teach. Neither can he inspire interest on the part of the pupils unless he is so interested. Having selected the subjects he desires to teach he should master them. No man can long hold the confidence of a class nor succeed unless he knows what he teaches.

METHODS OF TEACHING

As to the methods of teaching, they are various. One prerequisite to any method is a thorough understanding of the fundamental points of psychology. Perhaps more injustice is done to pupils because of lack of knowledge and the application of the laws of psychology in teaching, or in failing to teach, than in any other way. Psychology enables a teacher to see the limitations and the possibilities of a pupil. Psychology helps him to apply the methods best adapted to each pupil. Psychology helps a teacher to measure the work done by each pupil. Whatever the method, it should be one that is adapted to the pupil's individual needs; one which will develop moral character in pupils and will equip them as fully as possible with the habits, insights, and the ideals that will be to the welfare of them as individuals and to the welfare of all those whose lives are influenced by them.

MORAL QUALIFICATIONS

There are certain moral qualifications necessary to true teachers. I do not mean that the other qualifications are not moral; in a sense, mental preparation, right temperament, health, neatness of dress, and the like, are moral qualifications, because they

add values to human life; I mean by moral qualifications the familiar virtues of justice, truthfulness, good will, patience, and the like. No person can be the best teacher who does not have a good moral character. A good man will make others wish to be better, but an evil man will either make others wish to be bad or he will estrange others from him altogether.

These qualifications are not all-inclusive, they only indicate some of the mental, moral, and temperamental prerequisites to good teaching. No teacher can be ideal in every respect but every teacher should strive to measure up to the highest standard of conduct.

If a person is unselfish, willing to make sacrifices, and feels called to put his influence among those who are serving their fellow men he may well take up the profession of teaching, but, if he enters the profession to make money (except in rare cases--perhaps) or if he takes up teaching as something to be used as a "stepping stone" to something else, then, he should seek some other vocation other than that of teaching.

PROFESSIONAL DUTIES OF SCHOOL TEACHERS

A person having taken up the work of teaching is confronted in several ways with duties that are peculiar to his profession.

DUTIES TO CO-WORKERS

These duties are many. We shall discuss only a few of the more important ones. One of these is the duty on the part of a teacher to uphold the honor and the dignity of the profession. This does not mean that a teacher should be "stiff and formal," but that he should never stoop to the practice of those things that bring disrepute upon the profession. In a certain college there used to be a professor who was negligent as to his personal appearance; his collar was seldom laundered, his tie was old and worn, his suit seldom pressed and often covered with spots of grease. Otherwise he was a good teacher, but these faults brought much criticism not only upon him but also upon the profession. I once knew of a teacher who would not pay his debts; he was extravagant, and wasted so much money that he could seldom pay his bills. Such conduct is a violation of principles of ethics not only against his fellow-teachers but also against his creditors. Such conduct weakens the influence of the profession, perhaps unjustly, but nevertheless surely.

Teachers should not be jealous of each other. O. I. Wooley gives an example of jealousy between two teachers. "One of them became vexed because a pupil spoke in praise of a former teacher and reproved him for so doing.

This so incensed the child that he went to the other teacher and repeated what had been said. As a result the latter became so angry that she expressed herself freely regarding her fellow-teacher; and thus the two became avowed enemies. Four years they taught in adjoining rooms, met in the halls each day, and watched their classes pass out of the building by the same door; and yet they never exchanged a word." ("The Profession of Teaching," page 34.) I would condemn such a thing as unworthy of any two teachers. Such a jealousy cannot but influence the teachers and the pupils to strife. Such conduct weakens the prestige of teachers, lessens the influence for good on the part of both teachers, tend to stir up strife among the pupils who take sides with the one teacher against the other, and render both teachers incapable of doing their best work.

Another duty a teacher owes to his fellow-teacher is that of refusing to criticise him before the pupils. No doubt, some teachers should be criticised and dealt with, and some should be put out of the profession, but the way to do this is not by criticism before the pupils. Unfortunately, there are some teachers who endeavor to extol themselves by pointing out the defects of a fellow-teacher. A case in point is given by Woodley. "A seven-grade teacher who

had received a sixth-grade class at the beginning of the school year gave a test to determine whether, according to her standards, the class was ready for the seventh grade. Judged by the answers to the questions which she gave them, they did not meet the test satisfactorily. She at once began openly to criticize and discredit the former teacher of the class. In so doing she did not take into account the fact that the pupils had been regularly promoted after a capable principle had decided upon their fitness for promotion, and after they had completed the work prescribed by an intelligent and efficient superintendent." ("The Profession of Teaching." pages 33,34.) The reason which such conduct should be condemned is that it is unjust. It is selfish. It is unfair to the fellow-teacher. It is unfair to the pupils.

The more specific duties which teachers owe to each other depend upon the type of school, the number of teachers, and the rank of each teacher. In general we may say that teachers owe it to each other to co-operate with each other for the best interests of the institution, to treat each other with fairness and courtesy, to recognize the importance of the subject the other professor teaches, and to do their work well.

UNPROFESSIONAL CONDUCT

Before we take up the duties which a teacher owes to the students we desire to point out some of the things which are considered as unprofessional if done by teachers.

1. Of course any flagrant sin such as cursing, drinking, gambling, and the like would be considered as unprofessional.

2. It is not in good taste for a teacher in colleges to make an undue effort to get the students to take his course. For a teacher to make his course exceptionally easy, or to give high grades, or do any other unfair thing for the purpose of building up the number of members in his class is unfair to other teachers.

3. It is unprofessional to do anything that would lower the dignity of the profession. A teacher who is paid by his college to teach ought not to resort to certain other means of enlarging his income when to do so would interfere with his work or unjustly deprive some other person of a position. Suppose for an example that a teacher in a university should spend his afternoons in doing little jobs in his community, jobs that rightly belong to a carpenter? His dignity as a teacher would be lowered and some carpenter would be deprived of work which of right is due him.

4. Again it is unprofessional as well

as ethically wrong for a teacher continually to take up his class period in other things than teaching, or in hearing, the lesson. For instance I once heard of a teacher who would spend about four fifths of his time making random remarks about athletics. The result was that many students went through his course without any knowledge of the subject. A teacher should work and he should make his class work.

DUTIES TO PUPILS

The duties which a teacher owes to his pupils are various. These may be summed up under three general heads: (1) those duties which are predominantly mental in their nature; (2) those which have to do with the physical welfare of the pupils; and, (3) those which have to do with the social life of the pupils.

Duties Mental in their Nature. Let us consider, first, some of the duties which have to do with the mental development of the pupil. A teacher by profession owes it to the pupil to train the pupil's mental capacities. This involves many things. In the first place, a teacher must understand his pupils. He should know the needs of each one, the aims to be reached in each case, the faults of each pupil, and the capacities of each. In the second place, a teacher should be wise in the assignment of work. Lessons should not be too long, neither should they be too

short. Long lessons tend to make a pupil superficial in his work, and short lessons tend to make him indolent. A lesson should be difficult enough to require a reasonable amount of time in its preparation. In the third place a teacher should teach his pupils how to study. In the fourth place, a teacher should see that the assigned work is done. This along with the other things mentioned in this paragraph calls for some discussion.

A teacher should keep constantly before him, the aim of education.

AIM OF EDUCATION

The ultimate aim of education in its broadest sense is to prepare a pupil to live the fullest possible life. Here we come to the question of interest.

INTEREST IN EDUCATION

Is interest a means to an end, or an end in itself? Those who think of education as something merely preparatory to future interests are likely to consider interest only as a means to an end; those who think of school work itself as an activity of life which deserves as much seriousness as other activities of life are likely to consider interest as a sort of end in itself. Here should be pointed out the fact that interest may be either pleasant, or unpleasant.

That interest employed in educative processes should, as a rule, be pleasant. Interest in this case means pleasurable activity. It seems to me that school work should be made so interesting that a student will realize that he is really doing his duty while in school and not merely preparing to do something.

There are two kinds of interest: one, that which is instinctive; the other, that which is developed. The instinctive interests need not detain us; a person is normally interested in that which satisfies an instinct. The only problem here is how to modify those instincts, and how to use them as a basis for further development of the mental powers, as well as of the physical powers. The greater problems for the teacher are those which are connected with those interests which must be created.

One way of creating interest is to show the pupil how the subject may be used in procuring certain values. If a teacher of mathematics can show a pupil how arithmetic, or any other branch of mathematics, will help the pupil earn a large salary the pupil will usually take more interest in the subject than he would take if the teacher merely tells him to solve dry problems, and to memorize useless formulae to be forgotten as soon as possible after the examination. If a pupil in a class

of pupils studying the art of public speaking can be made to see that by the mastery of certain principles he can gain power as an orator he will as a rule take more interest in the subject than he would take otherwise.

Another method of creating interest is to induce the pupil to study a thing until he acquires an interest in the subject. I once heard of a teacher in biology who assigned to a student the task of dissecting a starfish. The student was not interested at first but he did the required work. When the student reported the professor assigned another hour's work. The student thought he had learned all about the structure of the starfish from his first hour's work and went to his task the second time reluctantly. He went however and did as the professor had told him to do. A third hour was assigned, a fourth, and so on, until finally the student became so absorbed in the interesting study of the histology of the starfish that he missed his meals because he was too interested to think of the time of day. This is a case showing how interest may be acquired through work in a subject which at first seems to be incapable of interest.

There are several objections to this method of attempting to create interest. One difficulty arises from the fact that some students

react so firmly against study on certain subjects that no amount of required work can make them take an interest in the subject. Another objection to this method is that it is not always easy to ascertain whether a student is really developing an interest in the subject or not. Students often make the impression with their teacher that they like a certain subject when in reality they do not like the subject; they merely wish to get credit for the course. Under favorable conditions, however, a student may be required to do a certain kind of work on a subject which to him at first is not interesting, until, at last he will acquire an abiding interest in the subject. As to the best methods of leading a student from the uninteresting to the interesting we may say a few words.

The instincts of the student may be employed at first. For example a teacher may use the instinct of fear to a certain extent. Again a wise teacher through encouragement and approval may induce a student to study a subject which at first is uninteresting to him but which later become fascinating.

But a teacher should be careful not to persist if it becomes manifest that the required interest cannot be acquired. This, of course, is only a general rule and may have many exceptions. It is certainly true that the

instinct of fear is much overworked in many methods of teaching. I have in mind a teacher who misused the instinct of fear. He does not create much incentive to study during the year but when final examinations come he makes his pupils frantic and nervous by telling them beforehand that they will fail. The consequence is that the students like him only in the class room; they do not like him after they leave his course. The worst of all, perhaps, is that they do not learn the subject. Another teacher of my acquaintance is wiser. He, too, uses the instinct of fear but at each recitation. This, however, is done wisely. For example he deals gently with a nervous type of person, and not so gently with the impertinent type. The students do not always like him in the class room in the way in which they like the former professor but they work and learn to enjoy the course. When time comes for final examinations the students know the subject. The examinations are made easy and the students not only know the subject but they leave the class with a feeling that the course is worth further study. The students also feel grateful to their teacher for the help he has given them. I have mentioned these examples merely to show that certain instincts may be used in inducing a student to do work in a subject until it becomes interesting.

Still another method of creating interest is to make sure that the student has sufficient knowledge to understand a certain lesson, or proposition. It is the old question of teaching the unknown through the known, the unseen through the seen, in short, the unexperienced through the experienced. A student is usually interested in connecting what he knows with what he has not before known. If a teacher can lay hold on this and add just enough new material to awaken curiosity and get the pupil to reason out for himself certain new relations and ideas the pupil will usually not only take a great interest in doing so but will develop his powers of thinking for himself while he goes through the process of adding new material to his already existing knowledge.

These methods are understood by the great majority of teachers. It remains only to point out that the teacher in developing his pupil's mental life is under a moral obligation to use these methods in the best possible way. He owes it to the pupil and to the people among whom the pupil in later life will live, to train the pupil's mind (if we may speak of "training the mind") in such a manner as to fit him to live the fullest life possible; a life of service to his fellow men and a life that will be pleasurable in the meantime. A teach-

er who does not have the interests of the pupil at heart, but teaches only for the money he can get--be it ever so small a sum-- is just as much a "quack" as the quack among physicians, or the pettifogger among lawyers.

The second general class of duties that a teacher owes to his pupils is that class that has to do more specifically with their physical needs. In many states, or at least in many counties, this matter is being stressed today. In one county of Kentucky each pupil in the grades is required to report on certain requirements pertaining to his health. Among these are the following: taking a certain amount of exercise each day; sleeping each night ten hours with open windows; caring for the teeth; taking two baths a wee; in short, pupils are required to do those things which make for health.

I believe this to be a beneficial requirement placed upon the children of the county of which I speak. It should be made of all pupils. The requirement to preserve the health is most important.

Such a requirement is quite different from those of other days. Only a few decades ago a graduate from school was expected to look pale and thin, but not so today. Athletics in colleges, and in high schools may

sometimes be stressed too much, but on the whole, athletics tends to create a sentiment which emphasizes the importance of health values as well as intellectual values in schools. The great need today from this point of view is that athletics should be made more general. "Every student should play some game." In nearly all schools a certain amount of gymnasium work is required but the trouble with the gymnasium work is that it is truly "work" and does not have the value of relaxation which an interesting game gives.

In any case the people are coming to realize the need of physical exercise in school and it is the moral obligation on the part of teachers to take an active part toward the development of bodily values on the part of the students.

The third general class of duties which I mention is that class that deals with social values, or associational values, as some term them. If a student is to be trained to live the complete life he must live that life in a social order. The question arises as to the extent which a school should be organized to furnish students experience which will help them to find their places in organized society and to fill these places with the greatest degree of success.

Is it not a duty on the part of teachers to require their pupils to do a certain amount of work that is unpleasant? In answer to this question we may say that no task should be made hard deliberately. Some teachers seem to think that they are elevating themselves in the eyes of the pupils by trying to make the course difficult. The simplest subject in the university may be made difficult. I would condemn any teacher for making a subject difficult merely to win for himself a name of teaching a difficult subject--even if that could be done. But there are certain subjects which in the nature of the case are difficult. I would say therefore that a course should not be deliberately made difficult but if a course is a hard one, and if it is required of a student that he take it, then the hard task is to be done even though the student does not like to do hard work. Of course a hard subject should be taught in a way so that it may be as easy as possible for the student. But if it is by nature a hard subject then let the student do some hard work. The students will have to do unpleasant and difficult things when they are graduated from school. Why not prepare them for the doing of hard tasks? After all, it is not so much a question as to whether there will be unpleasant duties as it is a question as to the best attitude to take toward

hard work. An example of such an attitude is given by F. E. Bolton. He says that a university student once said to him.-- "I would like to take a certain attractive course, but I have started this German; I have had no end of difficulty with it, but I feel that to give up would be like yielding to temptation. To fight it out will be to strengthen my moral nature." ("Principles of Education," page 671.) It is interesting to note that on the margin of the page from which this quotation is taken someone has written in pencil the following: "Good for you old boy." Evidently others agree that the student in question did the right thing in continuing his course in German. I believe that a certain amount of such work will be of benefit to a student, even though the work is not delightful. As a rule a well equipped teacher knows more about the needs of a pupil than the pupil himself knows. It is therefore the duty of a teacher to require certain work of a student. It is also a duty to show the student how certain kinds of work will help the student in life. I well remember a lesson that was taught to me by one of my teachers in chemistry. I had to work by the side of a student who was negligent. One day this student walked by me flinging a test-tube in such a way as to throw acid on my clothing. At first I asked the student to

be more careful, but, after I had worked with him a few weeks I found that it was a hard task for me to keep on friendly terms with the student by my side. I went to the teacher and explained my feeling. I requested the teacher to give me a better place. The teacher looked at me and smiled saying: "No, if you work by the side of that student one year you will be prepared to adjust yourself to the kind of folks which you will often meet and work with after you leave school." It was a hard task for me, but I did as my teacher advised that I should do. I now consider that this was one of the greatest lessons my teacher in chemistry ever taught me.

There is another way in which a teacher may help the pupil to develop social values. I have in mind the question of student government. In our American democracy we need leaders. We need men and women who can work with others for the benefit of all; persons who can guide or help to guide our nation in the best possible manner. Here I quote a sentence from the Government Bulletin, 1917, No. 51: "In terms of national service, the aim of secondary schools should be to equip all pupils as fully as possible with the habits, insights, and ideals that will enable them to make America true to its best traditions and best hopes."

How may students best be trained for this great task? They must be taught in the subjects which prepare them intellectually for such service, but, that is not all; they ought to have opportunities of getting some practice, some laboratory work, in such things as student government. This is especially needful in colleges. I do not believe that it would be wise to give the student body of an average college full authority in managing its affairs, except in certain things in which there is no danger of fatal mistakes, but I do believe the faculty of a college ought to allow students a degree of freedom in self-government. Here it is the duty of the faculty of teachers to do for the students what the mother does for the child beginning to walk; the faculty ought to guide the students and not prevent them from doing the thing which they must do after college days are over.

Above all a student should be taught that in his relations with others he should regard them as persons who have rights to be respected. Students in college, and in other schools to some extent, ought to have required courses in ethics. But whether they study ethics in a text book or not, they ought to be taught the fundamental principles of morality. This is one of the duties of every teacher no matter what his subject is. It might not be stated in so many words but a teacher in any subject should

should show by his example the importance of ethical principles in the social life, as well as in the individual life, of the student.

CONCLUSION

In conclusion, we may say that the ethical basis of teaching is that of the best pleasurable activity of the greatest possible number. When conflicts of interest occur they may be settled on the same basis as conflicts of interests should be settled in the practice of medicine or law, namely, let the welfare of the greater number have first consideration.

In this chapter we have noticed the importance of ethical standards in education, the moral qualifications of teachers, and the general duties of teachers to their pupils. These indicate in a general way the important points in pedagogical ethics. The central point in all is pleasurable activity both in school work and in life work.

Education is conducive not only to pleasurable activity but also to the highest form of such activity. By education the standard of judging the value of activities is made higher. Perhaps there is no class of people who enjoy a sort of pleasurable activity more than the southern negro. I say this with much confidence though not dogmatically. My experience with

negros convinces me that the southern negro enjoys life as much as, if not more than, the average person. But the great trouble is that the negro enjoys life in ignorance; his activity is on a low scale, being often connected with vice. Education will raise the ethical standard of the negro. Education will reveal values which heretofore have been unknown to the black man. Education, combined with "good will" on the part of the white man toward the colored man, will raise the standard far above the level where it is at present.

We thus see that the profession of teaching is closely allied with every value in the scale of moral values; it has to do primarily with intellectual values but it includes all others. In the words of Horace Mann, we close the chapter. He says that "education alone can conduct us to that enjoyment which is at once best in quality and infinite in quality."

CHAPTER VI.

MINISTERIAL ETHICS

CHAPTER VI.

MINISTERIAL ETHICS

Ministerial ethics has to do with the peculiar moral obligations of preachers. It is because of the fact the preachers in their professional work are peculiarly related to the lives of other persons that their duties are peculiar. Preachers do not necessarily have a moral standard that is different from that of the other professions. There is only one moral standard for all. This standard applies to professional persons and to laymen alike. But the preacher, like a member of any other profession, owes to other certain duties which do not arise in the experience of a layman. It is with these special duties on the part of the minister with which ministerial ethics has to deal.

INFLUENCE OF CHRISTIAN ETHICS

The basis of ministerial ethics among protestant ministers is Christian ethics, and the basis of the Christian ethics is the Christian religion. Ultimately, therefore, ministerial ethics--so far as protestant preachers are concerned--is based on the principles of Jesus. His principles, not as they are interpreted

by some, but as they were given and interpreted by Him, form, we believe, the goal toward which all conduct should advance. His standard of morality is the true one, not only for ministers but also for the members of all other professions and for every individual person whether he be a member of a profession or not.

The history of the Christian religion, unfortunately, shows that the nominal followers of Jesus have not always been true to His ethical stand, or to His principles. Three centuries after His death there was a degeneration. The sermon on the mount was forgotten. There was developed a political ecclesiasticism which dominated the so-called Christian religion until the reformation. The Christian religion during the dark ages was merely a system of dogma, sacraments, and law. Little value was attached to human life; dogma was everything. Those who did not believe as the church demanded that they should believe were often burnt at the stake. Crusades to recover an empty sepulcher were made at the expense of human life. Ethics was scorned; the principles of righteousness were seldom seen.

But with the reformation religion and ethics came to be again united. Writers had much to say on the subject of Christian ethics.

Before we take up some of the specific

duties of preachers we wish to outline our view of what the true relation between true religion and true morality is. The relation between these is stated by a "certain lawyer" who was asked by Jesus to read what is written in the law concerning eternal life. Jesus asked, "What is written in the law? how readest thou?" The lawyer answered, "Thou shalt love the Lord thy God with all thy heart, and with all thy soul, and with all thy strength, and with all thy mind; and thy neighbor as thyself." (Luke, 10:27.) It is all summed up in the word "love."

It is interesting to note that these words are given in connection with the parable of the "good Samaritan." The lawyer wishing to justify himself asks Jesus what the term "neighbor" means. Jesus then gives the parable. In this parable are brought out the description of two classes of persons: one, the class of persons who are "religious" but not moral; the other, the class of persons who are both religious and moral. The priest and the Levite were merely religious; the "good Samaritan" was both. The parable is familiar, but in order to get it before us we give it as it appears in Luke, chapter ten.--

"A certain man was going down from Jerusalem to Jericho; and he fell among robbers,

who both stripped him and beat him, and departed, leaving him half dead. And by chance a certain priest was going down that way: and when he saw him, he passed by on the other side. And in like manner a Levite also, when he came to the place, and saw him, passed by on the other side. But a certain Samaritan, as he journeyed, came where he was: and when he saw him, he was moved with compassion, and came to him, and bound up his wounds, pouring on them oil and wine; and he set him on his own beast, and brought him to an inn, and took care of him. And on the morrow he took out two shillings, and gave them to the host, and said, Take care of him; and whatsoever thou spendest more, I, when I come back again, will repay thee."

The priest and the Levite in this parable have a superficial religion; their religion does not take into consideration the needs of a suffering man whom they ought to help. They lose sight of moral duties. They have to perform "religious duties." The Levite must hasten on to open the doors of the temple, or to sing in the choir. The priest must hasten on to offer the morning prayer, or to blow the trumpet to indicate that there is a new moon. Their "religion" is everything; their ethical obligations nothing. Their lives are "like an ill-roasted egg,--all on one side." They ought to read Hosea 6:6.--"I desire goodness and not

sacrifice." Or they could read with profit that part of Isaiah where he says: "When ye come to appear before me, who hath required this at your hand, to trample my courts? Bring no more vain oblations; incense is an abomination unto me;Your new moons and your appointed feasts my soul hateth....cease to do evil; learn to do well, seek justice, relieve the oppressed." (Isaiah, 1:12-16.)

But the Samaritan is not merely religious but is also moral. He sees a man in need and does all in his-power to bring relief. He draws no religious, political, nor social lines. He not only sympathizes with the wounded man by the side of the road but also brings immediate relief. Further, he makes provisions for his neighbor's future needs.

Jesus does not mean for religion and morality to be contrasted. The same man who truly loves God loves man. It is not necessary to tell a person to take his religion with him to his place of business; if he is a true Christian he cannot leave his religion at home. A true Christian, one who lives according to the principles of Jesus, is not religious today and moral tomorrow; he is truly religious and truly moral both at the same time and all the time. Any religion that requires a man to perform a merely formal function in the church

and neglects the need of the neighbor is a superficial religion. A man who does not love his neighbor does not love God. But love to God is the basis of love to man.

In discussing ministerial ethics, therefore, it is necessary to take into account a preacher's duty to God as well as his duty to his fellow men. A preacher's view of what is ethically right is conditioned by his theology.

The theology of today lays much stress on the ethical nature of God. The average clergyman, therefore, makes no distinction between his duty to God and his duty to his fellow men; he best serves God who serves man. In serving man, however, the preacher takes into account the spiritual needs as well as the material and the mental needs of man. This fact gives rise to many problems that do not confront the members of the other professions as they confront ministers.

Indeed, there are those who would confine the obligations of preachers to those needs which are "spiritual" in their nature. For example, some persons maintain that a preacher should not take sides on any political question; that he should say nothing against an unworthy candidate for office; they maintain that a preacher should watch over the "souls of his flock" and stay out of "politics." It

is no doubt true that it is better for the cause which a minister represents if he does not bring up political wranglings in his church, and among his congregation in general, but that is quite a different thing from confining the preacher to the "care of souls." The preacher owes it to society to look out for the best interests of society. His religion is not individualistic; it is social; it needs to be applied to the political, the industrial, the commercial, and the international life of men. The minister does emphasize spiritual values but these values are not limited to the member of any congregation. Spiritual values are comprehensive; they are as broad as life. Life is divided up into the sacred and the secular only in the thinking of some persons; everything good is sacred and has in it a spiritual value; Sunday may be sacred in the sense that it is "set apart" for worship and rest, but it is not more sacred than the other six days which are "set apart" for work. The church house may be sacred in the sense that it is "set apart" for the meeting of the church for worship; but it is not more sacred than a true political state that is "set apart" for the common good of all its citizens. I am not saying that I would advocate a union of organization of church and state; I am merely saying that it is a mista-

ken view which maintains that a pastor can minister to the spiritual needs of his flock without ministering at the same time to their political, their social, and their industrial needs--so far as he is able to do so.

But since the preacher is related in a special way to the more distinctive spiritual needs of men he finds obligations to emphasize certain values which it is not expected of members of the other professions to emphasize, at least, to the same extent that the minister emphasizes them.

The work of a minister of today is such that it requires adequate preparation on the part of the minister. On this point little need be said. It is obvious that a man cannot do his best work under the present conditions unless he has a college education, and also a special course like that which is required by divinity schools and seminaries. A preacher today needs a general study of the sciences, especially, sociology, psychology, biology, geology, physics, and chemistry. Of these, I regard biology psychology and sociology most important. Besides the course in college a preacher needs a course in Hebrew and in Greek sufficient to enable him to do exegesis in both the Old Testament and in the New Testament. Courses in expression, in music, and in church history are also in-

valuable. In short, a minister of today must be able to be a leader of people. The physician and the lawyer deal with the individual, but the teacher and the preacher deal with the group. The preacher no less than those of other professions must be prepared to take his place along with them or his usefulness must be relatively decreased. He must advance with society. He must seek to apply the ever unfolding principles of Jesus to the ever changing social order. Without preparation mentally as well as spiritually he cannot hope to be able to discharge the duties which he owes to the world in which he lives and works.

DUTIES TO HIMSELF

Of course a preacher owes to himself, as well as to others, good health. No preacher can do his best work without a strong body. He should take plenty of physical exercise, plenty of sleep, proper diet, and all such things that are conducive to good health he should do. A long "pious face" is sometimes more nearly related to indigestion than it is to spirituality. He should cultivate a happy face. A strong man with red blood in his veins and "fire in his soul" has power in his preaching; he is capable of doing hard work in study and in visiting the sick and the needy. Good health is the physical basis of a useful ministry. Good

health is fundamental. He should care for it.

There are other duties which a minister owes to himself. We merely mention the following: the duty to do research and to study; the duty to keep up with the political movements of his community and his country; the duty to develop his "cultural" life, and the like. But every duty to himself involves a duty to others. We may therefore consider some of the duties that a minister owes to others.

DUTIES TO OTHERS

We mention, first, some duties which he owes to his regular congregation. These apply especially to the pastor of a church.

In his preaching he should always have well prepared sermons. He should be careful and accurate in gathering his material. He is expected to be accurate as well as "truthful." A careless mistake on the part of a preacher might do great harm; it has a tendency to weaken the force of the more important matters of which he speaks; if he is careless or dogmatic in matters that his audience knows about, the hearers rightly hesitate in accepting as true the things they do not know about. It is often the case that a preacher makes absurd statements concerning science, especially is this true on the part of some ministers who have not studied science. If the preacher will take

the time and the effort to learn the facts about which he is to speak he will not only win the respect of his hearers but he will keep his own self respect. In preparing his sermons and addresses he must be accurate. After he has selected his material he should organize it according to the principles by which an address should be organized. The plan of organization may vary with individual speakers. But whatever the plan the address should be well prepared, and well delivered.

The pastor owes to his church faithfulness in his work. The church pays him. He is obligated to do at least eight hours of work each day. In answer to a questionnaire which I sent to many clergymen one minister says: "He (a pastor) owes it to his local church to give them the very best that is within him. He should allow no obligation to outside agencies, or even his own denomination to interfere with his duties to his own people."

A preacher is obligated to show certain considerations to others not of his denomination who visit the church of which he is the pastor. He should have the proper respect for the beliefs of others. It is sometimes his duty to his own denomination to explain the beliefs of certain other sects, or the beliefs of his own denomination, but this should always be done in such a manner that will manifest a due respect

for the beliefs of those who differ with the speaker. It is reprehensible for a pastor to "persecute" other denominations who have as much right to their beliefs as his own denomination has to its beliefs. We live in an age of toleration. I do not mean to say that there are not cases when a speaker should make attacks on the beliefs of others. History shows that there are cases when it is the duty of one church to attack another. For example history justifies the leaders of the reformation in their revolt against the dogma of the middle ages. But this is exceptional. It is justifiable only when by such a method a higher value is gained, or a negative value is obliterated.

A pastor owes duties to the community in which his church is located.

DUTIES TO THE COMMUNITY

He should take an active part in every good movement that affects the vital interests of his community. He should also use his power in helping to free his community from all forms of vice. It is expected that he is to preach against sin in general but he should also be expected to preach against sin in particular. In a reply to my questionnaire one minister says that it is the "duty of the minister to speak on every moral question that affects his community." Another says that he has "known ministers who would discuss these questions in such a way as to offend

good taste and do great harm. I have knows others, who by keeping their lips closed got the reputation of being very broad minded, though many sensible people look upon them as being cowardly." Still another, in answer to my questionnaire, gave an outline of a good way to deal with vice in any community. The outline is as follows.--

(1) Get civic organizations to condemn them in formal resloutions and to promise support.

(2) Have pulpits preach simultaneously with the immoralities in view.

(3) Head the whole thing up in a mass meeting the next night at the town hall, at which city officials are present; have a rousing address that makes clean work of the whole business."

Still another says concerning this question:

"I see no limitation to be placed upon the preacher as to the questions or types of questions which he should consider in dealing with sin and unrighteousness. All of his condemnation should be done in the spirit of love and righteous indignation and should be based on the harm which moral conditions may be doing the souls of men; and so, I think he should concern himslef with principles rather than specific and concrete things, although in many instances, particularly political, he must deal with definite things."

These expressions from ministers of

various denominations represent the attitude that a preacher should take against vice in his community.

Among other duties which a pastor owes to the community in which he lives is the duty of visiting the sick, and in helping the poor. This does not mean that he should do all this work personally. In fact his ministry can be made most effective through organizations in his church. He should direct the work. He should know who the needy are and organize his church to minister to their needs. There are many cases, of course, in which the personal help of the pastor must be given. For example, a pastor should visit those who have lost a loved one. Even here, however, there is need for much wisdom and discretion. Unless he is positively sure that he is wanted he should not proffer his services unless invited to do so. Often a member of his own church has an "old pastor" whom he loves and wishes the services of simply because of personal attachments. To look over the daily papers merely to get a list of families in which there is a death, and for the purpose of calling on all these without reference to the wishes of such families is not in good taste. With wisdom, therefore, let a minister visit those who need him, it matters not whether they be members of his denomination or not, if they need him and want him he should

be ready to respond.

Another duty that a preacher owes to his community is that of preaching against certain things that are detrimental to the good of the community. Of course he should speak against sinful practices. One of these is the question of gambling on races. This is especially applicable to Kentucky. The state laws permit certain forms of gambling. Here the preacher may teach that such a practice is wrong even though the law permits it. This gives him a chance to point out the harm there is in certain practices in which some churches indulge. For example some churches raffle certain objects for the purpose of making money to defray the church expenses. Such a method of raising money is ethically wrong and a preacher should not hesitate to speak against it--in love.

DUTIES TO EACH OTHER

We come now to the consideration of some of the duties ministers owe to each other. The specific duties that a minister owes to another minister are conditioned largely by the type of church organization of which the minister is a member. For example if a minister is of a denomination in which there are various grades of preachers from the point of view of church organization, he owes certain duties to his "superiors." But a minister of

a denomination in which all ministers are considered equal in rank, these duties do not apply. We shall not, therefore, take up specific duties in any particular denomination, but shall give some of the general principles that will to some degree apply to all.

There are certain duties that an evangelist owes to pastors, especially to a pastor in whose church he holds a revival meeting. He should respect the leadership of the pastor and not undermine him in any way. He should attempt to build up the necessary relationship between the pastor and the people. Or if such a relationship already exists the evangelist should so act that it may be retained. He should leave the pastor, after the meeting is over, better equipped for service in the community. In no case is an evangelist justified in exalting himself at the expense of the pastor. If he is a general evangelist, i. e., interdenominational, or extradenominational, he should always take care to respect the various views of the denominations that employ his services.

Again there are certain general duties which one pastor owes to another pastor in the same community. He should work with pastors of all denominations for the general welfare of the people to whom they minister. He should also regard certain duties to those of

his own denomination. Here I will quote at length an answer to a questionnaire which I sent to a pastor of a large church. He says that "pastors owe it to other pastors to remember the golden rule. He (a pastor) should always be courteous, should seek to protect the other man's reputation and interests. Under no circumstances, should he become envious or jealous. For one pastor to seek to disturb the membership of another pastor's church is certainly reprehensible. I have never asked a member of another church, even in my own denomination or in another denomination, to unite with my church....In the city, it is no longer (a duty) for persons moving from one community to another to move their church letters. They live in all parts of the city and go to the downtown district to transact their business. With modern transportation, they could easily do the same in regard to their churches. Where people have become attached to the church and are active in its work and attend the services and seem to be happy and useful, they ought to be let alone. But of course, if people move into a territory where they cannot attend or do not attend or do not take particular interest in the work of their old church, they they ought to unite with the church more convenient; but it is not the duty of the pastor to go to these

people and persuade them to do this thing. This is a breach of courtesy to their other pastor." This leads us into the subject of unprofessional conduct on the part of a preacher.

UNPROFESSIONAL CONDUCT

In denominations where there is a democratic form of government, the local church "calls" its pastor. It is unprofessional for a minister to solicit a call. He may, indeed, send a notice to the church that he would like to speak to on some subject of general, or of denominational interests, but never with a view of "getting a call." I know of one man who upon resigning a pastorate said that he was requested by certain members of the church not to let the fact be known because the church did not desire to have to answer so many "applications for the pastorate." It seems that one or two ministers at a former time had asked to be called to this church. Such conduct was not only unprofessional but, as shown by the desire of certain members that the resignation of their pastor should not be made public, such conduct is ethically wrong, because it lowers the high standing and the moral influence of ministers, to say nothing of the way such conduct lowers the dignity of the profession.

Self-advertising is considered as a thing that is unprofessional. It is not

unprofessional for a minister to publish in his denominational papers his sermons, nor to publish his sermons in any way, but it is understood that the sermons, or other writings, are published not for self-exaltation but for the good which they may do. Neither is it unprofessional for a minister to notify his denomination through its papers of any changes that he makes or is contemplating making, but this must be done merely as a matter of general interest and never to exploit the fact that he is going to a larger church, or to praise himself in any manner. To tell of the "great things that he has done" in the church which he is leaving is not only not in good taste but is not worthy of a gentleman.

Upon taking up a new pastorate a pastor should never criticise the work of the former minister. He should say as little as possible concerning him. If he should criticise a former pastor he would leave the impression that the present pastor considers himself superior to the former one; if he should praise the former pastor he would leave the impression, often, that the present pastor is only trying to use the good name of the former one for selfish reasons. Of course there may be cases when a pastor must oppose the methods of a former pastor, but these are exceptional. As a rule

one pastor should not criticise another.

"It is considered a breach of courtesy," says one preacher in answer to my questionnaire, "for a pastor of one church to visit the members of another church unless he is invited to do so. I know a man who has the reputation, among the unthinking, of being a veritable saint because he watches for all the funeral notices and finds out about all the people who are sick and then is everlastingly chasing around after them. But other pastors know that he is a pest and a busybody. This same man is reported to carry candy in his pockets for the children and to solicit flowers and other things to distribute to people promiscuously. He prides himself that he is not a denominationalist, but the testimony of a hundred people would be that he is trying to get people from other Sunday schools and churches into his own. Let this be said in parenthesis however--that though he has been following this practice for many years, he is still the pastor of a very small church. It always pays to be a gentleman."

A word ought to be said about the duty a preacher owes to another when one "supplies" for another. It is customary for the pastor to remunerate the pastor who supplies his pulpit. I know a man however who was sick and asked a fellow minister to preach for him. This was done for two months. When the pastor

was able to resume his duties he dismissed the minister without paying him a cent. This was not only unprofessional, it was dishonest. Of course there are cases when it would not be expected of one preacher to pay another for a sermon or an address. But when a pastor is away from his church any length of time and still draws his salary it is nothing but honesty for him to pay the man who works for him while he is absent.

It is unprofessional for a preacher to "deal in personalities," or to lose his temper while speaking. It is unjust to a person for a speaker to point him out in person from the platform. The person in the audience has no way of defending himself; he cannot answer back. It is not fair to expect a congregation to listen to something addressed only to one or two persons in the audience. It is permissible, of course, "in cases of outstanding or gross moral delinquency, where the character is known to all. Otherwise it is not necessary, and is needlessly offensive." (A remark made in answer to a questionnaire which I mailed to the author of the remark.) To lose one's temper is unpardonable. When a speaker loses his temper he loses his force as a speaker and does injustice in many cases to innocent persons.

It is also unprofessional for a minister to betray a confidence. People tell their

troubles, their sins, and their secrets, to their pastor. They do so because they have confidence in him. They believe him to be worthy to advise them. "The pastor who would betray a confidence given in the privacy of the home, is unworthy of the name." ("Twenty Don'ts for Young Preachers," by Baylor.) There are cases in the work of ministers, as in the practice of law or of medicine, when it would be the duty of a preacher to make known a fact though it be gained by him as a secret. Nothing, however, would justify him in making the fact known except where the interests of a greater number of persons is concerned. Even here, he should notify the person whose secret he expects to make known.

It is unprofessional for a minister of protestant denominations to make charges for services at funerals or at weddings. It is customary, however, for him to receive an honorarium for his services in a wedding.

There are many other things that are considered unprofessional if done by ministers. We shall not take space to discuss them. We shall only mention a few of them, as follows: jealousy on the part of one minister to another minister; being indolent; failing to keep appointments; stirring up strife in one's denomination; intemperance-- in all its forms; moving from one church to another "on account of his wife's health"-- when his wife is in good health; failing to pay

his debts; being stingy; telling stories not in good taste; being artificial; or "professional;" striving to be sensational; doing anything that hinders him in his work.

BASIS OF MINISTERIAL ETHICS

Before I close the chapter on ministerial ethics I desire to point out the basis upon which all conflicts of interests should be solved. This principle is the same as that upon which problems in the practice of medicine, or in the practice of law, should be solved. The principle is this: values which are more important, those which are conducive to the pleasurable activity of the greatest possible number of those concerned should take precedence over transient and merely personal values.

I give only one example to illustrate my meaning. The example shows a conflict between health values and spirituals, or at least it seems, on first thought, to show such a conflict. I take the illustration from the records of the Calloway Circuit Court. It is a case where a minister violated a health law during the influenza epidemic in 1919. The Judge of the court outlined the case as follows.-- "This is an important case, although involving merely a misdemeanor, with a comparatively small penalty attached....I have to say in the outset that if any person's re-

ligious liberties are abridged in any way by the order of the board of health, it would not be countenanced by this or any other court of justice....This much I have thought proper to say because of the clamor raised on account of the action of the board of health, by making an order prohibiting people from assembling in church buildings....during the prevalence of the recent epidemic of influenza....The order applied to all churches, and while it was in force the proof shows that defendant, X, attended prayer meeting at Z, in January, 1919....

It is absurd to suppose that the board of health took any pleasure in closing churches. Its members, as well as a large majority of the physicians, are Christian men and church members. What they did was a public necessity....There was no discrimination against any church; they were all treated alike....Complaint is made that the defendant did not have sufficient notice that the "flu" ban was on. To serve every individual with special notice would have been impossible, and was never contemplated. There must have been notice. Notice to the people of the passage of a law is by promulgation--publication. This is essential to its validity. When that is done, the notice is sufficient. Notice of this ban was published in the newspapers of Y county. It was posted at the post office, and the defendant in

answer to a question by the court admitted that he knew that the churches had been ordered closed....I cannot escape the conclusion that he is guilty and should be fined." (Health Laws of Kentucky," pages 261-266.)

I think it is clear to any one who reads the case referred to that in this instance the values of health are greater than the values which could have been gained through assembling in churches under the conditions. In this case the sacrifice of certain values which may be gained in worship is only temporary. Health values therefore, in this case, must be placed above certain spiritual values. As a matter of fact there is no real conflict between the two; each one adds value to the other. The apparent conflict in this case is temporary. It is for the best interest of spiritual values that the people live, and it is for the best interest of health values that the principles of Jesus be applied to health.

There is sometimes a conflict between the personal interests of the preacher and the greater interests of his community. For example a pastor has a church that pays him a large salary. Among those who pay a large portion of his salary are men who earn--if we may use the term "earn"--their money through dishonest methods. The preacher knows that the men who pay his salary do not make their money honestly. Is it

the duty of the pastor to speak out against dishonest methods of making money? If he does, he will lose his position; if he does not, he will sacrifice principles. I would say that it is the duty of any pastor in such a situation to do all in his power to correct the unjust methods mentioned. This may best be done personally. If he fails however he should then speak out boldly against the practices which he knows are going on among those of his members. If he should lose his position he will lose it doing his duty. I can conceive of no case when a pastor would be justified in catering to certain classes of people merely to get his salary paid. It would be better to live on a smaller sum than to get a large one at the sacrifice of principles.

ONE STANDARD FOR ALL

In closing this chapter I wish to emphasize the point that there is one great principle of ethics applicable to all the great professions which have been discussed in this dissertation. In all professions there are various moral values to be considered. That moral value which is to the best interest of the greatest possible number is the value which should be sought. In case of a conflict the lower value must be subordinated to the higher one.

CHAPTER VII.

CONCLUSION

CHAPTER VII.

CONCLUSION

In this dissertation we have sought to show how all the great professions should be made to conform to high ethical ideals. In chapter one we gave a critical estimate of formalism, and of teology in its hedonistic and in its perfectionistic expressions. In chapter two we outlined the general principles of the theory of pleasurable activity. In chapter three we applied this theory to the code of medical ethics showing how certain conflicts of interests may be solved in the practice of medicine. In chapter four we applied our theory to the canons of legal ethics. In chapters five and six we outlined the principle duties that are peculiar to teachers and to preachers, showing how the theory of pleasurable activity applies to these professions as well as to the profession of law, and that of medicine.

We have gone a step further than some writers have gone. We have sought to show that the highest type of pleasurable activity must find its source in the Christian religion. We do not mean by the tern "Christian religion" any superficial belief in some doctrine; we mean

by the term all that the true teachings of Jesus implies. Jesus wrote no code of ethics, neither did He formally give one to be written by others. He gave life. He taught principles that are always applicable to an ever changing world. Codes of ethics must continue to be written and to be revised but the principles of love and justice must remain through all the years to come.

When we say therefore that pleasurable activity is the standard by which all moral values must be judged, we mean that kind of pleasurable activity that results from the "new birth," or the "new will"--the good will--the will that is inclined through the power of God through Jesus Christ to those acts which manifest a genuine love to God and to all men. Without a good will there can be no intentional good acts. An act may turn out be good for a person, or for a number of persons, although the one who willed the act might not have a good will, but such a thing is accidental. As a rule, a good will must produce good conduct, and an evil will must produce evil conduct. "A good tree bringeth not forth corrupt fruit. For every tree is known by its own fruit....The good man out of the good treasure of his heart bringeth forth that which is good; and the evil man out of the evil treasure bringeth forth that which is evil." (Luke, 6:43,44,45.)

RELIGION AND MORALITY

A word should be spoken concerning the relation between religion and morality. This subject was mentioned in chapter six but was not developed. Here a distinction should be made between "religion" and the "Christian religion." "Religion" has been variously defined. "There are said to be ten thousand definitions of religion." C.C. J. Webb says that "a definition of religion is needless and impossible." ("Group Theories of Religion and the Individual," page 37.) Salomon Reinach says "I propose to define religion as: A sum of scruples which impede the free exercise of our faculties." ("A General History of Religions," page 3.) Guiseppe Sergi says that "Religion is a pathological manifestation of the protective function, a sort of deviation of the normal function, a deviation caused by ignorance of natural causes and their effects." (Quoted by E. D. Soper: "The Religions of Mankind," page 19.)

A definition given by W. G. Everett is worthy of notice. He says that "Religion is the experience constituted by those thoughts, feelings and actions which spring from man's sense of dependence upon the power or powers controlling the universe, and which have as their centre of interest the cosmic fortune of values." ("Moral Values," page 382.)

Professor G. A. Coe defines "religion as an ⁽²⁾ immanent movement within our valuations, a movement that does not terminate in any single set of thought contents, or in any set of particular values." ("Psychology of Religion, page 72.) All these definitions are attempts to define religion in such a way as to include all the religions. In this sense the relation of morality to religion is interesting.

Religion, in this sense, is often far behind the standard of high ethical principles. Certain religions as, for example, one that requires human sacrifices are in some respects ethically reprehensible. In a certain sense, therefore, morality purifies religion.]

But this is quite a different thing from saying that morality is superior to the Christian religion. The Christian religion is the fountain source of every type of true morality; there is nothing that is good in any other religion that may not be included in the Christian religion; I do not mean that certain perversions of Christianity are sources of the highest morality; I mean that the religion which is co-extensive with the principles of Jesus demands the highest possible type of morality and is the basis upon which all true ethical standards must ultimately rest. ⁽³⁾

3 [True religion and true morality are not to be contrasted; they are not to be separated.

Neither are they the same thing; they are both the result of the same thing--the "new birth."

[Religion and morality in a Christian's life are as inseparable as the elements hydrogen and oxygen in water. Take either religion or morality out of a man's life and he is not a Christian. Indeed, religion relates a man to God, and morality relates a man to his fellow men, but both relations must be present if either relationship is complete. These two relationships are stated in the sentence which says, "Thou shalt love the Lord thy God with all thy heart, and with all thy soul, and with all thy strength and with all thy mind; and thy neighbor as thyself." The first part of this exhortation refers to genuine religion. Growing out of this first relationship is the cardinal principle of morality, namely, "love thy neighbor as thyself;" the best personal self is such a self as should be an example for all other selves. Who is a neighbor? It is any person in need. The needy one may be an enemy; perhaps he has stolen your garment, or has struck you on your right cheek, or has used you despitefully, yet if he is in need, genuine morality demands that you love him--that you prove neighbor to him.] Jesus was the supreme example of such love; while being crucified He said, "Father forgive them." If Nietzsche calls this weakness, it may be replied that

the "weakness of Jesus" has been the greatest force in all history in lifting men out of sin.

Does any man suppose that he can love his fellow men unless he has the spirit of Jesus? The "moralist" is right if he says that the "Golden Rule" is a good standard of conduct, but he is mistaken if he thinks a man can keep the golden rule apart from true religion. The "religionist" is right if he says that "superficial morality will not purchase a passport to glory," but he is mistaken if he thinks that a man may be truly religious apart from being at the same time truly moral.

THE HIGHEST FORM OF PLEASURABLE ACTIVITY

The highest possible pleasurable activity can be found and can be experienced only in proportion to the degree in which humanity comes into adjustment with "the power that brought us hither and will conduct us hence;" God.

IMPROVEMENT OF PROFESSIONAL CONDUCT

If the great professions are to be made to conform more and more to the highest standards of morality the members of the various professions must possess a genuine love to God and to man. The physician must get his ideals and his power from Jesus who "went about....healing all manner of disease and all manner of sickness among

the people." The lawyer must follow Him who said, "My judgment is righteous." The teacher must direct his life by the life of Him who "taught....as one having authority." The minister must follow Him who "went about doing good."

[The members of all professions must recognize the fact that there is not a double standard of morality; one for his ideal life and the other for his professional or business life. The various duties and the peculiar work of any one of the professions naturally give rise to emphasis upon certain values but this does not mean that any one of the professions has an ethical standard which should be different from the true standard of all morality. Various codes and various applications of principles must come and go but the principles themselves will go on forever.

[If the members of the professions are to continue to grow in usefulness they must remain true to the noble purposis of thier calling. They must see that all their co-workers conform to the standards of ethical conduct. The unfit must be eliminated; the fit made better. Courses in ethics should be required in all schools in which professional men are to be trained.

[Finally, the various social institu-

tions must develop the type of men and women who are best equipped to enter professional life. The home must produce children who are properly trained. The school must teach the moral significance of the various subjects offered and required by the curricula of secondary schools and of colleges. The church must fill its great place in the teaching of moral obligations. The medical schools and the law schools must lay much emphasis on the subject of ethics. Thus we see that institutions make the professions better and the professions make the institutions better. Medical colleges make physicians and physicians make medical colleges. Law schools make lawyers and lawyers make law schools. Schools make teachers and teachers make schools. Churches make preachers and preachers build churches. Institutions make society and society make institutions.

Thus the world grows better. Every individual helps to make it better to the extent that he changes the environment in which better individuals are made, and all humanity moves toward that goal of development which secures the highest possible pleasurable activity of all mankind. Thus the happiness of mankind in time and through eternity may be found in the highest possible development of every self. Every self is an element in the social order

here and hereafter. Make the individual good and the social order will be good; make the social order good and good individuals will be moulded. Every man in his place doing the work which develops himself and his fellow men will eventually produce a social order in which there shall be brotherly love and everlasting peace, and the name of the warrior will be unknown save on the pages of history.

APPENDIX

APPENDIX

A

PRINCIPLES OF MEDICAL ETHICS

CHAPTER I

The Duties of Physicians to Their Patients

THE PHYSICIAN'S RESPONSIBILITY

Section 1.--A profession has for its prime object the service it can render to humanity; reward or financial gain should be a subordinate consideration.-The practice of medicine is a profession. In choosing this profession an individual assumes an obligation to conduct himself in accord with its ideals.

PATIENCE, DELICACY AND SECRECY

Section 2.--Patience and delicacy should characterize all the acts of a physician. The confidences concerning individual or domestic life entrusted by a patient to a physician and the defects of disposition or flaws of character observed in patients during medical attendance should be held as a trust and should never be revealed except when imperatively required by the laws of the state. There are occasions, however, when a physician must determine whether or not his duty to society requires him to take definite action to protect a healthy individual from becoming infected, because the physician has knowledge, obtained through the

confidences entrusted to him as a physician, of a communicable disease to which the healthy individual is about to be exposed. In such a case, the physician should act as he would desire another to act toward one of his own family under like circumstances. Before he determines his course, the physician should know the civil law of his commonwealth concerning privileged communications.

PROGNOSIS

Section 3.--A physician should give timely notice of dangerous manifestations of the disease to the friends of the patient. He should neither exaggerate nor minimize the gravity of the patient's condition. He should assure himself that the patient or his friends have such knowledge of the patient's condition as will serve the best interests of the patient and the family.

PATIENTS MUST NOT BE NEGLECTED

Section 4.-- A physician is free to choose whom he will serve. He should, however, always respond to any request for his assistance in an emergency or whenever temperate public opinion expects the service. Once having undertaken a case, a physician should not abandon or neglect the patient because the disease is deemed incurable; nor should he withdraw from the case for any reason until a sufficient

notice of a desire to be released has been given the patient or his friends to make it possible for them to secure another medical attendant.

CHAPTER II

The Duties of Physicians to Each Other and to the Profession at Large.

Article I.--Duties to the Profession

UPHOLD THE HONOR OF PROFESSION

Section 1.--The obligation assumed on entering the profession requires the physician to comport himself as a gentleman and demands that he use every honorable means to uphold the dignity and honor of his vocation, to exalt its standards and to extend its sphere of usefulness. A physician should not base his practice on an exclusive dogma or sectarian system, for "sects are implacable despots; to accept their thralldom is to take away all liberty from one's action and thought."

DUTY OF MEDICAL SOCIETIES

Section 2. In order that the dignity and honor of the medical profession may be upheld, its standards exalted, its sphere of usefulness extended, and the advancement of medical science promoted, a physician should associate himself with medical societies and contribute his time, energy and means in order that these societies may represent the ideals of the profession.

DEPORTMENT

Section 3.--A physician should be "an upright

man, instructed in the art of healing." consequently, he must keep himself pure in character and conform to a high standard of morals, and must be diligent and conscientious in his studies. "He should also be modest, sober, patient, prompt to do his whole duty without anxiety; pious without going so far as superstition, conducting himself with propriety in his profession and in all the actions of his life."

ADVERTISING

Section 4.--Solicitation of patients by circulars or advertisements, or by personal communications or interviews, not warranted by personal relations, is unprofessional. It is equally unprofessional to procure patients by indirection through solicitors or agents of any kind, or by indirect advertisement, or by furnishing or inspiring newspaper or magazine comments concerning cases in which the physician has been or is concerned. All other like self-laudations defy the traditions and lower the tone of any profession and so are intolerable. The most worthy and effective advertisement possible, even for a young physician, and especially with his brother physicians, is the establishment of a well-merited reputation for professional ability and fidelity. This cannot be forced, but must be the outcome of character and conduct. The publication or circulation of ordinary simple business cards, being a matter of personal taste or local custom, and sometimes

of convenience, is not per se improper. As implied, it is unprofessional to disregard local customs and offend recognized ideals in publishing or circulating such cards.

It is unprofessional to promise radical cures; to boast of cures and secret methods of treatment or remedies; to exhibit certificates of skill or of success in the treatment of disease; or to employ any methods to gain the attention of the public for the purpose of obtaining patients.

PATENTS AND PREQUISITES

Section 5.--It is unprofessional to receive remuneration from patents for surgical instruments or medicines; to accept rebates on prescriptions or surgical appliances, or perquisites from attendants who aid in the care of patients.

MEDICAL LAWS--SECRET REMEDIES

Section 6.--It is unprofessional for a physician to assist unqualified persons to evade legal restrictions governing the practice of medicine; it is equally unethical to prescribe or dispense secret medicines or other secret remedial agents, or manufacture or promote their use in any way.

SAFEGUARDING THE PROFESSION

Section 7.--Physicians should expose without fear or favor, before the proper medical or legal tribunals, corrupt or dishonest conduct of members of the profession. Every physician should aid in safeguarding the profession

against the admission to its ranks of those who are unfit or unqualified because deficient either in moral character or education.

ARTICLE II.--PROFESSIONAL SERVICES OF PHYSICIANS TO EACH OTHER

PHYSICIANS DEPENDEND ON EACH OTHER

Section 1.-- Experience teaches that it is unwise for a physician to treat members of his own family or himself. Consequently, a physician should always cheerfully and gratuitously respond with his professional services to the call of any physician practicing in his vicinity, or of the immediate family dependents of physicians.

COMPENSATION FOR EXPENSES

Section 2.--When a physician from a distance is called on to advise another physician or one of his family dependents, and the physician to whom the service is rendered is in easy financial circumstances, a compensation that will at least meet the traveling expenses of the visiting physician should be proffered. When such a service requires an absence from the accustomed field of professional work of the visitor that might reasonable be expected to entail a pecuniary loss, such loss should, in part at least, be provided for in the compensation offered.

ONE PHYSICIAN TO TAKE CHARGE

Section 3.--When a physician or a member of his dependent family is seriously ill, he or his

family should select a physician from among his neighboring colleagues to take charge of the case. Other physicians may be associated in the care of the patient as consultants.

ARTICLE III.-- Duties of Physician in Consultations

CONSULTATIONS SHOULD BE REQUIRED

Section 1.--In serious illness, especially in doubtful or difficult conditions, the physician should request consultations.

CONSULTATION FOR PATIENT'S BENEFIT

Section 2.--In every consultation, the benefit to be derived by the patient is of first importance. All the physicians interested in the case should be frank and candid with the patient and his family. There never is occasion for insincerity, rivalry or envy and these should never be permitted between consultants.

PUNCTUALITY

Section 3.--It is the duty of a physician, particularly in the instance of a consultation, to be punctual in attendance. When, however, the consultant or the physician in charge is unavoidably delayed, the one who first arrives should wait for the other for a reasonable time, after which the consultation should be considered postponed. When the consultant has come from a distance, or when for any reason it will be difficult to meet the physician in charge at another time, or if the case is urgent, or if it be the

patient, he may examine the patient and mail his written opinion, or see that it is delivered under seal, to the physician in charge. Under these conditions, the consultant's conduct must be especially tactful; he must remember that he is framing an opinion without the aid of the physician who has observed the course of the disease.

PATIENT REFERRED TO SPECIALIST

Section 4.--When a patient is sent to one specially skilled in the care of the condition from which he is thought to be suffering, and for any reason it is impracticable for the physician in charge of the case to accompany the patient, the physician in charge should send to the consultant by mail, or in the care of the patient under seal, a history of the case, together with the physician's opinion and an outline of the treatment, or so much of this as may possibly be of service to the consultant; and as soon as possible after the case has been seen and studied, the consultant should address the physician in charge and advise him of the results of the consultant's investigation of the case. Both these opinions are confidential and must be so regarded by the consultant and by the physician in charge.

DISCUSSIONS IN CONSULTATION

Section 5.--After the physicians called in consultation have completed their investigations

of the case, they may meet by themselves to discuss conditions and determine the course to be followed in the treatment of the patient. No statement or discussion of the case should take place before the patient or friends, except in the presence of all the physicians attending, or by their common consent; and no opinions or prognostications should be delivered as a result of the deliberations of the consultants, which have not been concurred in by the consultants at their conference.

ATTENDING PHYSICIAN RESPONSIBLE

Section 6.--The physician in attendance is in charge of the case and is responsible for the treatment of the patient. Consequently, he may prescribe for the patient at any time and is privileged to vary the mode of treatment outlined and agreed on at a consultation whenever, in his opinion, such a change is warranted. However, at the next consultation, he should state his reasons for departing from the course decided on at the previous conference. When an emergency occurs during the absence of the attending physician, a consultant may provide for the emergency and the subsequent care of the patient until the arrival of the physician in charge, but should do no more than this without the consent of the physician in charge.

CONFLICT OF OPINION

Section 7.--Should the attending physician and

the consultant find it impossible to agree in their view of a case another consultant should be called to the conference or the first consultant should withdraw. However, since the consultant was employed by the patient in order that his opinion might be obtained, he should be permitted to state the result of his study of the case to the patient, or his next friend in the presence of the physician in charge.

CONSULTANT AND ATTENDANT

Section 8.--When a physician has attended a case as a consultant, he should not become the attendant of the patient during that illness except with the consent of the physician who was in charge at the time of the consultation.

ARTICLE IV. Duties of Physicians in Cases of Interference.

CRITICISM TO BE AVOIDED

Section 1.--The physician, in his intercourse with a patient under the care of another physician, should observe the strictest caution and reserve; should give no disingenuous hints relative to the nature and treatment of the patient's disorder; nor should the course of conduct of the physician, directly or indirectly, tend to diminish the trust reposed in the attending physician.

SOCIAL CALLS ON PATIENT OF ANOTHER PHYSICIAN

Section 2.--A physician should avoid making

social calls on those who are under the professional care of other physicians without the knowledge and consent of the attendant. Should such a friendly visit be made, there should be no inquiry relative to the nature of the disease or comment upon the treatment of the case, but the conversation should be on subjects other than the physical condition of the patient.

SERVICES TO PATIENT OF ANOTHER PHYSICIAN

Section 3.-- A physician should never take charge of or prescribe for a patient who is under the care of another physician, except in an emergency, until after the other physician has relinquished the case or has been properly dismissed.

CRITICISM TO BE AVOIDED

Section 4.--When a physician does succeed another physician in the charge of a case, he should not make comments on or insinuations regarding the practice of the one who preceeded him. Such comments or insinuations tend to lower the esteem of the patient for the medical profession and so react against the critic.

EMERGENCY CASES

Section 5.--When a physician is called in an emergency and finds that he has been sent for because the family attendant is not at hand, or when a physician is asked to see another physician's patient because of an aggravation

of the disease, he should provide only for the patient's immediate need and should withdraw from the case on the arrival of the family physician after he has reported the condition found and the treatment administered.

WHEN SEVERAL PHYSICIANS ARE SUMMONED

Section 6.--When several physicians have been summoned in a case of sudden illness or of accident, the first to arrive should be considered the physician in charge. However, as soon as the exigencies of the case permit, or on the arrival of the acknowledged family attendant or the physician the patient desires to serve him, the first physician should withdraw in favor of the chosen attendant; should the patient or his family wish some one other than the physician known to be the family physician to take charge of the case the patient should advise the family physician of his desire. When, because of sudden illness or accident, a patient is taken to a hospital, the patient should be returned to the care of his known family physician as soon as the condition of the patient and the circumstances of the case warrant this transfer.

A COLLEAGUE'S PATIENT

Section 7.--When a physician is requested by a colleague to care for a patient during his temporary absence, or when, because of an emergency, he is asked to see a patient of a col-

league, the physician should treat the patient in the same manner and with the same delicacy as he would have one of his own patients cared for under similar circumstances. The patient should be returned to the care of the attending physician as soon as possible.

RELINQUISHING PATIENT TO REGULAR ATTENDANT

Section 8.--When a physician is called to the patient of another physician during the enforced absence of that physician, the patient should be relinquished on the return of the latter.

SUBSTITUTING IN OBSTETRIC WORK

Section 9.--When a physician attends a woman in labor in the absence of another who has been engaged to attend, such physician should resign the patient to the one first engaged, upon his arrival; the physician is entitled to compensation for the professional services he may have rendered.

ARTICLE V.--Differences Between Physicians

ARBITRATION

Section 1.--Whenever there arises between physicians a grave difference of opinion which cannot be promptly adjusted, the dispute should be referred for arbitration to a committee of impartial physicians, preferably the Board of Censors of a component county society of the American Medical Association.

ARTICLE VI.--Compensation

LIMITS OF GRATUITOUS SERVICE

Section 1.--The poverty of a patient and the mutual professional obligation of physicians should command the gratuitous services of a physician. But institutions endowed by societies, and organizations for mutual benefit, or for accident, sickness and life insurance, or for analogous purposes, should be accorded no such privileges.

CONTRACT PRACTICE

Section 2.--It is unprofessional for a physician to dispose of his services under conditions that make it impossible to render adequate service to his patient or which interfere with reasonable competition among the physicians of a community. To do this is detrimental to the public and to the individual physician, and lowers the dignity of the profession.

SECRET DIVISION OF FEES CONDEMNED

Section 3.--It is detrimental to the public good and degrading to the profession, and therefore unprofessional, to give or to receive a commission. It is also unprofessional to divide a fee for medical advice or surgical treatment, unless the patient or his next friend is fully informed as to the terms of the transaction. The patient should be made to realize that a proper fee should be paid the family physician

for the service he renders in determining the surgical or medical treatment suited to the condition, and in advising concerning those best qualified to render any special service that may be required by the patient.

CHAPTER III

The Duties of the Profession to the Public

PHYSICIANS AS CITIZENS

Section 1.--Physicians, as good citizens and because their professional training specially qualifies them to render this service, should give advice concerning the public health of the community. They should bear their full part in enforcing its laws and sustaining the institutions that advance the interests of humanity. They should cooperate especially with the proper authorities in the administration of sanitary laws and regulations. They should be ready to counsel the public on subjects relating to sanitary police, public hygiene and legal medicine.

PHYSICIANS SHOULD ENLIGHTEN PUBLIC-- DUTIES IN EPIDEMICS

Section 2.--Physicians, especially those engaged in public health work, should enlighten the public regarding quarantine regulations; on the location, arrangement and dietaries of hospitals, asylums, schools, prisons, and similar institutions; and concerning measures for the

prevention of epidemic and contagious diseases. When an epidemic prevails, a physician must continue his labors for the alleviation of suffering people, without regard to the risk to his own health or life or to financial return. At all times, it is the duty of the physician to notify the properly constituted public health authorities of every case of communicable disease under his care, in accordance with the laws, rules and regulations of the health authorities of the locality in which the patient is.

PUBLIC WARNED

Section 3.--Physicians should warn the public against the devices practiced and the false pretensions made by charlatans which may cause injury to health and loss of life.

PHARMACISTS

Section 4.-- By legitimate patronage, physicians should recognize and promote the profession of pharmacy; but any pharmacist, unless he be qualified as a physician, who assumes to prescribe for the sick, should be denied such countenance and support. Moreover, whenever a druggist or pharmacist dispenses deteriorated or adulterated drugs, or substitutes one remedy for another designated in a prescription, he thereby forfeits all claims to the favorable consideration of the public and physicians.

CONCLUSION

While the foregoing statements express in a

general way the duty of the physician to his patients, to ~~other~~ members of the profession and to the profession at large, as well as of the profession to the public, it is not to be supposed that they cover the whole field of medical ethics, or that the physician is not under many duties and obligations besides these herein set forth. In a word, it is incumbent on the physician that under all conditions, his bearing toward patients, the public and fellow practitioners should be characterized by a gentlemanly deportment and that he constantly should behave toward others as he desires them to deal with him. Finally, these principles are primarily for the good of the public, and their enforcement should be conducted in such a manner as shall deserve and receive the endorsement of the community.

(Note.--This code of medical ethics was furnished by Dr. S. O. Sublette, Versailles, Kentucky. It is the one adopted by the House of Delegates at Atlantic City, N.J., June 4, 1912. It is different, in some points, from the code which I analyzed in chapter three.)

P.S. I wish to acknowledge the kindness of the American Medical Association who holds the copyright on the "Principles of Medical Ethics" and who through its Secretary, Alexander R. Craig, M. D., gave me permission to incorporate the "Principles of Medical Ethics" as an appendix to this thesis.
May 31, 1922.
Lewis W. Dockery

APPENDIX

B

(Legal Ethics)

CANONS OF ETHICS.

I.

PREAMBLE.

In America, where the stability of courts and of all departments of government rests upon the approval of the people, it is peculiarly essential that the system for establishing and dispensing justice be developed to a high point of efficiency and so maintained that the public shall have absolute confidence in the integrity and impartiality of its administration. The future of the republic, to a great extent, depends upon our maintenance of justice pure and unsullied. It cannot be so maintained unless the conduct and the motives of the members of our profession are such as to merit the approval of all just men.

II.

THE CANONS OF ETHICS

No code or set of rules can be framed which will particularize all the duties of the lawyer in the varying phases of litigation or in all the relations of professional life. The following canons of ethics are adopted by the American Bar Association as a general guide, yet the enumeration of particular duties should not be construed as a denial of the existence of others equally imperative, though not specifically mentioned:

1. The Duty of the Lawyer to the Courts.--

It is the duty of the lawyer to maintain toward the Courts a respectful attitude, not for the same of the temporary incumbent of the judicial office, but for the maintenance of its supreme importance. Judges, not being wholly free to defend themselves, are peculiarly entitled to receive the support of the Bar against unjust criticism and clamor. Whenever there is proper ground for serious complaint of a judicial officer, it is the right and duty of the lawyer to submit his grievance's to the proper authorities. In such cases, but not otherwise, such charges should be encouraged and the person making them should be protected.

2. The Selection of Judges.--

It is the duty of the Bar to endeavor to prevent political considerations from outweighing judicial fitness in the selection of Judges. It should protest earnestly and actively against the appointment or election of those who are unsuitable for the Bench; and it should strive to have elevated thereto only those willing to forego other employments, whether of a business, political or other character, which may embarrass their free and fair consideration of questions before them for decision. The aspiration of lawyers for judicial position should be governed by an impartial estimate of their ability to add honor to the office and not by a desire for the distinction the position may bring to themselves.

3. Attempts to Exert Personal Influence on the Court.--Marked attention and unusual hospitality on the part of a lawyer to a Judge, uncalled for by the personal relations of the parties, subject both the Judge and the lawyer to misconstructions of motive and should be avoided. A lawyer should not communicate or argue privately with the Judge as to the merits of a pending cause, and he deserves rebuke and denunciation for any device or attempt to gain from a Judge special personal consideration or favor. A self-respecting independence in the discharge of professional duty, without denial or diminution of the courtesy and respect due the Judge's station, is the only proper foundation for cordial personal and official relations between Bench and Bar.

4. When Counsel for an Indigent Prisoner.--A lawyer assigned as counsel for an indigent prisoner ought not to ask to be excused for any trivial reason, and should always exert his best efforts in his behalf.

5. The Defense or Prosecution of those Accused of Crime.-- It is the right of the lawyer to undertake the defense of a person accused of crime, regardless of his personal opinion as to the guilt of the accused; otherwise innocent persons, victims only of suspicious circumstances, might be denied proper defense. Having undertaken such defense, the lawyer is bound

by all fair and honorable means, to present every defense that the law of the land permits, to the end that no person may be deprived of life or liberty, but by due process of law.

The primary duty of a lawyer engaged in public prosecution is not to convict, but to see that justice is done. The suppression of facts or the secreting of witnesses capable of establishing the innocence of the accused is highly reprehensible.

6. Adverse Influences and Conflicting Interests.-- It is the duty of a lawyer at the time of retainer to disclose to the client all the circumstances of his relations to the parties, and any interest in or connection with the controversy, which might influence the client in the selection of counsel.

It is unprofessional to represent conflicting interests, except by express consent of all concerned given under a full disclosure of the facts. Within the meaning of this canon, a lawyer represents conflicting interests when, in behalf of one client, it is his duty to contend for that which duty to another client requires him to oppose.

The obligation to represent the client with undivided fidelity and not to divulge his secrets or confidences forbids also the subsequent acceptance of retainers or employment from others in matters adversely affecting any interests of

the client with respect to which confidence has been reported.

7. Professional Colleagues and Conflicts of Opinion.-- A client's proffer of assistance of additional counsel should not be regarded as evidence of want of confidence, but the matter should be left to the determination of the client. A lawyer should decline association as colleague if it is objectionable to the original counsel, but if the lawyer first retained is relieved, another may come into the case.

When lawyers jointly associated in a cause cannot agree as to any matter vital to the interest of the client, the conflict of opinion should be frankly stated to him for his final determination. His decision should be accepted unless the nature of the difference makes it impracticable for the lawyer whose judgment has been overruled to co-operate effectively. In this event it is his duty to ask the client to relieve him.

Efforts, direct or indirect, in any way to encroach upon the business of another lawyer, are unworthy of those who should be brethren at the Bar; but nevertheless, it is the right of any lawyer, without fear or favor, to give proper advice to those seeking relief against unfaithful or neglectful counsel, generally after communication with the lawyer of whom the complaint is made.

8. Advising upon the Merits of a Client's Cause.-- A lawyer should endeavor to obtain full knowledge of his client's cause before advising thereon, and he is bound to give a candid opinion of the merits and probable result of pending or contemplated litigation. The miscarriages to which justice is subject, by reason of surprises and disappointments in evidence and witnesses, and through mistakes of juries and errors of Courts, even though only occasional, admonish lawyers to beware of bold and confident assurances to clients, especially where the employment may depend upon such assurance. Whenever the controversy will admit of fair adjustment, the client should be advised to avoid or to end the litigation.

9. Negotiations with Opposite Party.-- A lawyer should not in any way communicate upon the subject of controversy with a party represented by counsel; much less should he undertake to negotiate or compromise the matter with him, but should deal only with his counsel. It is incumbent upon the lawyer most particularly to avoid everything that may tend to mislead a party not represented by counsel, and he should not undertake to advise him as to the law.

10. Acquiring Interest in Litigation.-- The lawyer should not purchase any interest in the subject matter of the litigation which he is conducting.

11. Dealing with Trust Property.-- Money of the client or other trust property coming into the possession of the lawyer should be reported promptly, and except with the client's knowledge and consent should not be commingled with his private property or be used by him.

12. Fixing the Amount of the Fee.-- In fixing fees, lawyers should avoid charges which overestimate their advice and services, as well as those which undervalue them. A client's ability to pay cannot justify a charge in excess of the value of the service, though his poverty may require a less charge, or even none at all. The reasonable requests of brother lawyers, and of their widows and orphans without ample means, should receive special and kindly consideration.

In determining the amount of the fee, it is proper to consider: (1) the time and labor required, the novelty and difficulty of the questions involved and the skill requisite properly to conduct the cause; (2) whether the acceptance of employment in the particular case will preclude the lawyer's appearance for others in cases likely to arise out of the transaction, and in which there is a reasonable expectation that otherwise he would be employed, or will involve the loss of other business while employed in the particular case or antagonisms with other clients; (3) the customary charges of the Bar for similar services; (4) the amount involved in the controversy and the

benefits resulting to the client from the services; (5) the contingency or the certainty of the compensation; and (6) the character of the employment, whether casual or for an established and constant client. No one of these considerations in itself is controlling. They are mere guides in ascertaining the real value of the service.

In fixing fees it should never be forgotten that the profession is a branch of the administration of justice and not a mere moneygetting trade.

13. Contingent Fees.-- Contingent fees, where sanctioned by law, should be under the supervision of the Court, in order that clients may be protected from unjust charges.

14. Suing a Client for a Fee.-- Controversies with clients concerning compensation are to be avoided by the lawyer so far as shall be compatible with his self-respect and with his right to receive reasonable recompense for his services; and lawsuits with clients should be resorted to only to prevent injustice, imposition or fraud.

15. How Far a Lawyer May Go in Supporting a Client's Cause.-- Nothing operates more certainly to create or to foster popular prejudice against lawyers as a class, and to deprive the profession of that full measure of public esteem and confidence which belongs to the proper discharge of its duties, than does the false claim, often set up

by the unscrupulous in defense of questionable transactions, that it is the duty of the lawyer to do whatever may enable him to succeed in winning his client's cause.

It is improper for a lawyer to assert in argument his personal belief in his client's innocence or in the justice of his cause.

The lawyer owes "entire devotion to the interest of the client, warm zeal in the maintenance and defense of his rights and the exertion of his utmost learning and ability," to the end that nothing be taken or withheld from him, save by the rules of law, legally applied. No fear of judicial disfavor or public unpopularity should restrain him from the full discharge of his duty. In the judicial forum the client is entitled to the benefit of any and every remedy and defense that is authorized by the law of the land, and he may expect his lawyer to assert every such remedy or defense. But it is steadfastly to be borne in mind that the great trust of the lawyer is to be performed within and not without the bounds of the law. The office of attorney does not permit, much less does it demand of him, for any client, violation of law or any manner of fraud or chicane. He must obey his own conscience and not that of his client.

16. Restraining Clients from Improprieties.--

A lawyer should use his best efforts to restrain and to prevent his clients from doing those things which the lawyer himself ought not to do,

particularly with reference to their conduct towards Courts, judicial officers, jurors, witnesses and suitors. If a client persists in such wrongdoing the lawyer should terminate their relation.

17. Ill-Feeling and Personalities Between Advocates.--Clients, not lawyers, are the litigants. Whatever may be the ill-feeling existing between clients, it should not be allowed to influence counsel in their conduct and demeanor toward each other or toward suitors in the case. All personalities between counsel should be scrupulously avoided. In the trial of a cause it is indecent to allude to the personal history or the personal peculiarities and idiosyncrasies of counsel on the other side. Personal colloquies between counsel which cause delay and promote unseemly wrangling should also be carefully avoided.

18. Treatment of Witnesses and Litigants.--A lawyer should always treat adverse witnesses and suitors with fairness and due consideration, and he should never minister to the malevolence or prejudices of a client in the trial or conduct of a cause. The client cannot be made the keeper of the lawyer's conscience in professional matters. He has no right to demand that his counsel shall abuse the opposite party or indulge in offensive personalities. Improper speech is not excusable on the ground that it is what the client would say if speaking in his own behalf.

19. Appearance of Lawyer as Witness for His Client.-- When a lawyer is witness for his client, except as to merely formal matters, such as the attestation of custody of an instrument and the like, he should leave the trial of the case to other counsel. Except when essential to the ends of justice, a lawyer should avoid testifying in Court in behalf of his client.

20. Newspaper Discussion of Pending Litigation.-- Newspaper publications by a lawyer as to pending or anticipated litigation may interfere with a fair trial in the Courts and otherwise prejudice the due administration of justice. Generally they are to be condemned. If the extreme circumstances of a particular case justify a statement to the public, it is unprofessional to make it anonymously. An exparte reference to the facts should not go beyond quotation from the records and papers on file in the Court; but even in extreme cases it is better to avoid any ex parte statement.

21. Punctuality and Expedition.-- It is the duty of the lawyer not only to his client, but also to the courts and to the public, to be punctual in attendance, and to be concise and direct in the trial and disposition of causes.

22. Candor and Fairness.--The conduct of the lawyer before the Court and with other lawyers should be characterized by candor and fairness.

It is not candid or fair for the lawyer know-

ingly to misquote the contents of a paper, the testimony of a witness, the language or the argument of opposing counsel, or the language of a decision or a text-book; or with knowledge of its invalidity, to cite as authority a decision that has been overruled, or a statute that has been repealed; or in argument to assert as a fact that which has not been proved, or in those jurisdictions where a side has the opening and closing arguments to mislead his opponent by concealing or withholding positions in his opening argument upon which his side then intends to rely.

It is unprofessional and dishonorable to deal other than candidly with the facts in taking the statements of witnesses, in drawing affidavits and other documents, and in the presentation of causes.

A lawyer should not offer evidence, which he knows the Court should reject, in order to get the same before the jury by argument for its admissibility, nor should he address to the Judge arguments upon any point not properly calling for determination by him. Neither should he introduce into an argument, addressed to the Court, remarks or statements intended to influence the jury or bystanders.

These and all kindred practices are unprofessional and unworthy of an officer of the law charged, as is the lawyer, with the duty of aiding in the administration of justice.

23. Attitude Toward Jury.-- All attempts to curry favor with juries by fawning, flattery or pretended solicitude for their personal comfort are unprofessional. Suggestions of counsel, looking to the comfort or convenience of jurors, and propositions to dispense with argument, should be made to the Court out of the jury's hearing. A lawyer must never converse privately with jurors about the case; and both before and during the trial he should avoid communicating with them, even as to matters foreign to the cause.

24. Right of Lawyer to Control the Incidents of the Trial.-- As to incidental matters pending the trial, not affecting the merits of the cause, or working substantial prejudice to the rights of the client, such as forcing the opposite lawyer to trial when he is under affliction or bereavement; forcing the trial on a particular day to the injury of the opposite lawyer when no harm will result from a trial at a different time; agreeing to an extension of time for signing a bill of exceptions, cross interrogatories and the like, the lawyer must be allowed to judge. In such matters no client has a right to demand that his counsel shall be illiberal, or that he do anything therein repugnant to his own sense of honor and propriety.

25. Taking Technical Advantage of Opposite Counsel; Agreements with Him.-- A lawyer should not ignore known customs or practice of the Bar or of a particular Court, even when the law permits,

without giving timely notice to the opposing counsel. As far as possible, important agreements, affecting the rights of clients, should be reduced to writing; but it is dishonorable to avoid performance of an agreement fairly made because it is not reduced to writing, as required by rules of Court.

26. Professional Advocacy Other Than Before Courts.-- A lawyer openly, and in his true character may render professional services before legislative or other bodies, regarding proposed legislation and in advocacy of claims before departments of government, upon the same principles of ethics which justify his appearance before the Courts; but it is unprofessional for a lawyer so ingaged to conceal his attorneyship, or to employ secret personal solicitations, or to use means other than those addressed to the reason and understanding to influence action.

27. Advertising, Direct or Indirect.-- The most worthy and effective advertisement possible, even for a young lawyer, and especially with his brother lawyers, is the establishment of a well-merited reputation for professional capacity and fidelity to trust. This cannot be forced, but must be the outcome of character and conduct. The publication or circulation of ordinary simple business cards, being a matter of personal taste or local custom, and sometimes of convenience, is not per se improper. But solicitation of business by circulars

or advertisements, or by personal communications or interviews, not warranted by personal relations, is unprofessional. It is equally unprofessional to procure business by indirection through touters of any kind, whether allied real estate firms or trust companies advertising to secure the drawing of deeds or wills or offering retainers in exchange for executorships or trusteeships to be influenced by the lawyer. Indirect advertisement for business by furnishing or inspiring newspaper comments concerning causes in which the lawyer has been engaged, or concerning the manner of their conduct, the magnitude of the interests involved, the importance of the lawyer's positions, and all other like self-laudation, defy the traditions and lower the tone of our high calling, and are intolerable.

28. Stirring up Litigation, Directly or Through Agents.-- It is unprofessional for a lawyer to volunteer advice to bring a lawsuit, except in rare cases where ties of blood, relationship or trust make it his duty to do so. Stirring up strife and litigation is not only unprofessional, but it is indictable at common law. It is disreputable to hunt up defects in titles or other causes of action and inform thereof in order to be employed to bring suit, or to breed litigation by seeking out those with claims for personal injuries or those having any other grounds of action in order to secure them as clients, or to employ agents or

runners for like purposes, or to pay or reward directly or indirectly, those who bring or influence the bringing of such cases to his office, or to remunerate policemen, court or prison officials, physicians, hospital attaches or others who may succeed, under the guise of giving disinterested friendly advice, in influencing the criminal, the sick and the injured, the ignorant or others, to seek his professional services. A duty to the public and to the profession devolves upon every member of the Bar, having knowledge of such practices upon the part of any practitioner, immediately to inform thereof to the end that the offender may be disbarred.

29. Upholding the Honor of the Profession.-- Lawyers should expose without fear or favor before the proper tribunals corrupt or dishonest conduct in the profession, and should accept without hesitation employment against a member of the Bar who has wronged his client. The counsel upon the trial of a cause in which perjury has been committed owe it to the profession and to the public to bring the matter to the knowledge of the prosecuting authorities. The lawyer should aid in guarding the Bar against the admission to the profession of candidates unfit or unqualified because deficient in either moral character or education. He should strive at all times to uphold the honor and to maintain the dignity of the profession and to improve not only the law but

the administration of justice.

30. Justifiable and Unjustifiable Litigations.-- The lawyer must decline to conduct a civil cause or to make a defense when convinced that it is intended merely to harass or to injure the opposite party or to work oppression or wrong. But otherwise it is his right, and, having accepted retainer, it becomes his duty to insist upon the judgment of the Court as to the legal merits of his client's claim. His appearance in Court should be deemed equivalent to an assertion on his honor that in his opinion his client's case is one proper for judicial determination.

31. Responsibility for Litigation.-- No lawyer is obliged to act either as adviser or advocate for every person who may wish to become his client. He has the right to decline employment. Every lawyer upon his own responsibility must decide what business he will accept as counsel, what causes he will bring into Court for plaintiffs, what cases he will contest in Court for defendants. The responsibility for advising questionable transactions, for bringing questionable suits, for urging questionable defenses, is the lawyer's responsibility. He cannot escape it by urging as an excuse that he is only following his client's instructions.

32. The Lawyer's Duty in Its Last Analysis.-- No client, corporate or individual, however powerful, nor any cause, civil or political, however important,

is entitled to receive, nor should any lawyer render any service or advice involving disloyalty to the law whose ministers we are, or disrespect of the judicial office, which we are bound to uphold, or corruption of any person or persons exercising a public office or private trust, or deception or betrayal of the public. When rendering any such improper service or advice, the lawyer invites and merits stern and just condemnation. Correspondingly, he advances the honor of his profession and the best interests of his client when he renders service or gives advice tending to impress upon the client and his undertaking exact compliance with the strictest principles of moral law. He must also observe and advise his client to observe the statute law, though until a statute shall have been construed and interpreted by competent adjudication, he is free and is entitled to advise as to its validity and as to what he conscientiously believes to be its just meaning and extent. But 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.

(Note.-- These canons were furnished by Eugene Ballard, Montgomery, Alabama.)

BIBLIOGRAPHY

BIBLIOGRAPHY

GENERAL ETHICS

- Aristotle, "Nichomachean Ethics," (Louisville City Library).
- Everett, Walter Goodnow, "Moral Values," (Henry Holt and Co., 1918).
- Kant, Immanuel, "Metaphysic of Ethics," (Library of the Southern Baptist Theological Seminary).
- Mill, J. S., "Utilitarianism," Parker, Son and Bourn, West Strand, London).
- Nietzsche, Friedrich, "The Genealogy of Morals," Translated by Horace B. Samuel, Boni and Liveright, N.Y.).
- Paulsen, Friedrich, "A System of Ethics," Translated by Frank Thilly, Scribner's.
- Seth, James, "Ethical Principles," Scribner's, 1911.
- Spencer, Herbert, "Data of Ethics," David McKay, 1879.
- Thilly, Frank, "Introduction to Ethics," Scribner's, 1905.

MEDICAL ETHICS

- Aikens, Charlotte A., "Studies in Ethics for Nurses," W. B. Saunders Co, Philadelphia, 1916.
- Cathell, D. W., "The Physician Himself," F. A. Davis Co, Philadelphia, 1897.
- Flint, Austin, "Medical Ethics and Etiquette," D. Appleton and Co., 1883.
- Holmes, O. W., "Practical Ethics for a Physician," "Modern Eloquence," Vol. 8, page 677. (Louisville City Library)

Robertson, W. G. Aitchison, "Medical Conduct and Practice," A. & C. Black, Ltd., London, 1921.

Veressayev, Vikenty, "The Memoirs of A Physician," by Simeon Linden, Alfred A. Knoph, N.Y., 1916.

Weaver, Daniel W., A. S. Barnes Co., N.Y., 1917.

Laws (Abstract) and Board Rulings....1918, The American Medical Association, Chicago.

Legal Decisions....1899, E. B. Treat and Co, N.Y.

Bulletin of the State Board of Health of Kentucky, Published by the Board, Louisville, 1919.

State Laws and Regulations Pertaining to Public Health, (Adopted 1915), Washington Government Printing Office.

"Nostrums and Quackery," American Medical Association, Chicago.

Current Opinion, Vol., 61, Pages, 186-187.

World's Work, Vol., 33, page 208.

LEGAL ETHICS

Archer, Gleason L., "Ethical Obligations of the Lawyer," Boston, Little Brown, and Co., 1910.

Perry, Ralph Barton, "The Moral Economy," Scribner's, 1909.

Ross, Edward Alsworth, "The Principles of Sociology," Chapter 39, 1909.

Sharswood, George, "Professional Ethics," T. & J. W. Johnson & Co., Philadelphia, 1876.

Smith, Reginald Heber, "Justice and the Poor," Scribner's 1921.

Warren, Samuel, "Moral, Social, and Professional Duties of Attorneys and Solicitors," Harper and Brothers, 1861.

PEDAGOGICAL ETHICS

- Bagley, William Chandler, "School Discipline," Macmillan, 1915.
- Baldwin, James Mark, "Social and Ethical Interpretations in Mental Development," Macmillan, 1897.
- Bolton, Frederick Elmer, "Principles of Education," Scribner's, 1910.
- Cubberley, Ellwood P., "Changing Conceptions of Education," Houghton Mifflin, 1909.
- DeGarmo, Charles, "Interest and Education," Macmillan, 1903.
- Dewey, John, "Ethical Principles Underlying Education," University of Chicago Press, 1903.
- Woodley, O. I., "The Profession of Teaching," Houghton Mifflin, 1917.

MINISTERIAL ETHICS

- Alexander, Archibald B. D., "Christianity and Ethics," Scribner's, 1914.
- Baylor, W. H., "Twenty Don'ts for Young Preachers," Baltimore, Md.
- Broadus, J. A., "Preparation and Delivery of Sermons," Hodder and Stoughton, 1898.
- Bryan, O. E., "The Ethics of Evangelism," (An Address).
- Clarke, William Newton, "The Ideal of Jesus," Scribner's, 1915.
- Davidson, A. B., "The Theology of the Old Testament," Scribner's, 1920.
- Gardner, Charles S., "Psychology of Preaching," Macmillan, 1919.
- Gardner, Charles S., "The Ethics of Jesus and Social Progress."

PROFESSIONAL ETHICS (continued)

Hoyt, A. S., "Vital Elements of Preaching," Macmillan, 1914.

Mackintosh, R., "Christian Ethics," Hodder and Stoughton, 1909.

Mullins, E. Y., "The Christian Religion in Its Doctrinal Expression," Roger Williams Press, 1917.

Stevens, G. B., "The Theology of the New Testament," Scribner's, 1920.

PSYCHOLOGY

James, William, "The Principles of Psychology," in two volumes, Henry Holt, 1890.

Kirkpatrick, E. A., "Genetic Psychology," Macmillan, 1917.

Pillsbury, W. B., "The Fundamentals of Psychology," Macmillan, 1916.

Bakewell, C. M., "Source Book in Ancient Philosophy," Macmillan, 1914.

Fullerton, G. S., "A System of Metaphysics," Macmillan, 1914.

Hayes, E. C., "Sociology and Ethics," D. Appleton, 1921.

Laertius, Diogenes, "Lives of the Philosophers," Younge's translation.

Newman, A. H., "A Manual of Church History," in two volumes, American Baptist Publication Society, 1904.

Partridge, G. E., "A Reading Book in Modern Philosophy," Sturgis & Walton, 1913.

Soper, E. D., "The Religions of Mankind," The Abingdon Press, 1921.

Thilly, Frank, "A History of Philosophy," Henry Holt, 1914.

My interviews with professional persons.

My questionnaire.

INDEX

INDEX

- Advertising in legal ethics, 94.
- Advertising in medical ethics, 62.
- Aim of education, 125.
- Aristippus, 15.
- Aristotle, 19.
- Bibliography, 209.
- Birth control, 78-82.
- Bodily values in medical ethics, 55.
- Canons of legal ethics, analysis of, 86-96.
- Canons of legal ethics, appendix B, 191.
- Christian ethics, influence on ministerial ethics, 139.
- Code of medical ethics, analysis of, 43-46.
- Code of medical ethics, appendix A, 174.
- Code of medical ethics, history of, 42.
- Conflict of duties in legal ethics, 105-109.
- Conflict of duties in medical ethics, 60.
- Conflicting values, 34.
- Conflicting values in ministerial ethics, 161.
- Conflicting values in pedagogical ethics, 135.
- Conscience, in the light of pleasurable activity, 37.
- Duties of the lawyer--
 - To adverse party, 100.
 - To client, 96-100.
 - To courts, 103.
 - To other lawyers, 102.
 - To state, 104.

Duties of the minister--

- To church, 149.
- To community, 150-153.
- To congregation, 148.
- To himself, 147.
- To other denominations, 149.
- To other ministers, 153.

Duties of the physician--

- To other physicians, 44.
- To patients, 43.
- To public, 46.

Duties of the teacher--

- To other teachers, 120-122.
- To state, 119.
- To students, 124-137.

Epicurus, 16.

Everett, eight values mentioned by, 26.

Experiments on man, 74.

Formalism, 3.

Formalism criticised, 4-7.

Good, the, 30.

Good will, its place in medical ethics.

Hayes, five values mentioned by, 25.

Hedonism, 14.

Hedonism, advocates of, 15.

Hedonism, critical estimate of, 22.

Hippocratic oath, 40.

Huffman's resolutions, 83.

Improvement of professional ethics, 109-111, 170.

Individual and society, 33.

Interest in education, 126-130.

Legal ethics, chapter IV,, 83.

Mackenzie, 21.

Medical ethics, chapter III, 40.

Medical ethics, code of, appendix A, 174.

Medical ethics, history of, 42.

Medical ethics, various views on, 47.

Mill, 16.

Ministerial ethics, chapter VI, 139.

Moral qualifications of teachers, 115,116.

Morality and religion, 164, 167.

Negro, how education will help the, 137.

Oath of admission to bar, 85.

Oath, the Hippocratic, 40.

Paulsen, 20.

Patents, in medical ethics, 64.

Patent medicines, 65.

Pedagogical ethics, chapter V, 112.

Pedagogical ethics, importance of, 112.

Perfectionism, advocates of, 14,17.

Perfectionism, critical estimate of, 22.

Plato, 17.

Pleasure, 29.

Pleasure, its place in medical ethics, 51.

Pleasurable activity, chapter II, 28.

Pleasurable activity, highest form of, 170.

Professional ethics, defined, 1.

Psychology, its importance in pedagogical ethics, 117.

Qualifications of teachers--

Mental, 116.

Moral, 115, 117.

Reason, its place in ethics, 35.

Religion and morality, relation between, 167.

Religion and pleasurable activity, 31.

Roman jurists, 83.

Secrecy, professional, 57, 159, 160.

Self-development, 29.

Self-development, its place in medical ethics, 53.

Sharswood, 84.

Society and the individual, 33.

Summary of medical ethics, 82.

Standard of ethics, one for all, 164.

Teachers, duties to co-workers, 120.

Teachers, duties to pupils, 124.

Teachers, duties to state, 119.

Teachers, moral qualifications of, 115, 117.

Teachers, unprofessional conduct on part of, 123.

Teleology, 4, 7.

Teleology, its good points, 8-14.

Truth, conditions that make it easier to tell, 73.

Truth, should a physician always tell the? 63-74

Unprofessional conduct on the part of ministers, 156-161.

Unprofessional conduct on the part of teachers, 123.

Utilitarianism, ambiguity of the term, 49.

Values, a scale necessary, 23.