

THE STRAIN ON ETHICS IN THE MARKET PLACE

In the complexity of the time and place in which we live, the basic virtues of truth, justice, and equity become enmeshed in a semantic quagmire. It is a moral fog that emanates from our free enterprise system, from the competitive aspects of our capitalistic method, from the maze of regulatory law and from the selective indignation that belongs to human nature in which it seeks justification.

When the human conscience is numbed by these circumstances, or puzzled by pragmatic devices which attempt to sooth our scruples we look for the group answer to the problems of behavior and demand a Code of Conduct. Codes are the earliest attempts of man to regulate his community conduct by a community conscience. We know of the Code of the Hammurabi, which antedated the Mosaic Code, the hub of Judean-Christian ethics. We know of the Roman Code of the 12 Tables, the Justinian Code, the Frisian Code of Northern Europe, and the Brehon Code of Ireland. I have a sentimental interest in the Senchus Mor, which was the Gaelic name of the Brehon Code because it is tied together with a string of poetry and many of its judgements have a poetic rather than rational sense of justice. For instance, the owner of a bee-hive had to share his honey with his neighbors who owned the flowers and orchards. The Brehon Code was administered by arbitrator in which equity was a guiding rule. For instance, the freeman was punished three times as severely as the slave for similar injury or a theft.

There was an early attempt in the United States to design a uniform bankruptcy law, patterned after a section of the Code Napoleon. A group of New York merchants, among them Lewis Tappan, founder of the Mercantile Agency, now Dun & Bradstreet, and a noted Abolitionist, attempted to shape a law which would limit the physical risk of the debtor, and keep him out of debtor's prison, a shameful institution that existed until the 1830's. The attempt failed, and while various bankruptcy laws were passed, and repealed the present law only dates to 1898, with a hiatus between 1878 and 1898.

A variety of Mercantile Codes evolved out of the feudal era, the transitional period that is identified with the Renaissance and the traders of Venice, and with port cities of Northern Europe which were the nucleus of the Hanseatic League. Mer-

chants travelling to the Great Fairs such as Stourbridge, Brussels, and Novgorod had their codes for mutual protection first and consumer protection afterward. But there was progress as the spirit of commerce went abroad carrying letters of credit instead of coat linings of gold and silver.

I have here a Code written around 1700. For my own reasons I am omitting a few identifying phrases which can be supplied later. This was a Code of a large group, involving the honor, loyalty, and unity of the men and their leaders. Can you guess identity of the trade or profession? Let me read their eleven point code.

- Item I. Every man shall have a vote in affairs of the moment. He has equal title to fresh provisions and strong liquors, and may use them at pleasure unless a scarcity makes it necessary for the good of all to vote a retrenchment.
- Item II. Every man to be called fairly in turn by, and over and above their share, to be allowed a shift of clothes. But he who defrauded the company was to be put in a place of solitary confinement.
- Item III. No person is allowed to game at cards or dice for money.
- Item IV. The lights and candles are to be put out at eight o'clock at night.
- Item V. Every man is to keep his tools clean and fit for service.
- Item VI. No boys or women are allowed on the premises. If any man is found guilty of seduction the crime is punishable by death.
- Item VII. To desert the premises in an emergency may be punished by banishment or death.
- Item VIII. All physical quarrels are to be settled off the premises under proper supervision.
- Item IX. No man may leave the company until he has accumulated 1,000 Pounds. Any man crippled on the job will be entitled to 800 dollars out of the common treasury.
- Item X. The man highest in authority receives two shares, his assistant receives one share, with proportionate shares to all others.
- Item XI. The musicians are entitled to rest on the Sabbath Day but on no other days without special permission.

This code or covenant as it was called was sworn with a hand on the King James Bible. I have taken some liberties with the covenant by altering a few phrases to delude your perceptive faculties. I will re-read the changed phrases to the original as they were written by Captain Bartholomew Roberts, once a respected London Merchant. Under Item I, I omitted the phrase "on board the prizes." Item V "keeping tools clean" should read "pistol and cutlass." Item VII "deserting the premises" should be "deserting the ship." Item VIII, "quarrels to be settled off the premises" would read "on shore with pistols or cutlasses." Captain Bartholomew Roberts was the prince of pirates, reported to have captured 400 vessels. His Jolly Roger covenant is copied from the History of the Pirates by Captain Charles Johnson. published about 1725.

There was a Merchant's Code on Manhattan Island during the American Revolutionary period, when the city was occupied by the British. The Code was administered by a group of business proprietors who arbitrated disputes. A copy of the Code and its arbitrated cases was published by the Chamber of Commerce of New York some years ago. One of the arbitrators was John McAdam, a loyalist who returned to Scotland after the war and gave his name to the pavement we still use on the city streets.

I have read hundreds of Codes, most of them well-intentioned enterprises by honorable people. In 1963 Alpha Kappa Psi gave awards for excellent statements including the prize winner by Prof. Robert K. Mautz of the University of Illinois. The First National Bank of Memphis produced a statement of Principles covering thirteen aspects of conduct in commercial banking. There is a code for every trade, industry and profession. I recall that 50 years ago the printers of Northern New Jersey devised a stringent code aimed at price-cutting, quality controls, short-count, substitution of paper, union relations, etc. Three months after it went into effect, the first man to be brought up on charges of violation was the man who drew up the code.

The degree to which a code is effective depends upon the individual "will" to obey and observe. Without that "*will*," the words are mere hypocrisy, and the code is a false-face. During January of this year, Johnson & Johnson, the medical supply house took a quarter page in the New York Times to publish its Credo, a five-part statement of responsibility. It stated that its first responsibility is to the medical profession, second to its

employees, third is to the corporate management, fourth is to the community and fifth is to the shareholders. Some of us may quarrel about the order of the five responsibilities, but the statement offers a mirror by which the corporate image can be checked for performance against promise.

It is refreshing to note corporate sensitivity to the group conscience. There is no doubt that the top management of leading companies accept their social identity in the total community today where the free-booting and marauding corporations of a generation or two ago were opportunists with a calloused hide, and a greedy hand. Some of this awareness came with enlightenment of self-discipline, but most of it came from the whip-cracking of legislators and the indignation of public opinion. We are still paying the enormous penalties for economic waste of our resources through devastation of forests, strip-mining, and stream pollution. One cannot generalize too far, but there has been a definite recognition of accountability to the public by the larger industries. There are 28,000 concerns in the U.S.A. with a million or more dollars in net worth. They do three-fourths of the business volume and hire two-thirds of the people, and own, control, process, refine, distribute most of the goods created out of the soil of the country and toil of the people.

Most people have honest intentions. Most business people want to give value for value received. But semantics do get in the way of ethics. Yet with all of the complexities of the social order, the decision between right and wrong belongs to the individual and his personal attitude.

Every day, we observe examples of the plus and minus in ethical behavior — the legal, the marginal, and the definitely illegal. Each man sits in judgement on his fellowman, some judging with charity toward the weaknesses of human nature, some with a rigid measure of justice under the law of custom and the law of the land.

What then is the moral approach to one's accountability to his customer, competitor, and neighbor. Could Diogenes with his lantern recognize an honest man in our times? What is the difference between plain old-fashioned honesty and this word ethics?

Honesty is a square word. You can grip its meaning anywhere when conscience commands a moral choice. Ethics is a round word, a hard word, and difficult to get your teeth into. Honesty is not a policy, but a principle, and can never be any-

thing less in practice. Ethics, especially the relative ethics of the business world, feels the tug and pull of pragmatism in the gray areas of custom that a complex society creates.

It is this complexity that led Chief Justice Earl Warren to suggest that there is "an urgent need in our time for the development of the profession of the counselor in ethics." Dean Robert W. Austin of the Harvard Business School faculty says that the terms business ethics, corporate morality and corporate ethics mean nothing. "The public's opinion of the ethics of business," says Austin, "is based entirely on the actions of the individual business managers." Austin would also rule out the negative "Thou shalt not" of the Ten Commandments for a positive code of conduct, substituting a specific "thou shall do this or that" in a manner that is acceptable to our neighbors.

Both Justice Warren and Dean Austin seem to imply that the ancient precepts are dull tools for conscience in a sophisticated society. The primary difference in their suggestions is that the Chief Justice believes that conscience needs a counselor to share in ethical responsibilities, while Austin insists that the individual manager be held responsible for his moral judgments in the eyes of society.

We believe that Austin has put his finger on the nerve center of the whole complicated question. No manager can delegate, apportion or evade a personal accountability for his moral actions. Any designation of a counselor of ethics is an implied charge of failure to the long-established counselors of moral conduct, the religious and educational leaders, and is at best a duplication of effort. Conscience does not require a lawyer to define right and wrong nor a committee to advise a course of honor. Responsibility is never dissipated as it filters through the whole anatomy of a group venture.

Most people are honest in their dealings with their fellow men. The test of moral stamina comes when they are confronted by critical pressures affecting money, prestige and power. It is here that they need the spiritual comfort and strength to meet the ordeal without flinching. The cynical or pragmatic whisper is of no help when principle is at stake.

No code of ethics is stronger than the individual will to perform, and no word is better than the conscience behind it. Codes are effective only to the degree that there is an inner impulse to enforce them, because the instinct toward moral behavior is rooted deep within the person. No counselor of ethics

can dilute the responsibility of the individual. There must be a personal willingness to behave according to the primary code of honor, which is as old as the first blink of understanding after Genesis.

Sometimes we call upon businessmen entering politics to admit guilt by association and presumption. Members of the Kennedy and Johnson cabinets, men of acquired or inherited wealth are called upon to place their assets and personal interests in escrow while they offer their talents to the country. People who live in the glass houses in political Washington are not entitled to shades according to the curious and suspicious observers.

Robert McNamara, President of the Ford Motor Company, and John T. Connor, President of Merck, Inc., left well-paid positions to serve their country, and to avoid a "conflict of interest" charge are called upon to purge their souls of evil intent by renouncing the Devil, Mammon, and the "fast buck." We have heard about the scandals of the Grant Administration, and the Harding Administration but you can't prevent a Billy Sol Estes or a Bobby Baker scandal by making distinguished public servants go to work with their pockets pulled inside out. Honesty is a sacred principle of conduct, but it is no guarantee of wisdom in action, or skill in administration. An error in judgment can be more expensive than a padded expense account. Competence and confidence must go together when we ask talent to go to work for us. When Charles Wilson said "What is good for General Motors is good for the country," he put his executive foot in his mouth, but he told the pragmatic truth, and there's no better evidence than the parallel of G. M. profits and national prosperity.

Are profits unethical, and what is a fair profit? A fair profit? —

Only your customer and competitor can help you answer that question with assurance. The government may try by tax rates to fix a profit ceiling, and critics who never risked capital for gain may devise their own restraints on the profit motive. In truth, though, a fair profit is the margin by which risk is rewarded and survival assured in the market place.

The term profiteer was created in World War I, but it had its antecedents centuries earlier in the never-ending wrangles of Europe and the armament financing from the Fuggers, Rothschilds and others. Opportunists profited on Union arms and

Confederate rations in the Civil War, and their rancid corned beef disabled more men in 1898 than Spanish bullets. When goods are in short supply the privateers of industry move in, and there is no better invitation than the critical needs of a war emergency.

A fair profit is all that your customers and competitors allow you to earn in the game of business, where one set of rules applies and the winner takes his proportionate share of the prize.

The profit motive is ingrained in the spirit of man as payment for risk and effort. It is expressed succinctly in the biblical parable of talents when the servants of the king who invested in their talents (which were units of gold worth \$3,264 each in our currency) and showed a profit on their investment were rewarded by the king for their sense of risk. Only the servant who buried his talent in fear of loss was reprimanded, and his risk capital was assigned to a successful manager.

"A fair profit" may invite a variety of definitions, but who is interested in the percentage points of a "fair loss" or the spirit of public service that inspires the manager of an insolvent company? He wouldn't be around long enough to win any fringe benefits for his reticence in competitive zeal. There is nothing unethical about a fair profit fairly gained, you can't write progress or prosperity or victory in red ink.

Man is a gregarious creature. If at times he can't get along with his neighbor, it is doubly certain that he can't get along without him. Herein lies the problem. Life is a competitive enterprise, and where there is competition there is likely to be a strain on moral and ethical concepts. The cynic says, "Ethics is good — for the other fellow." Or he repeats the line from the Eddie Cantor song of the 1920's which was "Sixty-forty is fifty-fifty to me." It is human to seek justification for our actions, especially when they are marginal in taking the long inch over our fellow man.

Pure ethics like the golden rule and the Ten Commandments is simple to appraise, accept and follow. The man who takes your money at the point of a gun is a thief, and he's a "bad guy" in the language of television, and the sheriff goes after him. He's a public enemy. The man who trades with a well honed chisel may stay within the law of the land. Now his problem is a matter of individual conscience and the implied disciplines of the natural law.

Let me tell you about my first experience with an ethical situation and the mental toe-dance of a foreman's logic. When I came home from a Mt. McGregor construction project to a plumbing manufacturer's plant not far from here, it was a Saturday afternoon, and a little truck was backed up to the loading dock. The foreman of the plant was loading supplies into the truck, and was shocked and embarrassed to see me. Actually, I didn't know what he was up to, but he thought I did, and said sheepishly, "I'm helping myself to a few plumbing fixtures for my new house." He winked and shrugged. "You know that guy we're working for is a no good crook. Some day he's going to do me dirty, and when he does — we're even." I never forgot that incident in 1916 because it was a rather uncomplicated case of justification against a calloused but not exactly numb conscience.

However, we live in a complex world. The complexity is matched by the anxiety of the age and the confusion of the mind that attempts to make ethical decisions without the strength and stamina of a moral guide. Certainly it pays to be honest. Many a crook would be richer playing the game according to the rules than he would be cheating, but half the reward of the cheat is the Satanic glow of satisfaction that accompanies the act of deceit.

Two of the greatest problems of the man of good-will in dealing with his neighbor is, "relative ethics" and its shifty companion "regulatory law." Ethical behavior is concerned above all with human values, not with legalisms. Most law applying to business is regulatory, and often it has nothing to do with civic virtue or commercial rectitude. In some communities, there is local option on liquor sales. Gambling is permitted or restricted in varying degrees by the several states. Speed laws differ according to the whims of local ordinances. Sunday retail sales are permitted, limited, or forbidden by state or city laws. Here there is no intrinsic problem of good and evil, but rather of public attitude or convenience. Regulatory law is obeyed because it is a legal discipline, not because of inherent principle or virtue. However, no law which is discriminatory, selective in privilege, or unjust in design commands respect or even obedience.

The bankruptcy law is a humane instrument by which the penalties of commercial failure are limited to the nature of the risk. Most companies or individuals "going through the wrin-

ger" represent a shrinkage of receivables for their suppliers, who accept these losses as part of the risk of trading for profit. After a bankruptcy composition, some individuals shrug off their obligations and silence conscience with a legal rationalization. Others — and these are in the minority — refuse to hide behind the law. They pay off their obligations even if it takes a lifetime. Here is a clear example of absolute versus relative ethics.

The basic areas of ethics in business cover four basic categories.

A. *Finance* — relations with stockholders, partners, inventors, banks, the government, and includes such fiscal items as loans, dividends, mortgages, bonded debts, bankruptcy, royalties, and taxes.

B. *Trade* — relations with vendors, customers in contractual obligations, and includes guarantees, delivery schedules, merchandise tests, catalog pricing, merchandise disputes, etc.

C. *Labor* — relations with employees at all levels (regardless of Union affiliations), wages, working hours, productivity, rewards for special services, promotions, pensions, and all areas of hiring, firing, and retirement.

D. *Community* — relations with consumers, or end users of products, and community in general. Maintenance of the company image in public, by attitude, quality controls, advertising, marketing.

Business ethics in the broad sense is amply covered by the Golden Rule, but broad concepts are not always easy to apply. In the complexity of world competition, many trying situations arise to test the conscience of the individual. In these situations there can usually be found (1) an area of debate about the proper ethics, (2) a passive acceptance of custom or method which taxes ethical definitions, or (3) a flagrant abuse of fact which is inexcusable on ethical grounds.

Most businessmen make ethical decisions ten to twenty times a day and think nothing of it, even when the yes or no hits their corporate or personal pocketbook. The scope of ethical decisions covers a wide area of social, political, economic and religious life, and the greater the responsibility of the individual, the more significant are the distinctions. We are living in an age of managers, and the manner in which the manager accepts, deploys, and transfers authority and responsibility, the more sharply defined are the ethical values attached to each decision.

or assignment. When a man is rewarded for a skill or fired for a fault, ethics are involved to a minor extent, but when a company decides to move a plant and disturb the economics of a town of 10,000 people, and disturb the equanimity of the lives of 3,000 families and a hundred merchants, the moral responsibility is greater on top management than the responsibility of a general sending ten regiments into battle, because somebody is going to get hurt. However, progress is a disruptive agent, and delay can be a pleasant sedative until you are forced to cry out for urban renewal. No company can deplete the natural resources of an area without a sense of obligation to the community.

Good leadership is the act of management, and when it is applied to a corporation or any group adventure, whether military, social, or religious, it calls for more risk than prudence, more understanding than tact, more principle than expediency.

Despite all the democracy associated with the free enterprise system, and the selection, training, and advancement of managers, the corporation enjoys the continuity of monarchy and some of its regal aspects of authority.

Moral responsibility begins at the top and filters down through middle management, supervisors, and foremen. It includes the complex and relative ethics of wages, work rules, seniority, fringes, profit participation, and pensions. It includes a proper estimate of the worth of the specialist in technology and research and in various staff assignments which seldom lead to the top.

The moral aspect begins with self-respect and is always the same, whether management faces the consuming public, the profit-sharing stockholder, or the profit-making staff. The conscience of the manager is also alive to his inherent responsibility for the attitude of the society created within an industrial democracy.

The alert manager is often autocratic — but with good reason and from a keen appraisal of the facts. He will alarm his subordinates, puzzle his competitors, and occasionally frighten the stockholders. He knows that the democratic, committee-dictated, majority-voted decision is usually late, second-best, and mediocre. The imaginative and inspired president of a company is never infallible, but he has to act like it before

his employees — and frequently in front of his board of directors as well.

The good manager is the exceptional man with ability to organize, lead, and direct. He may look like the fellow next door, or nobody you ever met. The first test of his qualifications is his willingness to accept any duty assigned to him with the concepts of good morals and good taste. The man of unusual capacity in management has the imagination to see and the determination to complete assignments beyond the original fence. He thinks in terms of people as well as customers, of all industry as well as his own company, of the broader problems of society as well as his own desk and bench. Most importantly, he has faith in people, and in himself.

Industry and trade, capital and labor have moved forward in their ethical attitudes, but there is still plenty of room for improvement. Moral progress is painfully slow, but the primary gain must come through self-discipline rather than legal compulsion. Ethical conduct benefits more from example than from edict. We cannot hide behind such devices as trade customs or "everybody does it."

In all truth, industry and trade are the creations of man's ingenuity and reflect the level of his moral actions. The struggle for a high ethical standard persists despite all the negative pull for short-term advantage. Ethics in big business, small business, professional life, and even the much criticized area of labor relations has improved under self-criticism as well as legal restraint. But ethics without a spiritual incentive has had difficulty in maintaining or gaining momentum. The moral impulse must come from something higher than the urge for personal reward, corporate profits, or any other material benefits. The most dangerous enemy of ethics is cynicism, the frustration that comes when the man of high moral principle admits defeat and says, "What's the use?"

To review my argument, let me point out that the merchant guilds and craft guilds were organized primarily for self-protection but they did police their own members and make them abide by rules of conduct which established quality controls and punished deception. The pride of craft, however, became possessive and secretive, and self-destructive. Among the merchants the blessing of a group conscience depreciated to the vice of group power, expanding into monopolies, cartels and the marginal areas of ethical behavior which are identified with a com-

petitive existence. However, order is the first law of the universe, and even Satan respects that truth and applies it to his own advantage.

Ethics is a silver thread in the fabric of our daily business life. It is always visible to the perceptive eye. It takes on a luminous glow when we perceive that ethical practices are part of the spiritual fiber of the man in management. If we were half as concerned about our own ethics as we are about the other fellow's, there would be no serious problem in making decisions of equity and justice. American businessmen, I believe, are basically honest in intent, but under competitive stress there is still plenty of room for improvement.

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