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Growth of Professional Ethics*

By CARL H. NAU

I do not know that the circumstance has any special significance, but at nearly every recent regional meeting held in different parts of the country, at the annual meeting of the Institute itself, as well as in other meetings of accountants not held under the auspices of the Institute, there has been a place provided on the programme for the discussion of some phase of the question of professional ethics. Of course, there has always been more or less desultory and sporadic discussion of this subject at meetings of accountants held in the past, but it seems to me that the subject of professional ethics has been given a greater emphasis in the last two or three years than ever before.

While, as said, I do not definitely know what the significance of this increasing interest in the subject may be, it pleases me to believe that it is due to the fact that accountants are more and more coming to recognize that they cannot hope to have the business public generally accord them recognition as members of a scholarly and learned profession until they themselves first adopt, and as a class live up to, ethical and professional standards of conduct such as to set them apart and distinguish them as a professional class, a class or group in the business world whose contribution to the economic activities of our day and whose practices and ideals really differentiate them from other groups engaged in commercial pursuits.

In making a distinction between a class engaged in the practice of a profession and a class engaged in commercial pursuits, there

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is no implication nor inference that the professional man is in any way superior to the business man. All that I am trying to say is that they are different. But differences do not imply either superiorities or inferiorities. The business man, as such, is neither the inferior nor the superior of the professional man. The competent millwright, as a millwright, is neither inferior nor superior to the preacher of the gospel. The lawyer, the surgeon, the dentist is not inferior to the doctor of philosophy nor is any one of them, as lawyer, surgeon, dentist or philosopher, superior to the man of business or his clerk behind the counter. But they are different and the code of ethics of the one will not fit the needs of the other. One code of morals may apply to all men but the same code of ethics will not fit every human activity.

Let me make a distinction, if I can, between ethics and morals. *Morals may be defined as right relations between persons, as distinguished from ethics which may be defined as right relations between positions.* Moral principles apply to the conduct of man in his equitable relations with his fellow men considered as human personalities. Upon the other hand, ethical principles apply to the equitable relations which should obtain between positions or, to be more concrete, to the equitable relations which should obtain between men and classes of men as occupants of and functionaries in given positions, professions, activities or callings. The distinction I am trying to make is that morals deal with the conduct of man as man and his right relations to every other man, while ethics deal with the right relations between the positions in which men function as occupants of the positions and not as human personalities. There is an analogy between morals and ethics but the terms are not synonymous.

It has seriously been suggested that the only code of professional conduct the accountant needs is the golden rule. The golden rule may well be accepted as the ideal expression of all moral relations between persons. All men are brothers and are alike in respect of their relations to each other which involve human conduct and personal acts affecting the well-being of another. But the relation between one position, calling or profession and another and between different positions in the economic world cannot be reduced to the common denominator implied in the formula that "all men are brothers." Every profession and every trade or distinct class of business has therefore evolved, or

has in the process of development, a code of ethics applicable to it but not applicable in its entirety to any other.

While differing from each other in many things, the codes of ethics of the several recognized professions have always had certain things in common which distinguish them from the ethical codes applicable to persons engaged in business or in the trades. If accountants aspire to a professional status they must adopt those recognized standards of ethics which are common to all professions as well as those which are peculiar to their own profession.

Accountants as a class are coming more and more to realize that their calling cannot rise to the dignity of a profession, and they are beginning to see that they cannot claim for themselves a professional status, unless they are willing strictly to adhere to the accepted professional practices. The older professions no longer have violent differences of opinion about their ethical codes or their rules of professional conduct. Of course, individual practitioners may violate the ethics of their profession, but the professional body itself long ago passed the point at which the principles underlying its ethical code are matters of controversy. Perhaps this happy condition does not yet prevail in accountancy but, as chairman of the committee on professional ethics of the American Institute of Accountants, I have had opportunity to be in close touch with the development of sentiment in every section of the country and to observe the evolution and growth of our professional ideals. I have seen the gradual abandonment of practices once deemed quite proper by many, until at present observance of the rules of professional conduct adopted by the Institute is very general, if not yet universal. This strict adherence to the rules characterizes not only the conduct of a great majority of the members of the Institute but also the conduct of practitioners who are non-members, many of whom are not yet eligible and some of whom perhaps may never become eligible to membership.

The Institute itself is in the process of cleaning house and it is a pleasure to report that it no longer harbors in its fold some whose practices and conduct brought disrepute upon the Institute and whose flouting of the rules of professional conduct was so flagrant as to discredit the integrity of purpose and challenge the rectitude of the outward professions of the body which tolerated

them in its membership. By no means do I mean to infer that there is not still much room for improvement along ethical lines but I do insist that we have made much progress and are moving in the right direction at a constantly accelerating rate.

While accountants insist that their calling is a profession and are striving to obtain recognition as such, the day is not yet here when this recognition is generally accorded them by the layman, by the business public, by all members of the older professions, or even by judges in our courts of law. There are still too many alleged accountants who practise their profession on the mail-order-house plan to obtain this general recognition from the business world or from the lay public. There are still too many of us who act upon the principle of "he who bloweth not his own horn for him shall not his horn be blown" to be accorded the recognition so generally given to older and better established professions. Unfortunately, these less enlightened practitioners, much smaller in number than their more dignified brethren, and becoming less numerous all the time, are so much in the public eye through their blatant advertisements, through their indiscriminate circularization and through other methods of bringing themselves to the attention of the business world, that a large part of the business and general public has not yet learned to distinguish between real worth and a big noise. Many still believe, because certain names are reiterated from day to day on the printed page and because of the vocal efforts of a host of hired solicitors and high-pressure salesmen, that these names are representative of the profession generally, and that therefore they must be the names of leaders in the profession—when in truth the accounting profession itself does not recognize them any more than the medical profession recognizes the advertising quack.

Here let me say a word to the younger members of the profession and to the young man who aspires to enter its ranks. He is sometimes prone to become impatient when he sees the apparent financial success which has attended a few of those who have adopted reprehensible practices. Let me say to him that financial success at the expense of professional success and of the esteem of his fellow practitioners is not the kind of success which should allure him. Moreover, let him consider what the outcome would be were every member of the profession to adopt such methods. The financial success which has come to a few as a result of

pursuing methods which the great body of the profession spurns and frowns upon could not be spread out so thin as to cover all the members of the profession should they likewise engage in the same undignified competition. Such methods may apparently succeed for a time but should they be universally adopted by the profession, they could have only one result and that would be to destroy its usefulness and make it absolutely impossible for our calling to be esteemed a profession. The old and time-tried way of achieving success in one's profession by the rendering of service which deserves success will be found to apply in this newer profession of accounting just as it has been found to be the only road to a satisfying success in the older professions. My advice to the young practitioner is to exercise a little patience. Time resolves all things, and the time is not far distant when the flamboyant, advertising accountant will occupy the same position in the mind of the business public that the advertising quack in the older professions now occupies in the thought of an intelligent lay public.

In the formulation of a code of ethics, the American Institute of Accountants has moved slowly, carefully and with prudence, believing that a too rapid progress might well be more harmful than beneficial in the long run. A slower progress which would be supported, not only by the enlightened and best sentiment in the profession, but also by the large majority sentiment, was deemed to be the best policy to pursue.

Thus far, the Institute has adopted eleven rules of professional conduct which may broadly be divided into rules dealing with:

- (a) The accountant's duty to the public;
- (b) His duty to his client;
- (c) His duty to his profession;
- (d) His duty to his fellow practitioner.

The accountant's duty to the public may well be deemed to be his paramount duty, the non-observance of which would inevitably prevent accountancy from ever obtaining general recognition as a profession. His duty to his client is great but when it conflicts with his duty to the public it must yield to the latter. Rules 2 and 10, among others, deal with his duties to the general public and to his government. Rule 2 reads as follows:

The preparation and certification of exhibits, statements, schedules or other forms of accountancy work, containing an essential misstate-

ment of fact or omission therefrom of such a fact as would amount to an essential misstatement or a failure to put prospective investors on notice in respect of an essential or material fact not specifically shown in the balance-sheet itself shall be, *ipso facto*, cause for expulsion or for such other discipline as the council may impose upon proper presentation of proof that such misstatement was either wilful or the result of such gross negligence as to be inexcusable.

This rule is the very keystone of the profession. The reason for this rule is so obvious that it would be a reflection upon your intelligence to discuss it further.

Rule 10 is very short and reads:

No member or associate shall render or offer to render professional services, the fee for which shall be contingent upon his findings and results thereof.

The person who has not given thought to the matter may wonder why this rule was adopted. If he will remember that the accountant occupies a judicial attitude toward the subject of his inquiry and work rather than the attitude of the advocate, he will readily appreciate that it would be expecting something more than human to look for calm and unbiased judgment if this judgment is to be exercised by a person whose fee is dependent upon the results of his judgment. Even the judge on the bench refuses to hear a cause in which he could by any possibility have an interest or in which his personal relations are such or ever have been such as might, even unconsciously, influence his judicial temper or his impersonal sense of equity.

Since the rule has been adopted it has been found to have special application to income and profits-tax matters and to practise before the internal-revenue department.

Rules 3, 4 and 6, among others, deal with the accountant's duties to his client. For instance, rule 3 reads:

No member or associate shall allow any person to practise in his name as a public accountant who is not a member of the Institute or in partnership with him or in his employ on a salary.

and rule 6 reads:

No member or associate shall certify to any accounts, exhibits, statements, schedules or other forms of accountancy work which have not been verified entirely under the supervision of himself, a member of his firm, one of his staff, a member of this Institute or a member of a similar association of good standing in foreign countries which has been approved by the council.

Manifestly a client engages an accountant because he has faith in his professional ability and integrity and because, knowing his reputation, he thinks his interests will be well taken care of and safe in his keeping. The service is a personal service and is not

like a commodity which the purchaser can examine and appraise. Therefore, the client is entitled to that personal supervision and personal view which cannot be replaced by the service of another who, perhaps, may not be entitled to the same degree of trust and confidence.

The rule that an accountant must keep inviolate the confidences of his client is so fundamental and so taken for granted that no one has yet even suggested that this matter calls for any formal expression or the adoption of a written rule.

Rule 4 reads:

No member or associate shall directly or indirectly allow or agree to allow a commission, brokerage or other participation by the laity in the fees or profits of his professional work; nor shall he accept, directly or indirectly from the laity any commission, brokerage or other participation for professional or commercial business turned over to others as an incident of his services to clients.

This rule speaks for itself.

Again, rule 8 is among the rules which deal with the accountant's duty to his fellow accountant. It reads as follows:

No member shall directly or indirectly solicit the clients or encroach upon the business of another member, but it is the right of any member to give proper service and advice to those asking such service or advice.

In this rule you will recognize the view which the older professions have of the client or the patient of a fellow practitioner. A doctor goes so far that he will not accept or consider the case of a patient of another doctor unless in consultation with him or until the relation of patient and physician has been properly terminated.

Rule 11 is the last rule to be adopted and one which was the subject of the greatest amount of controversy—it deals with the accountant's duty to his profession and reads as follows:

No member or associate of the institute shall advertise his or her professional attainments or service through the mails, in the public prints or by other written word; but any member or associate may cause to be published in the public prints or otherwise what is technically known as a card. A card is hereby defined as an advertisement of the name, title (member of American Institute of Accountants, C. P. A., or other professional affiliation or designation) and address of the advertiser without further qualifying words or letters, or in the case of announcement of change of address or personnel of firm the plain statement of the fact for publication of which the announcement purports to be made. Cards permitted by this rule when appearing in newspapers shall not exceed two columns in width and three inches in depth; when appearing in magazines, directories and similar publications cards shall not exceed one-quarter page in size. This rule shall not be construed to inhibit the proper and professional dissemina-

tion of impersonal information among a member's own clients or personal associates or the properly restricted circulation of firm bulletins containing staff personnel and professional information.

The rule was not adopted until after protracted discussion covering a period of years, during which every opportunity was given for debate and the presentation of opposing views. It has the overwhelming approval of a large majority of reputable practitioners and, in my opinion, it is the biggest step which has yet been taken toward a general recognition of accountancy as a profession. During the first year after the adoption of this rule the committee on professional ethics had its hands full in dealing with the question. A small minority seemed to be unable to reconcile itself to giving up the desire of standing on the housetop and shouting its wares. But it is a pleasure to report that complaints under this rule are becoming few in number, and there is every indication that the time is almost at hand when the accountant shall have attained the full stature of a professional man.

If anything more were needed to show that the time of his recognition as a fully clothed professional man is at hand, it will be found in the official document known as treasury department circular No. 230.¹ This document contains the laws and regulations governing practice before the treasury department. In describing who may practise before the department, the circular uses the following language:

An applicant's character and reputation can only be established by inquiry among those who have had the opportunity of knowing the applicant in the community in which he lives. A bad reputation as to integrity or any previous conduct of applicant which is unethical, as viewed by the standards of the American Bar Association or the American Institute of Accountants, or such conduct as would be considered unfair in commercial transactions, will be regarded as sufficient to justify the rejection of the application.

In describing causes for rejection, suspension or disbarment, it includes this paragraph:

(b) Conduct contrary to the canons of ethics as adopted by the American Bar Association or the rules of professional conduct approved by the American Institute of Accountants, or their equivalent.

It will be observed that the American Institute of Accountants has not only made great progress in setting professional standards and in adopting a code of professional ethics to govern the conduct of its members but that its code of ethics has been given official recognition by specific incorporation into the rules of a department of the government itself. The treasury department is a branch of our government in which the work of the accountant has become

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an important factor. A considerable part of his work consists of practising before the treasury department. Those few accountants who still believe that they can stop the march of progress and continue to pursue their reprehensible practices with impunity may well pause and consider if, after all, it be worth while to try to obtain a temporary advantage over their more dignified and professionally ethical fellow practitioners. The uninformed business public, to use the vernacular, is rapidly "getting wise."

In concluding my address, let me make just one more observation. Occasionally some accountant thinks he can "get by" with apparently conforming to the literal language of a rule while grossly violating its spirit. Someone has aptly said that ethics is a state of mind rather than a matter of literal definition and precise convention. As illustrating the literal type of mind and then permitting you to make your own application, I am going to close by telling you a story.

When a very young man I went to work for the Blank Company (it is the only private employment I ever had before I hung out my shingle as a public accountant). Upon one occasion my immediate superior sent me to the office of the "big boss" with a note. You will understand that this was before the day of intercommunicating telephones and push buttons. While waiting for an answer to the note, the office boy came in and announced that a certain gentleman was without and desired an interview. For some reason the "big boss" did not wish to see the gentleman; neither did he wish to refuse him an audience. There may have been some perfectly good reason for not seeing his caller at that time. The "big boss" may have been too busy or he may have desired more information about the matter to be discussed before granting the audience. Whatever may have been his reason, he did not meet the situation fairly and squarely; neither did he tell one of those entirely innocent and innocuous white lies by instructing the office boy to say that Mr. Blank was out. Now my "big boss" was a highly respected citizen and a good church member. He was most literal in his observance of the ten commandments and other moral precepts, however much he may have violated their spirit at times. So he got up from his chair, tiptoed across the room and as he stepped across the threshold of an inner room he turned to the office boy and said: "Tell Mr. So-and-So that Mr. Blank is not in his office."

May none of us, in our professional life, give similar adherence to the strict letter of the law while flagrantly violating the spirit which lies behind the words. May we be not only conventional in our adherence to rules of conduct but indeed always ethical in spirit and in truth. We have it on no less authority than Holy Writ itself that "the letter killeth but the spirit giveth life."