

# TRANSACTIONS

OCTOBER, 1955

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## ADDRESS OF THE PRESIDENT, WALTER KLEM PROFESSIONAL ETHICS

**M**ORE than sixty-six years have elapsed since actuaries on this continent formed their first professional body. During these many years our Society and predecessor organizations have not found it necessary to consider adopting a code of ethics to govern professional conduct. That the actuarial profession has been able to carry out its responsibilities in a trustworthy manner without formal codes or canons is tribute to the personal integrity of the individuals who have made up the membership of our organizations, past and present.

It may be too much to hope that our Society can continue indefinitely to rely completely on individual standards of conduct and good taste. Recently a few questions have been raised concerning professional conduct, and perhaps they would best be answered by rules or guideposts established for the purpose. In any event, my predecessor, Mr. Richard C. Guest, had occasion during his term of office to treat with questions in this field. On his recommendation the Board of Governors authorized the appointment of a standing committee on professional conduct from among the members of the Board. The work of the committee, up to this time, has been exploratory. It is entirely in that same exploratory vein that I offer for your consideration these remarks on some aspects of the question of whether or not our Society should adopt a code of ethics.

In certain other professions, as is well known, organized rules of conduct and of practice reach far back into history. For example, the earliest recorded instance of a code of laws governing medical practice is reported to go back to Babylon about 2000 B.C. There is, however, little evidence of a self-imposed code of ethical conduct until the time of Hippocrates (*ca.* 460-357 B.C.). Today the new member of the medical profession makes a personal pledge to observe an ethical code that in some places remains identical with the Hippocratic Oath. Thus for thousands of years the medical profession has recognized the need to put into words and practice certain concepts of ethical conduct.

The lawyer's oath and statement of duties are nearly as old as the common law itself. The significance of the lawyer's oath is that it stamps him as an officer of the state, with rights, powers, and duties. Nevertheless, members of the legal profession on this continent started about seventy years ago to recognize their need for canons of ethics. The first formal code in the United States was that approved by the Alabama Bar Association in 1887. The Code of Professional Ethics of the American Bar Association was adopted in 1908, and the Canons of Judicial Ethics in 1924. The Canadian Bar Association approved Canons of Legal Ethics more than thirty years ago.

Codes of ethics are also found outside the fields of medicine and law. Societies of engineers, architects, dentists and accountants are among the more important groups which have adopted ethical standards for their members. Below the professional level, many business groups have their institutes and advertise the codes to which they pledge adherence. In fact, publicity in this respect sometimes has the effect of raising a question whether in all cases the rules of conduct are adopted primarily in the interest of the public or whether some are conceived more in self-interest for the benefit of an organized membership.

But as for the medical, legal, and other important professions, what are the main reasons for their having adopted codes of ethics? Have far-seeing leaders in the field sought to elevate the entire profession? Because man may err, does the need for a code become more or less inevitable with mere growth of numbers in the profession? Is it the degree to which the professional practitioner affects the personal well-being of his fellow men that gives rise to the need for ethical standards? The physician stands in the most intimate relation to the life and health of his patient. The lawyer, who for the most part lives by controversy, serves a client whose fortune, liberty, or life may be at stake. Certain it is that the three "learned professions"—theology, medicine and law—have the most vital impact on mankind and have given the most attention to the ethical conduct of their practitioners.

In the actuarial profession, as in others, expertness of practice and conduct that is ethically meritorious are two quite distinct qualities. We have always devoted much of our organization's time and effort to establishing and maintaining standards of expert practice. The unceasing work of hundreds of actuaries has gone into our educational activities and into our examination system since it was inaugurated more than fifty-five years ago. The broad effectiveness of the efforts to achieve the highest standards of proficiency will, I think, be generally conceded.

Comparatively little attention has had to be directed to problems of

professional conduct, however, simply because few problems have arisen. This situation seems all the more remarkable when we consider how much of the actuary's work involves the exercise of judgment, the results of which cannot be fully evaluated for many years in the future. Nonetheless, no one can read the record of the founding of the Actuarial Society without realizing that the first members were acutely aware of our peculiar need for high professional standards. At the first dinner meeting, Mr. B. J. Miller responded to a toast to "The Actuarial Profession in America" with these words:

Now, it seems to me, that among all the professions and the businesses of the day, that the actuarial profession stands foremost in one very important respect. It almost undertakes to usurp the place of the prophets of old. Our function is not to say what shall be done in order to keep things right to-day. "Sufficient unto the day" is not a good motto for us. We must build for the future. It is a comparatively simple thing to say that the affairs of to-day run smoothly. But when we come to cast an eye into the far distant future, and build our plans with respect to the state of business and to the state of society forty or fifty years hence, it is the duty of each man to exercise his highest conscientiousness and to be faithful to his trust.

In 1907, The Actuarial Society of America amended its constitution by including a new article dealing with complaints preferred by any Fellow against any other Fellow or Associate for misconduct in his relations to the Society, or in his profession, or the practice thereof, or affecting the interests of the actuarial profession. The manner in which such complaints were to be dealt with was set forth in some detail. Essentially the same constitutional provisions were adopted by the American Institute of Actuaries at its founding in 1909, and were carried into the constitution of this Society at the time of merger. Examination of the minutes sheds no light on the reason for the initial action of 1907, but from that time until now no complaint has come before a meeting of any of the three organizations. Nevertheless, our constitutional provision has had the good effect of reminding us that the Society is not powerless to deal effectively with any flagrant instances of misconduct. Formal action is not to be invoked lightly, but we must not hesitate when the circumstances demand action.

When we turn our attention to the oldest professional body of actuaries, we find that the Institute of Actuaries (of Great Britain and Ireland) from the time of its formation in 1848 has had the power, by provision in the by-laws, to expel any member guilty of improper conduct. On one occasion early in its history the by-law was invoked and an Associate expelled for cause. At a later date a Fellow resigned under circumstances that involved

the possibility of disciplinary action. Certain other questions of professional conduct have occasionally engaged the attention of the Institute's Council. The following paragraph is from the centennial history by R. C. Simmonds:

In 1943, questions occurred about the powers of discipline possessed by the Institute over its members. After long consideration of the subject, it was decided by the Council that steps ought to be taken to make such powers more comprehensive, more elastic and more in line with those in force in other professional bodies. The alterations were allowed by the Privy Council in 1946 and there is now a duly constituted Professional Conduct Committee that would investigate any complaints. Happily such incidents are very rare; the Committee has also the positive function of considering cases in which individual members desire guidance. A few general canons of professional conduct have been formulated by the Council during the past 25 years and are published in the Year Books. The aim throughout has been to guide and to trust—not to command.

I now come back to the question: Should our Society formulate and adopt a code of professional ethics? Some of the considerations tending to support that course are:

1. The other principal professions have experienced the need for professional standards of conduct. The basis for distinguishing the actuarial profession is not clear, unless it be that our relatively small number affords a greater degree of personal intercourse, uniformity of training, and mutual appreciation of our responsibilities. The actuary may differ from the doctor or the lawyer because he has no direct contact with those ultimately affected by his work, but certainly what he does has the most profound personal effect on those whose financial security rests on the soundness of his advice.

2. The actuary's work has an important bearing on the future well-being of large numbers of people, and entails a very high degree of trust. The actuary's employer or client, and the public generally, are entitled to every safeguard that will genuinely serve to protect this trust.

3. Apprenticeship to existing practitioners is less a part of the training of new actuaries than it was before, and some of the salutary effects of the older way of picking and training new men may have been lost. The vital need to attract a larger number of new entrants into the profession was a compelling reason for changing the examination syllabus and arrangements in 1947. Greatly increased numbers of students have thereby been encouraged to start on actuarial examinations while in college. Unavoidably, the changes also had the effect of altering the manner of selecting new entrants for the examinations. There is no indication that the "gradu-

ates" of the new system are lacking in good moral fiber, but it is proper to consider whether the young, conscientious actuary has frequent occasion to be in doubt as to the propriety of his professional acts. If this were true of any appreciable number of our members, the Society would appear to have an obligation to erect guideposts.

4. Related to the diminishing apprenticeship of newcomers to the profession is the changing distribution of actuaries by type of employment. Those of our members who are self-employed, or are associated with one another in small groups, have relatively few opportunities for the sharing of views on professional questions of this kind. As their numbers increase, these members may come to feel that there should be some established mechanism through which the Society itself could provide counsel and guidance.

With one exception, each of the 38 charter members of The Actuarial Society of America was in the employ of a life insurance company in the United States or Canada. David P. Fackler, the actuary most responsible for organizing the new society, was then a consultant to several life companies. However, the record clearly shows that, from the start, membership was open to other than life company actuaries. Appended to this address is a tabulation showing subsequent changes in the composition of our actuarial organizations according to the nature of the members' employment. When the American Institute of Actuaries was founded in 1909 the Actuarial Society was twenty years old. Of their combined membership at that time, with duplication eliminated, 25 of the active members resident on this continent were in consulting practice. By the end of a further period of thirty years the number increased only to 37, but in the succeeding sixteen years (1939-1955) the number swelled by 122 to a total of 159, or more than 11% of the active, resident membership of the Society of Actuaries.

5. To an increasing extent the actuary is advising or participating directly in competitive efforts to influence decisions that directly or indirectly affect his personal gain. The temptations to influence improperly, for company actuaries and consultants alike, have been multiplied by the tremendous expansion during the last fifteen years in the field of employee benefit plans, both insured and non-insured.

Merely to mention the wage freeze of World War II is to recall the suddenly increased value placed upon employees' pensions, group insurances, and group plans for medical care. Further spurs to the introduction and expansion of employee benefit plans were the provisions of the federal income tax legislation, and later the court decisions in the *Inland Steel* and *W. W. Cross* cases making employee benefits a matter of collective

bargaining for unions. Many of the new and added benefits were insured with companies whose salaried staffs provided the actuarial services. In addition, a very substantial number of plans—particularly pension plans—were set up on a self-administered basis with the advice and guidance of consulting actuaries. Often, an actuary had a major part in influencing the decision as to whether or not to insure a plan, and if so, in what company or companies.

The ferment of these last fifteen years has brought many actuaries much closer to, if not actually into, the market place where the sale is made. A plan under negotiation often involves benefits for thousands of employees or union members. The stakes for “winning the case” are frequently substantial, whether measured in terms of compensation or prestige. In the white heat of competition temptation can enter for both the consulting actuary and the company actuary. There has never been a task worthy of the actuary in which he could for an instant forget his professional responsibility and personal integrity, but there is no doubt that developments of recent years, in the employee benefits field and elsewhere, have increased the necessity for every actuary to be constantly watchful.

On the other hand, what are the considerations that tend to discourage the idea that we should have a code of ethics? For the most part, I think, they revolve around doubts that a written code would prove to be a genuinely helpful instrument in upholding the highest possible standard of professional conduct. Rules of conduct, to be enforceable, must be comprehensive and fairly specific; when so devised they tend to create minimum standards. The danger is that the minimum standards may gradually become the universally acceptable standards.

Whether or not our Society moves, now or later, to adopt a code, I am certain that our chief reliance for meritorious professional conduct must always be the good character of each member. At this juncture, I am by no means convinced that it would be wise to spell out a code in detail. This feeling is a direct outcome of the strong conviction that a sense of personal responsibility is at the heart of the highest standards of professional conduct. In other words, attainment of the highest standard depends fundamentally on what John Fletcher Moulton described as the obedience of man to that which he cannot be forced to obey.

Lord Moulton (1844–1921) was a philosopher of the law and a man of action. A Member of Parliament, Lord Justice of Appeal, and Minister of Munitions during World War I, this member of a noted English family possessed rare faculty as an exponent of human wisdom. There are, said Lord Moulton,

three great domains of Human Action. First comes the domain of Positive Law, where our actions are prescribed by laws binding upon us which must be obeyed. Next comes the domain of Free Choice, which includes all those actions as to which we claim and enjoy complete freedom. But between these two there is a third large and important domain in which there rules neither Positive Law nor Absolute Freedom. In that domain there is no law which inexorably determines our course of action, and yet we feel that we are not free to choose as we would. The degree of this sense of a lack of complete freedom in this domain varies in every case. It grades from a consciousness of a Duty nearly as strong as Positive Law, to a feeling that the matter is all but a question of personal choice. Some might wish to parcel out this domain into separate countries, calling one, for instance, the domain of Duty, another the domain of Public Spirit, another the domain of Good Form; but I prefer to look at it as all one domain, for it has one and the same characteristic throughout—it is the domain of Obedience to the Unenforceable.

A thoughtful reading of the whole of Lord Moulton's speech on "Law and Manners" will repay anyone, and particularly one who is concerned with the proper boundaries between the three domains. If nothing else, his views give reason for not entering hurriedly upon any undertaking that might unnecessarily encroach on the Domain of Obedience to the Unenforceable to add to the Domain of Positive Law.

Actuaries are fortunate in the very nature of their profession. Grounded on mathematics, with its disciplinary effects upon those who but enter the portal, much of actuarial work is concerned with the ascertainment of ever closer approximations to the truth. There is comfort in the thought that a man who is earnest enough to select a profession involving long and arduous scientific training will have something of the pride of craft that makes him jealous of his honor and responsible in his work.

We need to be jealous of the professional reputation that we now enjoy—of our standing as members of a professional body. Many groups seek that status. We have it, should appreciate its meaning, and do all in our power to preserve it.

#### MEETINGS—AT HOME AND ABROAD

During my term of office, two of our sister actuarial societies had occasion to hold celebrations. The Association of Swiss Actuaries commemorated its fiftieth birthday with a jubilee meeting in Zurich on June 10-12. The Society was among those invited to have representation, and we were gratified that Mr. M. Albert Linton could accept appointment as our official delegate. He carried greetings and best wishes to our Swiss col-

leagues and presented an engraved silver plate as a remembrance from us. We have been assured that our participation on this happy occasion was keenly appreciated.

On September 22 the Institute of Actuaries celebrated its return to Staple Inn with ceremonies that will be long remembered by those who were privileged to attend. Eleven actuarial organizations from other countries were represented by invitation of the Institute. Your President had the honor of being one of two who spoke for the invited guests at the official afternoon ceremonies. In the evening the Council of the Institute held a formal banquet in the new Hall, believed to be the first such occasion in the 68-year history of the Institute's tenancy of Staple Inn. Institute members and guests alike were deeply impressed by the underlying significance of the day's events.

Members of our Society do not need to be reminded of the circumstances surrounding the grievous destruction of the old Hall of Staple Inn. You will be delighted to know that the newly restored Hall and its furnishings achieve a perfection that excites the deepest admiration. The gifts that were presented to the Institute at different times, including the centenary celebration of 1948, have been tastefully fitted in and put to use. A year ago the Treasurer of the Institute told us at our annual meeting of the Council's decision to use our cash gift to furnish the Reading Room. That plan has been realized in a splendid manner. The tables, chairs, and bookcases, all of a soft-finished sealed oak, have artistic beauty and yet are so sturdily executed that they will serve for a great many years to identify, in a very happy way, the gift of the members of the Society with the education of future members of the Institute.

The meeting in Brussels on September 24 of the Council of Direction of the Permanent Committee for International Congresses of Actuaries was of special interest as it afforded the first opportunity for the Council to consider our tentative suggestions for the topics for discussion at the Congress to be held in New York in October 1957. Tomorrow afternoon I expect to report the results of the discussions to our Organizing Committee, but I can say now that genuine progress was made and plans are taking definite shape.

At home the year has been marked by the first Society meeting to be held on the Pacific Coast. The meeting was successful from every standpoint, including good attendance from all parts of the United States and Canada. It constituted practical recognition of the Society's vast geographical scope, and augurs well for the maintenance of a strong and united professional body on this continent.



*Referred to on page 340*

THE INSTITUTE OF ACTUARIES' READING ROOM, STAPLE INN HALL, LONDON

## APPRECIATION

As always, the work of the Society has gone steadily forward through the ceaseless efforts of the Officers, Board Members, Committees, and the Staff headed by our Executive Secretary. All deserve our sincerest thanks. I should also like to extend the appreciation of the Society to Mr. Mortimer Spiegelman whose work, *Introduction to Demography*, has just been published under the auspices of the Education and Examination Committee of the Society. One other name calls for special mention. Mr. Victor E. Henningsen has made it known that he will not be a candidate for re-election to the office of Secretary-Treasurer, after ably holding that office since November 1952. Earlier, you will recall, he served as Secretary of the American Institute of Actuaries through the important period from April 1948 until the merger was accomplished. I know that I speak for everyone in recording our warmest thanks for his outstanding contribution.

## APPENDIX

OCCUPATION OF MEMBERS OF THE ACTUARIAL SOCIETY OF AMERICA  
AND THE AMERICAN INSTITUTE OF ACTUARIES (1909 AND 1939)  
AND THE SOCIETY OF ACTUARIES (1955) RESIDENT IN THE UNITED STATES AND CANADA

Employment	1909	1939	1955
Life insurance companies.....	187	679	1,156
Consulting practice.....	25	37	159
United States Government.....	0	11	15
Dominion of Canada Government....	2	16	15
State or Provincial Government....	18	13	21
Universities (teaching).....	8	8	10
Fraternal associations.....	1	4	12
Insurance trade associations.....	1	3	6
Other companies and associations...	5	10	14
Subtotal.....	247	781	1,408
Retired.....	2	34	100
Resident abroad.....	36	22	66
Total membership.....	285	837	1,574

Notes.—A member of both the Actuarial Society and the American Institute has been counted only once.

The classification "retired" includes a relatively few resident members whose business connection was not ascertainable from the records.