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A survey of ethical standards in business with a course of study in business ethics for the junior college

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University of the Pacific

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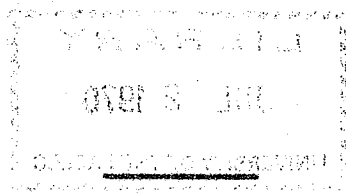
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A
SURVEY
OF
ETHICAL STANDARDS IN BUSINESS
WITH A
COURSE OF STUDY
IN
BUSINESS ETHICS
FOR THE
JUNIOR COLLEGE



By
Louis L. Windmiller
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ETHICS AND ETHICS IN BUSINESS

During the past five or six decades, due to the ever increasing number of inventions and technological improvements, to the increase in population and its concentration in large industrial centers, and to the increased demand for a greater variety of commodities both at home and abroad, American business has grown from a set of comparatively isolated establishments to a vast structure of mutually interdependent commercial and industrial organizations. This great inter-locking net-work is dependent for its very existence upon a multitude of intricate relationships, the nature of which has involved a process of constant readjustment. It was natural, therefore, as the system became more complex, and at times somewhat skewed, that questions should be asked concerning the validity of some of its practices.

Probably the first general question was that of whether or not businesses should be allowed to unite into large and powerful combinations for the purpose of monopolizing the lion's share of the markets. That they should do so was the natural result of business efficiency. Whether the result was beneficial or detrimental to the general public was answered by the passage in 1890 of the Sherman Anti-trust Law, prohibiting such combinations where they were in restraint of trade.

Other questions have been asked in increasing number

throughout the years, some being answered with legislation, some with public sentiment and reaction, and others remaining unanswered. Recently, the violence of the stock market crash of October, 1929, and the severity of the present depression have sharply focused the attention of the public on business methods and on the fundamental nature of the system itself. Since many of the criticisms concern the fairness of present practices and the relationships between business and the public, a study of ethics in business is timely and pertinent. With the growth of business education in collegiate institutions, their assumption of responsibilities in connection with the preparation of young people for business careers, and the expectancy of the public relative to the ideals as well as the abilities of their graduates, it becomes more and more incumbent upon colleges and universities to devote attention to the social and ethical implications of business. The realization of this responsibility by the Stockton Junior College and the scheduling by it of a course of study in The Social Function of Business has impelled the writer to make this survey and the following preparation for a course of study under the above title.

Just what we mean by ethics in business may well be asked. And behind that the question might further be asked as to what we mean by ethics itself. The terms are often loosely used and with a great amount of disagreement as to just what they represent. Having determined the nature of ethics, often

added lack of agreement is noted in connection with applications to particular fields, both as to what shall properly be included and as to the criteria of judgment. Some reference, therefore, to the basic nature of ethics as such seems advisable before undertaking consideration of an application to the field of business.

Ethics, as such, is one of the four main branches into which the study of philosophy is divided, the others being metaphysics, logic and aesthetics. Through the ages men have pondered, among many other things, the question of right and wrong in human conduct, and have sought to determine standards and fundamental philosophies of thought by which to judge conduct. Out of the circumstances and methods of life peculiar to certain times, the men thereof have woven sets of rules by which to judge the character of their fellows. As civilization has changed and new methods and ways of life have developed, modifications and amplifications in these ethical standards have been necessitated. Thus in the simple ways of ancient life, with circumscribed areas and limited types of human activity, the formulation of fundamental rules of conduct was less complicated; and since the field of application was less extensive, thought turned inward to an intensive exploration in an abstract way of the nature and implications of conduct as such. Later developments in the religious, social, political and economic ways of an expanding civilization have produced newer philosophies and different bases of evalua-

tions.

In their volume on *Ethics*, Dewey and Tufts define ethics as:

The science that deals with conduct, in so far as this is considered as right or wrong, good or bad. A single term for conduct so considered is "moral conduct", or the "moral life". Another way of stating the same thing is to say that Ethics aims to give a systematic account of our judgments about conduct, in so far as these estimate it from the standpoint of right or wrong, good or bad.¹

The same authors continue with an expansion of their definition particularly useful as a foundation to the present study:

The terms "ethics" and "ethical" are derived from a Greek word *ethos* which originally meant customs, usages, especially those belonging to some group as distinguished from another, and later came to mean disposition, character. They are thus like the Latin word "moral", from *mores*, or the German *sittlich*, from *Sitten*. As we shall see, it was in customs, "ethos", "mores", that the moral or ethical began to appear. For customs were not merely habitual ways of acting; they were ways approved by the group or society. To act contrary to the customs of the group brought severe disapproval.....The terms ethical and moral as applied to the conduct of today imply of course a far more complex and advanced type of life than the old words "ethos" and "mores", just as economics deals with a more complex problem than "the management of a household", but the terms have a distinct value if they suggest the way in which the moral life had its beginning.

The subject matter of ethics, then, is concerned with right and wrong conduct, and seeks to determine what is and what ought to be the "approved" conduct. This postulates the necessity of a correct line of conduct which places upon the individual an obligation so to act, if he is to be

¹ John Dewey and J. H. Tufts, *Ethics*, 1.

ethical, or moral. In other words, ethical action implies a duty to follow a right conduct. As stated by Professor Sidgwick, it means:

.....what individual human beings
"ought"- or what it is "right" for them -
to do, or to seek to realize by voluntary
action.¹

While ethics may have originally been concerned primarily with the conduct of an individual, with the development in modern society of multitudinous groups and organizations, the purposes of some of which often run counter to the purposes and wishes of others, standards of ethical judgment have come to be applied to their respective purposes and actions. Especially wherever the aims of a group have come into conflict with the aims of other groups, has the matter of rightness and wrongness of motive and conduct been questioned. The field of ethics has thus widened until now it may be said to include all human conduct, whether primarily between individuals, or between individuals and groups, or between groups and groups. When considered in the latter light, it is referred to as Social Ethics, and within this broad term we find other more specific designations made for the sake of convenience, such as Professional Ethics when applied to the work of doctors, lawyers, teachers and engineers. In recent years we find the term Business Ethics coming into use as a result of the inquiries being made into the operation and practices of commercial and industrial enterprises. What methods may one business man

¹ Henry Sidgwick, The Methods of Ethics, 1

employ against a competitor? What rules should govern his relationships with his employees? What proprieties and what obligations should he recognize toward the public? How much profit is he entitled to make? What loyalties and duties does he owe to the class of business to which he belongs? These are but indications of the general business areas in which ethical relationships are in question. Detailed analysis of their ramifications will be taken up in later pages. Before undertaking to do this, however, let us note the attitude of business leaders and thinkers toward the subject.

IMPORTANCE OF THE SUBJECT

It has been interesting to the writer to listen to the comments of various persons on the subject of Ethics in Business. "There are no ethics in business!" has been the flat remark of many. Others have said, in effect, with skepticism, that they hoped some could be found. One prominent business man in the San Francisco Bay area, a banker, went so far as to say that "All business men are crooked; they all have an ax to grind!" An instructor in the field of business, when told of the latter remark, replied: "All the more reason then why we should think seriously about the subject, and try to implant in our students a consciousness and knowledge of better ethical standards in business." That the question is an important one, and is receiving attention is attested by the sponsoring of studies in this field by leading universities, by the establishment of consumer research bureaus, by the voluntary establishment of trade codes of ethics, and by the voluntary submission of trade practice agreements to the Federal Trade Commission.

One of the first organized steps in this direction was taken in California in the year 1904 when Colonel Harris Weinstock, a prominent merchant of Sacramento, established the Barbara Weinstock Foundation at the University of California sponsoring an annual lectureship in commemoration of his daughter, to be known as the Barbara Weinstock Lectures on the Morals of Trade. It is worth while to quote the statement of Colonel Weinstock in establishing the Foundation, for

the reason that it is the statement of a rising business man who later became eminently successful and whose business is still continuing on a successful basis, and for the reason that it states so well the attitude of an ethical man in business, belying the statements of some that there are no ethical men in business. His Preface to the Lectures follows:

Despite all that can still be said against trade practices, against the business lies that are told, the false weights and measures that are used, the trade frauds to which the public is subjected, we are nearer a high commercial standard than ever before in the world's history.

Man's confidence in man is greater than ever before, the commercial loss through fraud and dishonesty is constantly diminishing and standards are slowly but surely moving upward. The honest man's chances for success in business are better than ever before, and the dishonest man's chances for lasting commercial success are less than ever before. To grow rich by failing in business is no longer regarded as an act of cleverness. The professional bankrupt finds it more and more difficult to get credit. He soon discovers that even his cash will not win for him the attention that his poorer neighbor commands simply by his character.

Education has done splendid service in raising commercial standards. As a rule, the high-toned business man is enlightened, and, as a rule, the dishonest, unscrupulous man in business is ignorant. Great aid in the direction of raising commercial standards may be rendered by the further spreading of knowledge and enlightenment. There are still many misguided men in business who imagine that there can be no success without false weights and measures, without lies and deceit. It is the duty of every man in business, who loves the work in which he is engaged, to do whatever he can to correct this mistaken notion, and to arouse the same sense of honor in the circles of commerce that, as a rule, is found in professional life.

In the decades to come men will take as much pride in being engaged in trade as men always have taken in being members of a liberal profession.

It seemed to me that a step toward hastening such a day might be taken by inviting the best thoughts of some of the country's best minds on the subject of

"The Morals of Trade".

What better platform for the expression of such ideas than that furnished by the College of Commerce of the University of California? What better way to spread such thoughts than by means of their distribution in printed form? What better way to train to higher commercial standards the minds, not only of the youths who are seeking a university education and who have in view a business career, but also of the many already engaged in business who have not had the benefit of a college training?

It seemed to me that such a step might set in motion a commercially educational force which would prove far-reaching in its influence and most helpful in raising business character.

Thoughts such as these prompted the recent establishing of the lectureship of "The Morals of Trade" in connection with the College of Commerce of the University of California.

Let the hope be expressed that this is but the beginning of a movement which may be taken up by abler and wealthier men in business and broadened in many ways. A growing literature on the "Morals of Trade" representing the best thought of our best minds, is likely to live and to do splendid service in elevating commerce and in raising its standards.¹

Under this sponsorship many leading business men and thinkers in the field of economics have spoken concerning the ethical awakening in commerce and the need for a wider acceptance of such principles. The first speaker in the series of lectures beginning in 1904 was Albert Shaw, Ph.D., Editor of the American Review of Reviews, whose topic was The Business Career in its Public Relations. He was followed in succeeding years by John Graham Brooks, President of the National Consumers' League, speaking on The Conflict between Private Monopoly and Good Citizenship; by Willard Eugene Hotchkiss, Ph.D., Director of Business Education at the Uni-

¹ Albert Shaw, The Business Career, i.

versity of Minnesota, with Higher Education and Business Standards; by Max Radin, Ph.D., Professor of Law at the University of California, on the subject of The Lawful Pursuit of Gain; by Henry S. Dennison, President of the Dennison Manufacturing Company, on Ethics and Modern Business; Edward A. Filene, Industrial Leader, whose subject was Morals in Business, and many others of similar distinguished and competent standing.

In the year 1929 a foundation similar to the Weinstock Foundation, and known as the William A. Vawter Foundation on Business Ethics, was established at Northwestern University as a memorial to the late William A. Vawter, a trustee of the University, who was deeply interested in the development of higher standards in business practice. In his lecture of introduction to the series of Vawter Lectures, Ralph E. Heilman, Ph.D., Dean of the School of Commerce of Northwestern stated:

It may fairly be said that today there are large numbers of business men who have become definitely concerned - entirely apart from any question of legal compulsion - for the public obligations of the modern far-reaching business enterprise typified by the large-scale corporate form of organization. Many of them are keenly aware of the need for the more clearly formulated standards of conduct, based upon social consequences and appropriate to the present-day economic and business system.¹

Dr. Heilman goes on to say that while there "can be no doubt that we have advanced far from the trade morals

¹ Ralph E. Heilman, Ethical Problems of Modern Finance, 6.

of a generation ago" the fact of the increasing intricacy of business relationships and the swift tempo of modern business makes it more and more difficult to perceive clearly the ultimate outcome of business transactions and tends to obscure its ethical problems. "It is now becoming clear", he says, "that recognition of this important subject must not be delayed longer in our colleges and universities."¹ "In the development of collegiate business education thus far," he continues, "one important factor has been overlooked - the necessity for developing a strong sense of social and ethical obligation in the student preparing to enter the business world."²

In delivering the opening lecture of the Vawter Series, Wallace Brett Donham, Ph.D., Dean of the Graduate School of Business Administration at Harvard University, characterized the field of business ethics as "one of the most significant areas for human study." In his opinion

The research problem involved is huge, for in all directions the changing facts of business must be studied and re-studied, and constant efforts made to appraise and re-appraise the social consequences of those changing facts, for the task of business ethics is that of securing at all times sufficient understanding of the facts so that within the limits of our capacity we may manage our affairs in ways which contribute to sound relations with the community. At the best we shall never have facts enough, but many types of practice can be shown to be clearly bad, and many points of view to be clearly good. Mistakes are inevitable, but they can be greatly reduced by sound and unbiased research. To such research our schools and colleges of business should contribute largely, for they are not only in a friendly relationship with business but they are also in a position to

¹ ibid., 22.

² ibid., 19

see its activities in perspective. Moreover, they are less affected by the bias inevitable when immediate profits are involved.¹

Dr. Vandever Custis, Associate Professor of Economics in Northwestern University, in concluding his lecture on the Ethical Problems of Modern Advertising given at Northwestern on the Vawter Foundation in 1930, summarized the situation when he remarked that

Much remains to be done in the study of the ethics of business; and to do it is one of the most important functions of the schools of commerce.²

The foregoing statements of leaders in the intellectual life of the nation are indicative of the general recognition throughout the country of the need for an analysis of the ethical standards prevalent in business and the development of a conscious program toward their improvement. Especially significant is the fact that authorities in collegiate schools of business in outstanding universities are keenly aware of the ethical problem in business, and are in a position to influence the insertion in curricula of types of study the chief emphasis of which will be to inculcate ethical standards and attitudes and discover the knowledge required for their application in the business world.

Perhaps of even greater importance is the fact that prominent business and industrial leaders are voicing in increasing numbers the necessity for business to order its

¹Wallace B. Donham, Ethical Problems of Modern Finance, 45.

²Vandever Custis, Ethical Problems of Modern Advertising, 26.

own house in matters of standards and practices. The managing director of the American Management Association, New York City, W. J. Donald, in speaking on the growing influence of the rising profession of management, gives it as his opinion that

The most significant background of the relationships between government and business lies in the gradual segregation of management from ownership, the consequent rise of management as a profession, and the recognition by the new profession of its responsibilities, not only to capital, but also to labor, to the consumer, and to the public.¹

In its meeting of 1928 the National Chamber of Commerce had set up as one of its chief responsibilities

The purging of business of all those who indulge in commercial and political corruption, and through resort to unclean and unworthy practices bring business into disrepute and shock the sensibilities of all decent citizens.²

While written codes of conduct are not always lived up to, it is a highly significant fact when an organization or an industry arrives at the point where its members believe it worth while to attempt the setting up of ethical criteria in written form. Without doubt the most widely known set of such rules is that of the National Chamber of Commerce, formulated in the year 1931 and known as "Principles of Business Conduct". Although it is readily admitted that there is still a wide gap between the statement of principles and the practice of their precepts, their stipulation in concrete form is a step forward in the crystallization of

¹ Ethical Problems in Business and Government, 126.

² ibid., 116.

opinion, and is referred to by Dr. Donald as having

.....probably exercised more widespread influence on business and on the trend of the relations of government and business than any other single factor.¹

Henry S. Dennison has well summarized the significance of the ethical awakening in business when, in comparing present standards with their evolution in the history of business, he states:

In this setting of business history, it seems to me the codes of the modern business world have a right to be regarded somewhat seriously. Even where they are drawn up with the tongue in the cheek, and where as is so often the case, they are quite inadequately observed after they are drawn up, they can at least be considered the first attempts of a great and powerful social group to gain its own self-respect and the respect of other members of society.²

The extent to which the matter of ethical standards and practices in business is engaging the attention of the American public today can hardly be over-estimated. Literature and the press contain constant and numerous references to the subject. One of the leading students in the field stated in 1926 that the

.....large and constantly augmenting stream of written rules suggests the extent of the ethical movement in American trade. I can find no historic parallel, outside of the great religious revivals, with which it has much in common. Standards of ethics have probably changed more extensively than in any corresponding period in history.³

While this appraisal may have been an over-statement at

¹ ibid., 148

² Henry S. Dennison, Ethics and Modern Business, 15.

³ Edgar L. Heermance, Ethics of Business, 28.

the time it was made, the increasing acceleration with which the whole field of business has come under discussion by the entire world would no doubt make the statement a fair one today. Especially in the United States where the attention of our entire people has been focused on the problem by the enactment of national legislation bearing upon the very heart of it, can we say that the population is "business ethics conscious". In the light of our times, then, the present study would seem to be a valid one.

The present paper does not undertake a consideration of the larger field of the relative merits of the various politico-economic systems which are being talked of today, and some of which are being experimented with in European nations. Fascism, Communism, Socialism and Capitalism are not being compared. For the purposes of this paper Capitalism is regarded as an established system, as a game we are engaged in playing, without attempting to decide whether or not it is the best game. Our attention will be devoted to a consideration of the rules of the game, how they evolved, whether or not they are being complied with, and whether or not they should be altered. Only as is necessary to a better understanding of this narrower study will examination of the elements of Capitalism as such be made.

THE ORIGIN OF BUSINESS

On more than one public occasion I have heard a prominent northern California educator make the remark "that a school can be no better than the community in which it is located." To anyone who has been engaged in public education for any length of time, the general truth of this statement and its implications are apparent. The same situation is applicable with reference to various standards of human conduct. They are directly influenced by and are outgrowths of the circumstances in which they exist. One need only to read history and to travel among different peoples to verify the truth of this statement. Morals are a reflection of their time and place. They are indigenous to their locale. But more than this, they are the result of an evolutionary process, and can be understood only in the perspective of their historical development. Marriage, family customs, religious sanctions, political relationships - all are the result of a slow-molding of the ever-changing habits, ideas and conduct of the people. Standards of ethics in business are no exception to this rule. A proper appreciation of present-day standards, therefore, will be better realized by an inquiry into the roots and beginnings of some of the bases of ethical judgments concerning business.

In examining the record we find that there are certain major ideas in connection with business which seem to have occupied the more or less continuous attention of mankind.

These have been the questions of whether commerce itself is justifiable; whether the making of a sale is in itself legitimate; what is a fair price; whether the charging of interest is morally vindicable, and if as a principle it is then what rate is permissible; the relationships between debtor and creditor; between employer and employee; the problem of deception and fraud. These are economic and social problems which have been considered by various peoples in the light of their own times, and only their enumeration is necessary to call to mind their importance in today's affairs. Let us examine some of these things in their historical development.

Ethical Status of Commerce

In the matter of production and exchange of commodities, commerce today is practically universally accepted. It is only upon the question of the distribution of the returns from commerce that the modern world is in disagreement. We find, however, that this has not always been the case, and that the fact of trading itself was early looked upon with considerable disapprobation. "A merchant shall hardly keep himself from wrong-doing and a huckster shall not be acquitted of sin." (Ecclesiastious, 26, 20, 29. The passage occurs only in the Greek.)¹ "He is a merchant; balances of deceit are in his hand; he loveth to oppress." (Hosea, 12, 7.)²

There seems to be some disagreement among students of

¹ Max Radin, The Lawful Pursuit of Gain, 2, 122.

² ibid., 122.

ancient life concerning the attitude of the ancients toward trade and commerce. Some contend that there was universal condemnation of commerce; others, that it was condemned by some and approved by others, or at least condoned.¹ In his splendid little book on the Lawful Pursuit of Gain, Professor Radin of the University of California presents this situation and refers to conflicting authorities on the subject. There seems to be no doubt, however, that commerce was widely regarded with suspicion. Viewed in the perspective of developing civilization, it is probably only natural that this should have been so. Emerging from the earlier eras when mankind's sole occupation was the wresting of a living from nature through hunting and fishing, and later through the tending of herds, the earliest form of trading was no doubt that of barter in which one use-good was exchanged for another use-good for which there was an immediate use-need on the part of the traders. Since the exigencies of life and the fact that one's own personal labor was the only source of producing goods, it was natural that the person who had too many extra use-goods to trade should be looked upon with suspicion, especially if he desired in return not other use-goods for his needs, but other kinds of value in the forms of jewels, money or precious metals. Because of the difficulty of producing extra goods, it was a logical inference that they might have been acquired

¹ Cf. ibid., 6

by theft, robbery or piracy. If, as seems likely, barter had its origin in the exchange of gifts, there is implicit in the transaction from the beginning an inference of equality of exchange, and one seeking to make profit out of the exchange would necessarily provoke distrust.

Plundering and piracy were common in the early history of the Mediterranean. Whenever, then, a ship entered port with a cargo to sell, the buyer could not tell whether it was a lawful product honestly produced, or whether it had been acquired through the pillaging and sinking of a ship less competent to defend itself. Cargoes thus gained could, of course, be sold at a bargain to the buyer and with clear profit to the seller. Knowledge of such practice would lead to distrust and hard bargaining on the part of any to whom the purchaser of a cargo should seek to unload his wares.

As Professor Radin points out:

There was the double opportunity of fraud and oppression, once when the merchant got his wares and once when he disposed of them. He might have given less for them than he should and he might be taking more for them than he ought.

All this rests upon a notion that there is an amount which he should have given or taken, and if we follow this notion to its source, we shall discover that it really excludes trade altogether as a means of honorably acquiring wealth.....

The business of merchandising, therefore, began with a handicap. In the villages of Palestine it was represented by a Canaanite huckster, a man who feared not God, and by a Sidonian ship in the ports of Hellenic cities, manned by bearded Syrians who scudded away before one could repent of a bargain.¹

No doubt the very suspicion which attached to this type

¹ ibid., 3, 4.

of trade necessitated the gradual introduction of honesty in order to insure a continuous patronage of buyers.

Out of this situation there came a belief that in any transaction, either the buyer or the seller gained at the other's expense, and that whichever one lost on a particular transaction would try to make it up on the next one. Higgling and bickering were the means of arriving at a price, and the ability to drive a hard bargain resulted in the gradual accumulation of wealth by the shrewd or unscrupulous dealer. The literature of the times indicates that a distinction was made between the merchants proper, who dealt on a large scale, and the hucksters who trafficked in lesser lots.¹ This may have been due to the fact that those who deal in small quantities are forced thereby to wring from each transaction the greatest profit in order to eke out a living, and to the fact that small sales are often not subject to the same scrutiny and investigation as the larger ones. The impression, however, may be somewhat inaccurate, it is suggested,² since the reports come down to us through the writings of the "big business men and their friends" who are likely to interpret and record the facts in their own favor. This inference is probably a valid one, especially in view of the analogous situation in our own times, when we find such men as Richard Whitney loudly extolling the virtues of big business even at a time when his own activities were being conducted in a manner

¹ ibid., 6.

² ibid.,

not only in violation of law, but contrary to the better practices voluntarily followed by his own trade.

Expediency seems ever to have been a motivating force in the development of the affairs of men. The tremendous increase of commerce during the expansion of the Roman Empire, and no less that of the Carthaginian, was a direct outgrowth of the attempt to assimilate conquered peoples by integration into the trade fabric. Trade multiplied by leaps and bounds likewise, in response to the desire for new products of conquered lands. The great network of Roman roads, well policed against the depredations of robbers, provided the channels by which the interchange of products was made possible. On sea, no less than on land, the ascendancy of the Roman fleets assured the peaceful flow of commerce. Transportation thus facilitated, specialization in agriculture and in manufacture resulted. Roman exports went to the far corners of the then known world, and in return came the fruits of other lands.¹ Rome sought first of all to protect herself from her enemies by an aggressive policy of beating them before they conquered her; and second, to satisfy the needs and desires of her citizens by commercial expansion. And in this rush of expediency there was not a great deal of time for moralizing on the ethics of trade.

The success in establishing the Empire did, however, sow the seeds for later thought along these lines. The result of

¹ Cf. Hayes, Moon & Wayland, World History, 181.

the Roman success was to make the patrician merchants richer and richer while the plebians were exploited. These latter complained among other things, that the "rates of interest on borrowed money were too high, that the herds and flocks of the patricians ate so much of the public pastures that the poor man's cows had no chance, and that the patricians were holding as private property much land that belonged to the public."¹ It is no wonder, then, that when the Empire finally collapsed and a new system gradually emerged in the West, it was dominated by men who were committed to a theory which made of riches in this world something worse in the next world than poverty.²

With the advent of the Crusades, commerce which had lain dormant during the Dark Ages, began to revive again. Travelers returning from the east brought back with them articles and commodities which acted as a stimulant to the desires of the people. Natural wants and created wants crave to be satisfied. The necessities of existence must be supplied. With the growth of the medieval town, the interchange of commodities was made easier, specialization of production appeared, merchants united in organizations known as merchant guilds, and craftsmen or manufacturers bound themselves together into craft guilds. These associations, respectively, early discovered that in union there was strength, both in protecting their merchandise against robbers while in transit and in protecting the integrity

¹ ibid., 132.

² Radin, op. cit., 9

of their trade by making individual merchants or craftsmen, under various devices of penalty, conform to the general rules drawn up by the guild. Thus were created what might be termed the first voluntary standards of business practice. By the end of the 15th century commerce had come of age; it was now regarded as reputable and honorable to be a merchant. "In business life, good and honest workmanship and fair dealing were regarded as Christian duties. It was considered wrong to charge more than the just price. A craftsman should receive for his goods only enough to pay him for the cost of the raw material and to provide a decent wage for himself and his helpers. The use of short weights and measures was condemned, and the taking of interest on loans was forbidden to Christians."¹

In considering the earlier attitudes toward commerce and wealth, it is interesting to note two things: First, there has been a shaft in condemnation of methods from the huckster or small business man of ancient times, to the big business man of today; and second, the continuance of the belief that great wealth has not been honestly made. The small business man is a member of his community wherein his establishment is located and where he maintains his home. He is known to his neighbors and business associates, and in general the public has a fairly accurate idea of the manner in which he conducts his business. This, coupled with the great number of small businesses and the fact that their owners do not usually

¹ Op. cit., 317.

gain a fortune excessively out of line with the income of the rank and file of the community, tend to keep the small business man identified with the local personnel. He is usually held as a respected member of his town or city.

On the other hand, the man of big business has enterprises in many places, which he is likely to direct from some central headquarters. Economies of mass production have made it successively more easy for him to multiply his wealth, and with increasing wealth he has attained greater economic power. While it is true that in many cases, such as that of the Insull Utilities and others of current notoriety, the wealth has been amassed by unscrupulous methods, justly deserving of the condemnation of the public, nevertheless the fact remains that there is a widespread distrust of any fortune of great size, and the common belief that all great wealth has been dishonestly gained. This ingrained suspicion is no doubt a continuance of the earlier traditional distrust of commerce and wealth. It is no doubt also due to herd instinct that distrust arises of any members who deviate more than a little from the herd standard, or average; to the tendency to fear those things which we do not understand, and the majority of the people do not understand how it is possible to accumulate wealth (even with a fair profit, decent labor treatment and good management); and to the tendency to detest those in positions of power, because power means the possibility of influence and control.

Whereas commerce as a means of livelihood began under somewhat questionable circumstances in ancient times, it is

regarded today not only as a reputable and honorable occupation engaged in as a matter of course by millions, but the term business has come to be recognized in many ways as synonymous with vision, efficiency and progress. That this should be so is not difficult to understand when it is realized that self-preservation is one of the basic laws of nature, and that business has made self-preservation successively more easy and more secure, having provided mankind with means for the finest type of living possible. Further than this, it is recognized that in building up to the present intricate business organism with its amazing degree of efficiency that a tremendous amount of courage has been needed; that perseverance, initiative, ability to plan, determination, and other fine qualities of character as well as of intellect have been needed. Business has among its leaders many who are deserving of the esteem and respect in which they are held. This is not to say that business is without faults; indeed it has many, which we shall soon consider. Before so doing, however, let us review, as we have done for commerce in general, some of the important concepts in connection with it.

FAIR PRICE

In an analysis of business we find that some of its concepts are fundamental with a long historical development, such as the idea of buying and selling, which is the essence of commerce, already traced; the idea of the basis of a sale, or the price; the idea of money, and the making of a charge for its use; the sanctity of contracts; and the idea of honesty and truth as distinguished from fraud in the transacting of business deals. On the other hand, we find along with the modern status and interpretation of these basic ideas, certain comparatively modern innovations arising out of the intricacy and scope of present-day business, such as standards in advertising, commercial bribery, adulteration, competition, monopoly control, restraint of trade, and many others to be considered on subsequent pages. Let us, at this time, examine the beginnings of the "doctrine" of fair price.

It is interesting to note that the underlying idea of equality between persons seems to have been evident from the beginnings of trade. This concept no doubt had its foundation in the fact that trade is supposed to have sprung from the exchanging of gifts, under which circumstances to have given a gift inferior to the one to be received would have constituted, to say the least, a breach of etiquette. Friendships could not be instituted nor strengthened by an exchange which had an appearance of being unbalanced. It was, therefore, natural that when such transferences grew into a system of barter, or

exchange for need, that the idea of equality should be carried over. It is true that a large part of early trade was conducted with foreigners in which circumstances being able to out-wit them did not seem objectionable, but rather a virtue, taking as its basis the morality of war where the desideratum was to be the victor. But in dealing with one's own countrymen, where one would meet face to face throughout succeeding days with the person with whom a sale had been consummated, and be subject to ridicule and condemnation for any unfair advantage taken, it was logical that inequalities in bargaining should come into prominent notice. Although the ancients had no concept of value predicated on long and widespread economic experience, there was current the idea of the "right price", probably first stated by Plato in his book on the Laws,¹ and subsequently referred to in the Roman jurists of the second and third centuries, as the *justum pretium*.² This doctrine was further elaborated by the medieval Church, and corresponded to what modern economists refer to by the name of "intrinsic value" and reject as unsound. The *justum pretium* "was something like an objective fact, independent of the personal desires of the seller and buyer, and of the accidental circumstances of the sale."³ The value of a thing was thought to reside in that thing, and the just price was supposed to be a sum equivalent to that value. We are not concerned, however, so much with the basis upon which they determined the just price,

¹ Max Radin, The Lawful Pursuit of Gain, 28.

² ibid., 28.

³ ibid., 28

as the fact that they believed in a just price, thus indicating the desire for morality in trade. This conception was incorporated in the law of the later Roman period, Byzantine, and provision made that a seller would be protected "whenever he received less than half the justum pretium."¹ The later English and American courts have refused to consider it as their province to try to determine what is a just price. So long as a price is agreed upon by the buyer and seller, the law has taken the position that in the absence of fraud and duress, persons competent to contract in the eyes of the law were best fitted to determine what was the proper price in their own transaction. It is necessary that there be a valuable consideration, in order to support a contract, but the courts will not attempt to determine whether the consideration is adequate, so long as it is valuable.² There is an exception to this general rule contained in the Uniform Sales Act, Section 9, sub-division 4, where it is stated: "Where the price is not determined in accordance with the foregoing provisions the buyer must pay a reasonable price. What is a reasonable price is a question of fact dependent on the circumstances of each particular case."³ It is, then, only in the absence of a price having been set by the contracting parties that the law will intervene to determine what is the fair price. The matter is left in the hands of the individual parties to a sale, which leaves it in the realm of need and of ethics.

¹ ibid., 31

² Dillavou & Howard, Principles of Business Law, 35.

³ Hulvey, Commercial Law, 319.

The question of price is perhaps the most encompassing of all phases of economic and business life. This is an era of extreme specialization, when each man is engaged in the making of only one product or one part of a product which is later distributed to a distant consumer whom he never knows. At the same time, each person is a user of a greater number of varied commodities than has been the case in any previous age. This all means that the standard of living which we follow is determined by the prices we have to pay for the things we use, and when prices rise the standard must be narrowed for the reason that a limited income does not reach so far. Price, therefore, is the arbiter of our lives, and as such draws the attention of all of us to it.

One can not discuss the problem of price without coming quickly to grips with the basic concept at the heart of economics, namely that of value. This is the hub around which any system of business must rotate. Its importance has been recognized by economists of other times, with varying theories of value having been proposed. That enunciated by Plato and Aristotle has already been mentioned, the theory that value is bound up in the commodity itself, the theory of intrinsic value. This has long since been shown to be unsound. Another prominent conception is that the value of things is determined by the labor which it takes to produce them. To this may be voiced serious objections. The most widely accepted theory is that value is a subjective thing, and is the relative import-

ance placed upon a thing by a user or prospective user.¹ Value, according to this theory, will be set by the user upon the combination basis of his desire for the commodity, its utility for him, and the scarcity or abundance of such commodities. Translated into simpler terms, this means that in a free market - one where artificial regulations are not imposed by higher authority, such as governmental restrictions - the value of merchandise will be determined by supply and demand, by the willingness of the holders to sell and the willingness and ability of the purchasers to buy. If articles are scarce and there are many demanders, the sellers will place a high value on the articles and ask a high price in comparison, price being but the market expression of value.² In such a case it is the scarcity factor which is the dominant one. Conversely, if there is an abundance of commodities in relation to the number of demanders, the value and price will be accordingly lower. Or, to bring out the central idea in value, which is the relative importance estimated by the user, we need only to refer to the days when one could purchase a dish-pan full of beef liver for ten cents, and much of it was fed to cats and dogs, and then later to the period after the medical announcement of the high blood-creating power of liver, when the price rose to forty cents a pound and one had to be on a waiting list to get an allotment. There are many ramifications to the determination of value and its counterpart price, but briefly stated

¹ Arthur Faubel, Principles of Economics, 22.

² Ibid., 48.

the afore-mentioned conditions would maintain in a free and unbridled market. The operation of the law of supply and demand can be so well observed in the case of farm products, for example, that it is unnecessary to develop the theory at greater length.

When elements of control begin to enter the situation, however, we find values becoming distorted and prices unnaturally placed. Two general ways of control should be examined.

Shrewd traders have ever been alert to the fact that a larger amount of money can be made with a smaller supply of goods, especially where there is an established demand for the product, than with a more plentiful one. "The old Dutch traders of the fifteenth and sixteenth centuries knew well the force of this paradox. History records that when the spice crops of the Dutch East Indies were large, the canny Dutchmen used to dump part of their cargoes overboard on the theory that what was left was worth more than the whole crop."¹ Years ago the orange growers of California dumped loads of oranges into San Francisco Bay, in order to create an artificial scarcity and thus enhance the price. In the past few years the coffee growers of Brazil have floated barge-load after barge-load of coffee out to sea, where it has been dumped to cut down the excess production. Coffee was even burned as fuel in locomotives.²

¹ ibid., 34.

² Business Week, March 2nd, 1932.

Instead of destroying materials, growers and producers have at other times sought to control outlets by buying up and holding the bulk of a year's supply, feeding it out to the eager demand of the public in a small stream at high prices. Such a "corner" on the potato market was executed in Stockton some years ago by a wealthy Japanese grower. "Joseph's famous cornering of the wheat supply of Egypt, by means of which the whole population were reduced to chattel slavery, is the classical example of monopoly."¹ One of the outstanding examples of this type of control of value is that of the well-known regulated output of diamonds.

Such practices as cornering the market have usually been looked upon with disfavor by the consuming public. In the light of present-day standards they appear unethical, the degree of course being conditioned by whether or not the commodities are those things regarded as necessities of life or merely luxuries.

Under the laissez-faire philosophy of Colonial and 18th century America, under pioneer conditions with untold resources to be developed and had almost for the asking, and a firm and unanimous belief in the working creed of individualism, it was inevitable that energetic business men should seek greater and greater profits through gaining control over increasing areas of production. The final outcome of this era, then, was the trust and the monopoly, the evils of which be-

¹ J. A. Hobson, Economics and Ethics, 202.

came obvious. High prices were inconsistent with fair prices, and people who have become accustomed through years of use to regard a certain group of commodities in the class of essentials resent the boosting of prices thereon beyond the relative proportions to which they have become habituated. The result was the trust and monopoly legislation of the late eighties and nineties, with subsequent reinforcements, the public demanding the correction of an inequitable situation which business itself had failed to correct voluntarily.

So much then for one aspect of the situation of value and price being out of line with the public estimate of what constitutes a fair price. Let us look at another version of price differential.

Under the system of individualism it has been not only customary but commendable for men to follow up those opportunities which offered the greatest return for their effort and application. Until recent years there has been no limitation on the kind of activity one might engage in so long as it did not contravene fundamental law and morality. Whenever men have been successful in reaping gain, therefore, we have seen a rush of others to participate in the same kind of enterprise. This has meant an extra supply of the things demanded, in reference to the size of the demand, the consequent working of the law of supply, demand and price resulting in a lowering of the prices obtained often to the point where the kind of enterprise was unprofitable for many, which resulted in their being forced out or their voluntary withdrawal. Although this has been true

of all kinds of productive activity, it has been more common to those which can be entered with small capital and the least readjustment. Particularly has it been the case in farming. Let there be one or two good years in wheat or in peaches, and what is the result? Farmers switch their crops, putting more acreage into wheat and planting new orchards. In a few years, overproduction and low prices prevail, with some growers dropping out of production and entering other employment. These readjustments are always difficult and cause considerable suffering. Although their plight is usually the result of lack of individual foresight and ignorance of the working of economic law, those who are caught in the vise complain that they are the victims of circumstance and cry out for some compensatory relief on the part of the body politic. When, of course, this happens on a large scale with a pronounced effect on large numbers of persons and the likelihood of interruption of the supply of commodities, the situation assumes state-wide and national importance and some action is likely to be taken in a public way. Thus it was that the Federal Government appropriated millions of dollars for a crop relief program during the last few years in an effort to bolster prices to a point estimated to be fair. We have seen the spectacle of thousands of acres of cotton plants plowed under in order to create the necessary scarcity in reference to demand to raise the price. We have witnessed the payment by the Government of \$6.00 per ton to peach growers in the San Joaquin Valley to allow their fruit to rot on the trees, in order that that portion of the

crop which went to market might bring a higher price. We have given millions of dollars to farmers for allowed their land to lie idle, instead of producing wheat. Thousands of hogs have been slaughtered in order to make the price of pork higher.

Implicit in the whole program is the idea of insuring a fair price to the producer, whatever a fair price may be, probably to be determined by an average of several year's prices. The difficulty will be in remaining ethical toward the consumer also; he is the one who will have to pay the price. The cost of table bacon in recent months, after the operation of the hog-reduction program conducted by the Federal Government, well illustrates this.¹

Whereas monopolistic control is one method of artificial price fixing which interferes with the natural operation of economic laws in a free market, Governmental price fixing is another method which also interferes, but with a different aim in view. There are ethical implications in both instances. In the former, either outright denial to the consumer or else exaction of too high prices; in the latter, denial to many, no doubt, because they can not pay a government-subsidized price, but probably protection to the majority against excessive prices. The ethical criterion of what is fair to the greatest number of people is the goal to be attained. Stabilization of price levels can not be attained without a system of keeping supply and demand in equilibrium, which system the Government is attempting to inaugurate. Whether or not the serious surgical

¹ Latter part of 1938 and spring of 1939.

operation of an initial destruction of crops in order to equalize the supply and demand, with consequent denial to many in the purchasing public, is justifiable is indeed a question of ethics. Whether the permanent control of outlet can be maintained remains to be seen; if it can, and is equitably administered, then whatever initial injustice may have been committed will be outweighed by the more enduring justice.

Yet another form of Governmental control was tried in the enactment and administration of the National Industrial Recovery Act of 1933. Instituted primarily as a recovery measure, its provisions were also largely of a reform nature. Its immediate purpose was the fixing of prices of commodities in the hope of stimulation of trade. Its ultimate purpose was, no doubt, the pegging of prices at a reasonable level, and as such was an attempt to inject an ethical relationship between producer and consumer. The confusion and agitation attendant upon the drawing up of industrial codes and their ratification by a Governmental Board will long be remembered. The difficulty in setting proper prices for the multiplicity of commodities was a gigantic task, involving an examination of methods and bases for the determination of values. Perhaps the program would eventually have been successful, had it not been declared unconstitutional by the courts. At any rate, some of its essence has been carried over into subsequent legislation, a notable example of which is the Robinson-Patman Anti-price Discrimination Act of 1936.

This rather lengthy discussion of fair price has been

undertaken in order to point out the importance of the matter of an ethical relationship between the buyer and seller. It is basic to all the other commercial operations as it is the fundamental act of commerce from which all other operations spring. It has ever been a matter of concern, peoples of other ages having tried to solve the problem by resort to authority.

As early as the year 285 A. D. the Emperor Diocletian sought to fix the prices of goods and of labor in an attempt to establish economic order after the civil wars of the third century.¹ In that year he issued an Edict of Prices, in which the maximum to be charged for any commodity was fixed.² That his attempt failed may have been due more to the general disintegration of the times rather than to its economic and ethical soundness, as his program was characterized by Lactantius as a desperate attempt to combat a desperate situation.³ It seems to have been the only attempt to do in ancient times what was so frequently done in the Middle Ages,⁴ where due to the influence of Christianity and the guild systems the price at which a commodity should be sold was pretty well established as enough to pay the craftsman for the cost of his raw material plus a decent wage for himself and his helpers.

The question of fair price, then, is seen to run throughout the history of commerce. It is the dominant idea underlying today's unrest. It is a relative concept rather than an absolute one. Whether or not, instead of allowing the scope

¹ Hayes, Moon & Wayland, World History, 172.

² Max Radin, The Lawful Pursuit of Gain, 131.

³ ibid..

⁴ ibid.

of its relativity to be wide, as will be the case in unbridled economics, we shall confine its latitude within ethical boundaries, remains to be seen.

PRESENT UNETHICAL PRACTICES

We have reviewed some of the practices which have been called into question in previous times. Let us turn now to an inventory of present-day practices, the ethicality of which is critically regarded.

It is important, at the outset, that our problems be viewed in their proper perspective. The larger areas should be outlined with their principal sub-divisions and within each of these the specific topics for consideration. It must be kept in mind, also, that ethical relationships involve a duality of interest, so that when inquiring into the rightness or wrongness of business conduct, we must view activities in the light of the relationships in which they appear. Thus, the outcome of a business transaction may have ethical implications between the business man and the public; between him and his competitors; between him and the larger trade group engaged in the same kind of business; between him and his employees; between him and his government. A transaction which appears ethical so far as a man's relationship to his competitors is concerned, may not be ethical when considered in the light of his relationship to the public. On the other hand, one who leans too far forward in reducing his prices to the public may unjustly injure his competitors and bring the trade into eventual disrepute. Group loyalties and group interests are involved, necessitating compromise in order to obtain balance. In many instances, therefore, the ethical solution will have to be a composite resultant of the conflicting forces.

The first and major field of consideration, in an exhaust-

ive examination of the subject, would be the ethics of our fundamental economic institutions themselves; the ethical basis of capitalism, of the competitive system, of private property, of freedom of contract and the inheritance of property.¹ As previously stated, it is not the purpose of this paper to attempt such an ambitious program. The system is taken for granted, and it is the rules of the system that will be considered, with only such reference to the basic elements as are necessary for the proper orientation of the derivative practices. Out of this major field we may extract certain categories of practice for our study. The following outline is given because it indicates the extent to which the ethical problem pervades the business field.² Only certain of the topics listed will be considered, selection being made on the basis of immediate application to the general public and their suitability for an introductory study of the field.

1. Prices.

- a. Price cutting
- b. Price fixing
- c. Price wars
- d. Price policies

2. Profits.

- a. How large should profits be?
- b. Ethical basis of profits.
- c. Regulation of profits.

3. Competition.

- a. Competition, fair and unfair.
- b. Regulation of competition.
- c. Cutthroat competition.
- d. Selling below cost.

4. Commercial honesty.

¹ Ralph E. Heilman, Ethical Standards in Business, 24.

² Cf. ibid., 24-26.

- a. Advertising.
 - 1. Misrepresentation
 - 2. Puffing.
 - 3. Misleading.
 - 4. Harmful.
 - b. Selling.
 - 1. Misrepresentation.
 - 2. Imitations.
 - 3. Misbranding.
 - 4. Adulteration.
 - 5. False weights and measures.
 - 6. False claims for breakage, etc.
 - 7. Maintenance of quality.
 - 8. Substitutions.
5. Commercial bribery.
- a. Influencing purchasing agents and buyers.
 - b. Bribing employees of competitors to betray trade secrets and business information.
 - c. Use of rebates and secret commissions, concessions and fee-splitting.
 - d. Elimination of commercial bribery.
6. Miscellaneous procedures.
- a. Intimidation of retailers.
 - b. Cancellation of orders.
7. Credit.
- a. Character and moral responsibility as a basis for granting credit.
 - b. Misstatements and incomplete information as a basis for securing credit.
 - c. Credit reports, their use and abuse by debtor and creditor.
 - d. Credit policies when the debtor is in distress or when a bank officer has a personal interest in the debtor.
8. Contracts.
- a. The significance of the business contract.
 - b. Enforcement, evasion, and cancellation.
 - c. Implied contracts.
 - d. Arrangements for fair bidding in competitive bidding.
 - e. Claims arising under contracts for damages, shortage or inferior quality.
 - f. Breaches of contract.
 - g. Contractual honor and obligation.
9. Trade Association Codes.
- a. Development and adoption of codes of ethics.
 - b. The significance of such codes.
 - c. The group conscience.
 - d. Developing loyalty and adherence to codes.
 - e. Ethical soundness of codes.

10. Relations of business to government.
 - a. Legitimacy of lobbying.
 - b. Methods, public and private.
 - c. Relationship of business men and their groups to political campaigns.
 - d. Regulation.
11. Corporate management.
 - a. To what extent does the corporate form of ownership lessen personal responsibility?
 - b. Ethical relations between directors and stockholders; directors and chief executive officers.
 - c. Obligations of salaried corporate managers to the corporation and their superior officers.
 - d. Obligations of directors and executives regarding the use of "inside" information and advance information.
 - d. Ethical problems involved in corporate reports and financial statements.
12. Fiduciary Relationships.
 - a. Obligations of trustees.
 - b. Their relationship to beneficiaries.
 - c. Secret profits, misapplication of funds.
 - d. Loan of funds to trustees.
 - e. Misuse of confidential information.
 - f. Transactions in which the trustee has an interest.
13. Labor Relations.
 - a. Obligation of employers and of management toward employees, and of employees toward the employer.
 - b. Ethics of individual bargaining and of collective bargaining.
 - c. The ethical basis for "welfare" work.
 - d. Means of reducing antagonisms of the employer-employee relationship and of promoting industrial good-will.
 - e. The relationship of wages, regularity of employment, and conditions of employment to standards of living, health and social progress.
14. Trade Arbitration.
 - a. Trade arbitration as a substitute for litigation.
 - b. The ethics of arbitration in trade disputes, both those arising from contracts and in the absence of contracts.
 - c. Obligations under agreement or decisions arising out of arbitration.

FAIR PRICE RECONSIDERED

There is in theoretical economics what is known as the Law of Single Price. The Law states that at any given time goods of the same kind and quality will sell at the same price in the same market.¹ While economic laws do not operate with the same certainty as the laws of physics and chemistry, we find that they do operate with considerable regularity. The chances are that the point at which the single price locates will be determined by supply and demand, although in present-day economy there are a good many influencing factors. Regardless of what may have been the basis of the price setting, there is a tendency on the part of the public to become habituated to a price level after it has continued to exist for some time, and to regard the price as the "established price" or as just "the price", even allowing their idea of the value of the commodity to be placed by the asking price. People on various income levels adjust their modes of living to the class and quality of commodities over which their income will spread, and settle down into a standard of living on that plane. In time they are likely to regard the prices they pay as "fair prices", and any deviation downward they accept as a break of luck, any deviation upward being resented as an injustice. It may be that the price is much higher than it would really need to be in order to pay the producer a more than good profit, but long habituation creates acceptance. This evolution of a price

¹ Arthur E. Faubel, Principles of Economics, 45.

which might be referred to as standard comes to be accepted by the sellers quite as much as by the buyers.

If the price is raised for some reason or other, the consumer may find relief in purchasing some other substitute commodity at a lower price; or he may be forced to do without for a time. When, however, the price is lowered, merchants whose standards of living have been based on the rate of return from their merchandise become exceedingly perturbed. No doubt the inroad on the merchant's income is a much greater percentage than in the case of the consumer for the reason that his income is from one commodity, or class of commodities, whereas the consumer merely drops out one of several commodities. Anything, therefore, that tends to disturb the accustomed rate is to be deplored. It is on this account that price-cutting is considered decidedly unethical among the members of a trade.

Price-cutting may be practiced for several reasons. One of the most notable instances was that of the chain-stores in selling certain items at cost, or even below cost, in order to entice patrons to the store. Having been lured there by the "bait" items and "loss leaders", it was expected they would purchase their entire requirements while in the store. The practice was held to be unethical because it was deceptive and smacked of false pretenses, and because it drew customers away from competitors. Price-cutting often leads to marketing of inferior quality, and while the public may seem to get a tempo-

rary advantage because of lower prices, there is a likelihood of disadvantage later on this account. The cutting of prices by one firm often leads to price "wars" with a consequent disturbing atmosphere throughout the trade and loss of public confidence because of claims and counter-claims. Milk wars, gasoline wars and bread wars of the past few years are examples of this.

One of the outcomes of price-cutting is an attempt on the part of the majority to fix prices through a "gentlemen's" agreement. When a large enough percentage of the merchants in a particular line subscribe to such an implicit understanding, there is sufficient backing to support the price level fixed, even though a few may still continue to undercut. Sometimes a few of the largest producers in a given field can by such understandings control the price. The famous Gary dinners of some years ago were an excellent and outstanding illustration of this method as exemplified in the steel industry. From the public standpoint, of course, the entire fixing is regarded as ethical or unethical depending upon whether or not the price level set is considered about right or too high. Consideration of price immediately leads one to the standard by which value is set.

Selling below cost has been regarded as distinctly unethical. No one can make a living or stay in business when he sells his product for less than the expense of making and merchandising it. The natural conclusion, therefore, is that he

does it for some ulterior motive and expects to make up the loss by over-charging in other places. Below cost selling is now forbidden by law in California by the California Fair Trade Act.

Some progress has been made in this phase of price determination in connection with public utility companies and transportation companies. Having by reason of limited natural resources either a complete or partial monopoly with the attendant opportunity of over-charging the public, action by the people through governmental agencies has resulted in the fixing of prices at levels contingent on a fair profit to the business, which in certain cases has been set at six percent on the investment.¹ Here considerable difficulty has been encountered in arriving at the capital value of the investment, the companies always striving to show the largest investment possible. Depending on whether or not economic conditions are in a secular trend of rising or lowering prices, the original cost minus depreciation basis or the reproduction basis of evaluation has been sought. Recently President Roosevelt has advocated the "prudent investment" theory as a basis for fair appraisal. Where companies have an added advantage because of the favored use of natural resources, or legally granted monopolistic use through the awarding of franchises, the public has a right to participate in adjusting the price. Until the public nature of other types of commodities is established, pricing policies

¹ Railroads.

will probably fluctuate between cost of product and service and what the people are willing to pay on the basis of the relative importance which they attach to the goods.

PROFITS

Inextricably bound in with the subject of fair price is the element of profits. Under the capitalistic system it has been taken for granted that a seller has a right to seek to make a profit. In the early stages of the development of a new country, when each pioneer had a reasonably equal chance to acquire control of a portion of the unlimited resources at hand, there was not much question of the ethics of the size of profits. With the growth of population and the settling of the country, a questioning attitude on the part of those less favorably situated has been constantly growing. This has been accelerated by the acquiring of information through the press and through education, concerning methods of production and costs of labor and materials. Comparison leads to evaluation and interrogation. Why should one type of business make double the profit of another? Why should the same kind of business in one section of the country make a larger percentage of profit than in another section? Why should profits be larger in one year than in another? Inevitably the final question of the ethics of profit-making is asked. If to the actual total costs of production and distribution there is added the wages of management for the entrepreneur, why are profits necessary or justifiable? This is a burning question in the present evaluation of economic systems, but it is not our purpose to examine it as such. Some telling blows have been struck at the heart of profit-taking, notable among which is

that of Henry George, with the thesis that increased values in real property are the result of community action rather than private, and that therefore any un-earned increment should be returned to the community rather than taken by the individual as private profit.¹ But having the profit system with us, our chief concern at the moment is the consideration of what is fair profit.

The question sounds simple on its face. One might arbitrarily say that ten percent or fifteen percent profit on any business is sufficient and fair. The answer, however, can not thus simply be arrived at. Some understanding of the nature of profits is necessary.

Briefly, profits mean the surplus of income remaining at the end of a period after all costs and expenses have been taken into consideration.² Just why it is necessary to have a final surplus, if the wages of the management-ownership have been included in the expenses, is understood when it is explained that this final surplus is the compensation for the risk undertaken in running the business. If borrowed capital is used, not only must the interest for its use be paid, but the principal must be returned. There is the risk that the business may fail, in which case the loan might have to be re-paid through the sale of personal property, through years of working for wages, or possibly the debtor might be forced through bankruptcy. If owned capital is used, there is the risk that it may all be

¹ Henry George, Progress and Poverty.

² Sumner H. Slichter, Modern Economic Society, Ch. XXVII.

be lost through failure, with consequent insecurity for the future. Since wages could be earned elsewhere without the risk incidental to the operation of one's own enterprise, the wages of management are but the substitute for these. Profit, then, is the amount paid for taking the risk of being in business.

The amount of risk involved, varies however, with different types of business, being less in those handling staple commodities as a rule and performing services to which the people have become accustomed, and being more in those businesses whose commodities are subject to style changes, buying whims and changing conditions. In other words, the degree of risk varies from little in such businesses as staple food products to a high degree of risk in sporting goods. The miniature golf business was attendant with a very high degree of risk because it was based on a fad. To say that such businesses should not have been established is beside the point. There was an intense and widespread public demand for the product. It is legitimate to supply the demand. However, no one could hope to establish such a business without the hope of large profits because there was no assurance that the craze would continue. As a matter of fact it was short-lived, and those who did not make large profits the first year lost money on their investments. It thus becomes apparent that what is a fair profit in one industry is not necessarily a fair profit in another industry, and the question of fairness of profits then becomes a relative one dependent upon the amount of risk.

Risk is devolved not only from the type of business but also from the general conditions of the times. The cyclical swing from prosperity to depression and back again is a matter of historical fact. The nature of business conditions at any particular phase of the cycle influences the amount of risk. In order to continue in business in lean years, when profits are small and often negligible, it is necessary to make a larger share of profits in the prosperous years. The determination of what is fair thus becomes a more intricate problem than it may at first seem. This point has been widely studied and discussed since the passage of the undistributed profits tax by Congress, the contention of business being that it is necessary to lay away as reserves for poor years the larger profits made in better years and thus to equalize the rate of profit over a period of years. The contention of the Roosevelt Administration on the other hand was that the amount of profit made was too large, even granting the necessity for leveling profits over a period. The ultimate solution of this confusion will depend upon more thorough cost accounting and publicity given to corporate records.

Within established industries, however, the enterprisers learn from experience what is about the average profit being made by the members of the industry. As in the case of the public and the selling price previously referred to,¹ the trade comes to regard the percentage of profit generally being made as "the profit" or fair profit. Attempts on the part of any member to sell at prices which will not bring this profit are

frowned upon. Likewise when the trade raises the price to the public, it is assumed by the latter that a greater percentage of profit is being made than is fair. During the World War when prices rose to high levels, public disapprobation of those whom it suspected of making excessive profits was shown by its application to them of the word "profiteer".

We see, then, that the fairness of profits is a relative matter to be judged in the light of circumstances and from various viewpoints. What is being done to bring about a situation of equitable profits will be reserved for discussion under the agencies, private and public, which are concerned with this phase of the business life.

COMPETITION

"Competition may be, as some have said, the sould of trade. It also is the mother of many devious devices which indicate that this soul has much that is fleshy and earthly clinging to it. And further, if it is the soul of trade, it is a relatively new soul, since in medieval times the essential characteristic of a merchant was that he possessed a privilege which strongly savored of monopoly. Those persons accordingly who see in restriction of competition a transgression of the immemorial rights of Anglo-Saxons will do well to remember that it is a bare four centuries since competition was reluctantly accepted as an evil if necessary incident of the process of trafficking in commodities."¹

The institution of free competitive enterprise is, as is pointed out, a comparatively modern one. Business men as a group, however, seem to believe in it so firmly that it is regarded as if of ancient heritage. Yet there is in their regard something of an anomaly. Clinging tenanciously to the idea of the right of freedom to compete, each contender dreams of how nice it would be to have such a control of his market that he would not need to fear competition. The few who have approached a realization of this dream have discovered that they are in a minority, and their monopolies have been broken up by the will of the greater number. The majority hold fast to that doctrine enunciated by Adam Smith² in which he stated

¹ Max Radin, The Lawful Pursuit of Gain, 82.

² Adam Smith, Wealth of Nations, Bk. IV, Ch. IX.

that "the obvious and simple system of natural liberty" was to be attained by allowing each to pursue his own inclinations unfettered by others, and that each would be guided as though by "an invisible hand" toward an outcome favorable to all. Attempts are made on the part of some to gain an advantage over their competitors through circumvention of the rules, and it is these that we wish to describe.

Cutthroat Competition.

This is the term used to describe any method by which one competitor seeks to cripple another or to drive him out of business. The practice of larger concerns in deliberately selling at cost prices and even below cost is perhaps the chief manifestation of this type of unfair competition. It is often used by new organizations in the field in order to attract customers. The fact that this sort of tactics is possible only to those with big resources, makes the added stigma of the stronger picking on the weaker all the more onerous. The large corporation with strong financial reserves can ruin a rival in this way, and unless actual dishonesty, intimidation, molestation or fraud can be proved, the victim has no chance for redress in the courts. There is a famous case in which a banker in Minnesota entertained a grievance against a local barber, and equipped and financed an opposition barber shop which he maintained at a loss long enough to ruin the object of his ill-will.¹ There is also the case

in which an oil company in Iowa, which had been in almost exclusive control of a large district, found that a retailer in that district had purchased oil elsewhere than its proper source. It thereupon opened a rival retail establishment which undersold the other and destroyed it.¹ In each of these cases the courts found evidence of outright malevolence, and awarded damages. The courts, however, have been reluctant to entertain such cases unless some law has actually been violated, and many similar instances must be left to the realm of ethical control.

Other Unfair Competition.

Other examples of unfair competition are:

1. Hiring people to spy on a competitor's business, so as to procure data concerning production, sales, and methods.
2. Hiring people to spread dissension among a competitor's employees, or to induce a strike.
3. Hiring people to make false statements and spread gossip or make bogus demonstrations about a competitor's goods in order to damage his and their reputation. The advertisement of Lucky Strike cigarettes to "Reach for a Lucky instead of a sweet" had a disparaging effect on the candy industry, and was finally stopped by the latter through its appeal to the Federal Trade Commission.
4. Selling a competitor's goods at a lower price or below cost in order to discredit the quality of the goods and the fairness of the price of the competitor.

5. Intimidating a competitor's customers or agents, to make them cease handling the competitor's goods. This takes various forms, including the making of exclusive contracts with dealers, granting them certain goods which are so strongly established in the market that the dealer cannot do without them, on condition that he refuse to handle the goods of others.¹

"At one time the American Tobacco Company, having some brands which every dealer must have, offered dealers ten percent discount from retail prices if they would agree not to handle the goods of competitors and two and a half percent if they handled all goods on equal terms. It was claimed that a dealer could make no profit on two and a half percent discount, so that the arrangement was in the nature of coercion rather than an inducement."² "The National Cash Register Company kept a 'morgue' of the machines of defunct competitors and used it to intimidate any who might contemplate entering the trade. They also secured their rivals' machines and sold them themselves, to prevent sales by the rivals, or made machines to resemble those of competitors, and followed most of the known methods of focusing competition on the particular customers to whom their rivals were trying to sell, using espionage to gain the necessary information or taking competitors' employees into their pay. Independents in some businesses have mysteriously failed to secure credit."³

6. Inducing a competitor's customers to break their contracts or cancel their orders, by subsequent offering of more

¹ John M. Clark, Social Control of Business, 154.

² Ibid., 437.

³ Ibid., 438.

attractive terms.

7. Bringing fraudulent or poorly founded suits for the alleged infringement of patent rights, and other types of malicious prosecution, designed to influence the good-will of the buying public.

8. Price discriminations between customers to give them some added advantage. The annual reports of the Federal Trade Commission contain numerous examples of this sort of unethical and now illegal competition. One of these reported in 1937 is that of:¹

Chalk and crayon manufacturers. Fourteen leading manufacturers of chalk, wax crayons, water colors, tempera colors and other school supplies were charged with maintaining and enforcing fixed prices with resultant enhancement of prices for school supplies.

Another typical example from the same report is that of:

Automobile parts and accessories associations. Five trade associations composed of manufacturers and distributors of automobile parts and accessories were charged with forming a combination to control the market in, and to fix and maintain the resale prices of, such products throughout the United States. Under the agreements, the complaint charged, manufacturer members fixed uniform and substantially identical prices for their products to jobbers, as well as uniform and substantially identical resale prices at which jobbers should re-sell such products. The complaint alleged that the association and its members furthered the conspiracy and combination by attempting to monopolize in the hands of the jobbers the distribution of automobile parts, accessories and shop equipment.

Two complaints against large yeast distributors offer a good illustration of the evil, the ethical implications concerning freedom of competition being apparent:

¹ Federal Trade Commission, Annual Report, 1937, 45.

Two complaints alleged that certain large yeast distributors, maintaining similar discount schedules, were unlawfully discriminating in price between different purchasers and that the effect was substantially to lessen or to injure, destroy or prevent competition in the manufacture, sale and distribution of bread and allied products in which yeast is used. It is also alleged that the discrimination in prices had a tendency to create a monopoly in favored customers of the corporations.

9. False disparagement of competitors' products, as illustrated by the following case:¹

Loft, Inc., Long Island City, N. Y., manufacturer and distributor of candy and confection products was directed to stop representing that glucose, whether in commercial or in any other form, as now produced and used or contained in candy products, was impure, harmful to health, unwholesome, dangerous, or unsafe. The respondent was also prohibited from representing that candy products made with or containing glucose were impure, harmful to health, unwholesome, dangerous and unsafe, and inferior in quality to and less pure than the candy products of the respondent. The order also prohibits the representation that Loft candies are made without, or do not in fact, contain glucose.

The story is told of two rival producers of canned salmon. One of them canned a species of salmon with a distinct red color to the meat, and on his cans he played up the fact that the rich pink color indicated high food value. The other canner, whose species of fish was of a whiter tint responded with a label which proclaimed that "Our salmon will not turn pink in the can." As Ralph Starr Butler, Vice-President of General Foods Corporation, stated in 1930:²

If I make a brand of corn flakes for which I

¹ ibid., 61.

² Vawter Lectures, Northwestern University, 1930, Ethical Problems of Modern Advertising, 49.

can honestly urge the desirable virtue of exceptional crispness, I might convey the idea by saying, "Does not get mushy in milk or cream." But if I did that, the inference would be inevitable, and I might just as well frankly charge lack of crispness in a competing product. If, on the other hand, I say "Stays crisp in milk or cream", I am making a legitimate statement of a virtue without implying its lack in any other product.

Commercial Bribery.

1. Prominent under this heading are the various methods used to influence purchasing agents, including the giving of outright bribes and so-called "gifts".

2. Bribing employees of competitors to betray trade secrets and business information.

3. The giving of rebates, especially by transportation companies; secret commissions; concessions, etc.

The foregoing examples illustrate ways in which business organizations practice unfairness with respect to one another. Let us turn now to some of the ways in which business organizations practice unfairness toward the public.

COMMERCIAL DISHONESTY

A great many evils may be classified under this general heading. These will be segregated under various captions.

Misrepresentation.

Misrepresentation is practiced in general in two ways: through advertising about the product or the company, and through actual misrepresentation of the product itself. In some instances, there may be the one type and not the other; in many instances where you find the one you find the other also. The Federal Trade Commission in its Annual Report for the year 1937¹ classified the kinds of misrepresentation which it found in one hundred seventy-eight cases investigated during the year, as follows:

- 46 complaints involved alleged false and misleading advertising and misrepresentation as to the therapeutic value of various medicinal preparations and devices.
- 44 complaints charged misrepresentations as to nature, quality, character, and prices of various products or of the ingredients entering into their manufacture.
- 28 complaints alleged fictitious retail price marking, false claims of distributors as being manufacturers, or false representation as to quality, nature and place of origin of ingredients. Some of these cases allegedly involved false claims as to beneficial therapeutic value of various toilet preparations and cosmetics.
- 16 complaints charged false representations in the sale of books, encyclopedias, and home-study courses, ten of these complaints allegedly having to do with false representations by correspondence schools as to the nature and character of the schools and their courses of study, the availability of positions and earning capacity of students.

¹ Page 47.

13 complaints alleged false representation as to place of origin of such products as toys, candy, hams, china-ware, flavoring compounds, razor blades, and gloves.

13 complaints alleged false representation in connection with the sale of automobiles and products for use in connection with their operation, eight of these cases allegedly involving misrepresentation as to the rate of interest on deferred payments on installment purchases contracts, and five allegedly embracing false representation as to the nature and effectiveness of motor compounds, anti-freeze solution and lubrication oil.

11 complaints (in addition to those otherwise listed which include a similar charge) alleged false representations as to a company or individual being the manufacturer or producer of such products as eye-glasses, adding machines, smoking pipes, nursery products, hosiery, blankets, ribbons, whiskies and other spirituous beverages.

7 complaints alleged false representations in the sale of dog food, baby chicks, and medicinal products for animals.

The following case, taken from the same report,¹ is a good exhibit of one of the kinds of misrepresentation:

The National Silver Company, New York, in connection with the interstate sale of flatware cutlery made of carbon steel and thinly plated with nickel and chromium, was ordered to cease and desist from representing, contrary to the facts, that the cutlery was stainless. The respondent company was directed to cease using the word "Stainless" as a trade name, brand, stamp, or label for knives and flatware cutlery unless made of steel containing chromium and carbon in certain proportions which represent and correspond to the specifications which comprise cutlery made from stainless steel. It was further ordered that the respondent company cease similarly using the word "Stainpruf" or like words indicating that the chromium-plated knives and flatware cutlery in question were in fact stainproof.

¹ ibid., 62.

Advertising.

It is contended by the defenders of modern advertising that it has been one of the chief agencies in raising the standard of living of the American people. This may be admitted, but at the same time it must be pointed out that advertising has also been responsible for taking away the money of innocent purchasers for goods which were not of the kind or quality which the purchaser was led to believe they would be. Misrepresentation in advertising has been manifested in many varying degrees, from some "puffing" on the part of an enthusiastic merchandiser to outright false statements on the part of fraudulent dealers. Misrepresentation in advertising is closely allied to misrepresentation in the product, already referred to, and cases there cited are applicable to advertising. It may take the form of extravagance and false claims for its own product, or the disparagement of competing products. Especially in the early days of American business was advertising extremely rapacious. This was in the time when there was little organization and sentiment had not begun to crystallize. Added to that was the general gullibility of the public which made it easy for advertisers to swindle the people with propositions that "would offer a complete sewing machine for twenty-five cents, and send a cambric needle", or "would offer a steel engraving of General Grant and send a one-cent stamp".¹ During the beginnings of modern advertising its chief use was "for the exploitation of patent medicines of

¹ E. E. Calkins, Ethical Problems of Modern Advertising, 58, Vawter Lecture, 1931, Northwestern University.

a highly undesirable character, a traffic preying upon the hopes and fears of the sick. Sufferers from serious diseases such as tuberculosis or cancer, misled by false promises of patent medicine advertising, postponed legitimate treatment until it was too late. It was a common thing for such advertisements to exhibit testimonials signed by victims who had in the meantime died from the disease the remedy was advertised to cure."¹ Intimate personal letters, for example, were written to women in trouble and signed by Lydia Pinkham, when as a matter of fact she had been lying in her grave for years.² These are instances of intentional misrepresentation.

With the spread of the use of advertising in later years additional abuses became apparent. One type was and is the "knocking" copy designed to increase sales by disparaging the product of competitors. Thus we find Williams' Shaving Soap proclaiming that it is "The only kind that will not smart or dry on the face." Particularly reprehensible was the recent campaign of the American Cigar Company, known as the "spit" campaign, in which "the advertiser stated that his own cigars were made by machinery and were, therefore, more sanitary than cigars made by hand in which the wrapper was moistened by the operator's tongue to make it stick, the implication being that this was the common practice."³ Vice-President Butler, of the General Foods Corporation, previously quoted,⁴ in referring to

¹ ibid., 58.

² ibid., 60.

³ ibid., 50.

⁴ Page 57.

this campaign, said:¹

This denial (by the American Cigar Company) unquestionably implied the continued use of this practice in the manufacture of competing brands. Aside from the fact that the practice has largely been discarded by manufacturers, the advertising is open to question in that it savors strongly of unfair competition.

This same Company seems to have consistently followed the policy of furthering its own product by trampling on the merits of others, as was evident by its advertising of Lucky Strike Cigarettes, when it singled out not one competitor but an entire industry with its admonition to "Reach for a Lucky instead of a Sweet." The general unfavorable reaction of the public and the active resentment of the candy manufacturers forced a modification of the advertising.

Scientific Claims.

Much advertising today is based on scientific claims, a large part of which are but poorly founded or entirely unfounded. "Dr. Leonard of Johns Hopkins University and his chemists..... tested 41 brands of tooth paste, including all the popular varieties, and (found) that not a single preparation is capable of destroying staphylococcus after a five-minute exposure." "Some alleged 'whiteners' on the market use such dangerous chemicals as hydrochloric acid. A government chemist recently took an extracted tooth and put it in one widely advertised tartar remover. In the morn-

¹ Ralph Butler, Ethical Problems of Modern Advertising, 50, Vawter Lecture, Northwestern University, 1930.

ing he found that the tooth had decomposed to the constituency of chewing gum."¹

Other examples of unethical advertising and merchandising are cited by Stuart Chase, who in connection with Consumers' Research, has been a leader in exposing untruthful advertising claims. Aside from their more serious implications, the following two illustrations have their humorous side:

"Here is Semafor, a pink-colored mouth wash, which advertises: 'Morning mouth. Everybody has it.' It so happens that this particular wash containing phenolphthalein turns colorless in an acid solution. The directions are to rinse the mouth until the liquid STAYS PINK. The healthiest mouth in the world always has a touch of acid; in fact, it is physiologically necessary. So the earnest and ignorant customer can go on using bottle after bottle of this precious fluid trying to eliminate acid from a healthy mouth. As an accelerator of turnover, Semafor has found the perfect formula."²

"The American Magazine, in October, 1929, presented an advertisement: 'Health Value discovered in Japan Tea. Precious food element has been found, Vitamin C.' Then followed, of course, the usual scare copy - loss of energy, muddied complexion, rheumatism - all waiting to descend on those who did not keep their vitamin C at par. Meanwhile the American Dietetic Association, on May 28, 1939, stated that vitamin C was NOT present in the Japan green tea advertised as containing it. But this is only half the story. What if it were present? All citrus fruits contain vitamin C, cabbage leaves contain it, many things in our regular diet contain it. We get plenty of it everywhere. The idea of frightening us into drinking more tea because of its alleged vitamin C content is preposterous."³

It is interesting to compare these claims in modern advertising with claims presented in some of the first advertising which appeared at the time printing was coming

¹ Stuart Chase, Ethical Problems of Modern Advertising, 110,

² ibid., 109.

³ ibid., 109.

into general use. "A handbill of 1652 (for example) preserved in the British Museum shows that coffee was advertised as good for dropsy, gout, scurvy, and sore eyes. In the *Mercusius Politicus* for November, 1660, one Theophilus Buckworth advertised his lozenges as good for curing consumption, colds, asthma, diseases of the lungs, the plague, and 'all other contagious diseases and obstructions of the stomach.'¹ While many of the claims made today are probably just as extravagant, it is doubtful whether or not they are quite as inclusive.

One of the forms to arouse widespread argument in the past few years is that of the testimonial.

Testimonials.

In earlier days it was a simple matter to get Mrs. Smith to sign a statement that she had been cured by Plutona. Temporary relief and a little flattery would probably turn the trick. But the difficulty with such testimonials was that Mrs. Smith was not sufficiently well known for her printed statement to carry a great deal of influence. On the other hand, someone nationally known would be likely to have a very definite influence and on a large scale. A tidy sum of money was sufficient to procure testimonials from national politicians, prominent athletes and sportsmen and women. To get the desired signed statement from a social leader required some modification of the tactics. We are told² that the difficulty was surmounted by appealing to the sympathetic nature

¹ Harold E. Burt, Psychology of Advertising, 2.

² ibid., 108.

of the celebrities, who were willing to sell their statement in order to procure money for contribution to charity. One needs only to glance through the more popular magazines on the stands today, to see the extent to which this form of paid testimonial is being used.

Probably there would not be so much criticism of these statements even though paid for, if they were given without solicitation and the makers of them were actual users of the product who had received satisfaction therefrom. But it is quite evident that the advertisers seek out those whose pictures and signatures they feel would carry the most weight, and make a cash proposition of the purchase, it making little difference whether the person has been a user or not. The frequency with which the names and faces of certain people have appeared on advertisements of various products ranging all the way from breakfast flakes and fruit juices to tooth-paste, hair-oil and soap has just about convinced the reading public of the superficiality of this type of advertising, and there is a likelihood that the over-doing of this sort of thing will provide its own corrective in the distaste and disgust which it arouses. One of the worst phases of this kind of advertising is its influence on children whose trusting natures are inclined to believe what they see in print, and especially when the signature of their athletic hero is appended.

Trade Puffing.

Trade puffing today is probably regarded by most readers with somewhat of amusement. It is well realized that advertisers do not carry the violet of modesty in their hands. Of

all human traits it has been pretty well recognized that one of the most common, with the exception of the Chinese who presents "this wretched cup of tea for your most worthy person", is the tendency to praise that which one possesses. Of course, when the puffing amounts to actual falsity of statement, causing one to buy when he would otherwise not do so, then the courts have been willing to grant damages for the wrong done. In many instances, even though actual lies were told, the courts refused to intervene unless actual damage was suffered by the purchaser.¹ The more ethical-minded among the advertising profession are beginning to realize that the excessive use of superlatives is likely to create suspicion and distrust in the minds of the buyers. The shallowness of such claims was brought to light by the National Better Business Bureau in 1930, when in a survey of the advertising of twenty-six leading radio manufacturers it was discovered that the most of them presented their own product in such glowing terms as:²

"America's Greatest Radio."

"The Greatest Radio in the World."

"The Greatest Radio the World has ever known at any price."

"The Finest Radio the World has ever heard."

"The Most Wonderful Radio the World has ever seen."

"The Highest Class Receiver in the World."

If we are to have "Truth" in advertising, which is the

¹ Max Radin, The Lawful Pursuit of Gain, Ch. III.

² Edward L. Greene, Ethical Standards in Advertising, 131.

ideal toward which the present attempts at house-cleaning are moving, then even puffing will have to come in for revision.

Advertising is but one of the phases of merchandising, although it is one of the chief phases. We find in it some of the evils which are found in the actual exchanging of the goods themselves. We turn our attention back now to some of the evils in selling.

UNETHICAL SALES PRACTICES

Imitation.

If imitation is a natural psychological phenomenon, certainly we can find no better illustrations of the process than in the field of selling. Let someone market a product and meet with a degree of success, and lo, there are a dozen imitations of it almost over night. The number of picture magazines which appeared on the market shortly after the phenomenal initial success of Life, is a good illustration. This kind of imitation, however, does not seem to be particularly objectionable from the public standpoint, because of the fact that there is no attempt to deceive. It is quite obvious that each is a competitor of the others. It is when, on the other hand, imitations are offered and the attempt is made to make the buyers believe that they are getting the original, that our sense of the ethical is offended. This kind of deception can be classified under the heading of

Misbranding.

One of the most offensive instances of this kind was exposed in the press recently. Japanese manufacturers of tooth-brushes, realizing that American public opinion was boycotting articles made in Japan, largely because of American disapproval of the manner in which the Japanese were warring on the Chinese, sought to overcome this handicap by misrepresentation. They did this by re-naming a Japanese town "U.S.A." and stamping their brushes with the imprint

"Made in U.S.A." The casual buyer, who does not stop to read all of the printing appearing on the products he buys, seeing the initials buys the product under the impression that it is made in this country. The fact that the town was re-named, and the statement is technically true, nevertheless makes the entire intent one of subterfuge and deception.

No doubt the Japanese might offer the alibi that along with the adoption of Western methods of industry they have adopted also our methods of marketing. For we find many examples of this sort of thing in our own country; witness the following from the Federal Trade Commission:¹

Imitation of Nationally Known Radio Brands. Marconi Radio Corporation, New York, and others, in connection with the sale of radio sets, were directed to cease and desist from using such well-known and long established trade-marks, names and symbols as "Edison", "Bell", "EB", "Marconi", "Majestic", "Victor", "Brunswick", "General Electric", "GE", in a circle with scroll-like interior decorations, "Radio Corporation of America", and colorable imitations and simulations thereof, and from representing that their products so branded were manufactured, endorsed, sponsored or approved by any of the concerns whose trade-marks, names, and symbols were as above set out, contrary to the facts, and when the use thereof was without the knowledge and consent of the lawful owners of these trade-marks, names and symbols."

The case of the Real Products Corporation and Realflex Products Corporation, Brooklyn, is a similar one in which:²

The Commission's findings were to the effect that these concerns made extensive use of the word "Champion" in advertising and labeling automotive and metal specialties, including spark-plugs cable sets, manufactured and sold by them, and that this practice deceived and misled the retail trade and purchasing public, by

¹ Report, 1937, 61.

² ibid.

creating the impression that these products were made by the well-known Champion Spark Plug Co., Toledo, Ohio. The result, according to the findings, was diversion of trade to the respondents from those of their competitors which did not indulge in such methods.

The Reports of the Commission contain numerous cases of misrepresentation by misbranding which may be classified under the headings of:¹

1. Using the same trade name when not entitled to do so.
2. Using a variation of a trade name with intention of having it appear to be the trade name imitated.
3. Imitation of the package or container, in size, shape, color or markings.
4. The use of descriptive terms, which indicate that the product has properties which it does not in fact possess, as:

Use of the term "gold-shell" to describe jewelry containing a very thin deposit of gold by electroplating process.

Use of the word "Sheffield" in connection with silverware not made or manufactured in Sheffield, England, in accordance with the process used by the silversmiths of Sheffield.

Representing extracts to be imported when they are in fact domestic-made.

Labeling wines of domestic made from domestic-grown grapes with the names of famous French wines.

Representing candy to be flavored and colored with juice of a fruit when in fact it is synthetically flavored and colored.

Misrepresenting woods of which furniture is made.

Using the word "doctor" in connection with shoes not made in accordance with the design or under the supervision of a doctor or not having scientific or orthopedic features which are the result of medical advice or services.

Representing automobile tires to be "reconstructed" when the reconditioning is limited to the repair of worn or damaged portions.

¹ Federal Trade Commission, Annual Report, 1936, 65, 66.

Misrepresenting the geographic location of the place of manufacture of a product by specifying a place famous for such product.

Misbranding of fabrics and other commodities respecting the materials or ingredients of which they are composed, their quality, purity, origin, source or qualities, properties, history, or nature of manufacture, and selling them under such names and circumstances that the purchaser would be misled in these respects.

5. Misbranding to indicate that the product is made in accordance with formulae of the United States Army or Navy, when in fact they are not so made.

Misbranding is possible in many cases where the public has neither the knowledge nor the ability to verify the claims. In buying fur coats, especially sealskin, the public was long duped. At one time it is probable that over twenty different kinds of fur were sold as "Seal". Muskrat, nutria, rabbit and many others have been dignified in death as they never were in life, the process of glorification consisting in clipping, dyeing and labeling with the name "Seal". Alaska Sable was for many years but the lowly skunk in disguise.

Textiles have furnished another excellent medium for lucrative profit through misbranding. Blankets could be sold as "part-wool", the public paying a price for what they believed was from one-half to one-quarter wool, but receiving a blanket that in many cases had one strand of wool to fifty of cotton. Silk and wool underwear was another commodity in which this type of falsification was practiced. Stuart Chase goes so far as to say that much of the hosiery now sold as silk should really be sold as "tin hosiery", in as much as tests of the American Home Economics Association revealed

that in many cases tin and lead weighting constituted from 50% to 119% of the actual silk content.¹

The foregoing are by no means all of the ways in which the public is fooled, but they are sufficient to indicate wherein the evil lies and the need for remedying.

Adulteration.

The Federal Pure Food and Drug Acts have pretty well curtailed the injurious and fraudulent adulteration of foods. The day is now probably pretty well passed when bakers could mix clay with their flour, when squash could be colored and flavored to be sold as strawberry jam, and when artificial preservatives could be used in such amounts as to constitute a menace to health. It is likely, now that it is distributed in sealed bottles, that the watering of milk is no longer common. There is considerable reason to believe, however, that motor oils and gasolines are often diluted with inferior grades by dealers.

¹ Stuart Chase, Ethical Problems of Modern Advertising, 103.

FALSE WEIGHTS AND MEASURES.

The giving of less than paid for seems to have been one of the avaricious practices in commerce since its beginnings. So common was the custom of giving short weight in loaves of bread in medieval England that a law was passed commanding bakers to give a thirteenth loaf whenever a dozen were purchased, thus originating the expression still occasionally used of a "baker's dozen".

Various and ingenious devices have been used to defraud the buyer, chief among which have been measuring containers and baskets with false bottoms, giving the appearance from the outside of full measure, but actually containing less than the weight supposed. Another favorite device for the getting-rich-quick merchant was the unbalanced scale, unbalanced always of course, in favor of the merchant. Today, with laws designed to correct these miscreant devices and practices and with official examiners of weights and measures, the public is fairly well assured of getting correct quantity. Just recently, however, a survey of weights and measures in California, by Donald E. Montgomery, Consumers' Counsel of the Agricultural Adjustment Administration, Washington, D. C., revealed the following:¹

In one California County 40,000 milk bottles were confiscated because they short-measured consumers. When scales used mainly in weighing out foods were examined for accuracy, from one to six out of every ten needed adjustment.

In one county, 127 prescription scales were

¹ Stockton Daily Evening Record, June 10, 1938, by AP.

condemned for repair and seven were confiscated because they were beyond repair.

In three counties more than a quarter of the gauges on gasoline and lubricating oil pumps were found to be recording inaccurate quantities.

Assuming that the results of this survey are representative of the State and country at large, the astonishing need for correction is apparent. It may possibly be conceded that some of the inaccuracies were not intentionally permitted, but the findings are sufficiently extensive to cause indignation. The report infers that there is laxity on the part of county sealers of weights and measures, and indicates the necessity for better performance on the part of public officials.

Even when the containers for measuring are accurate, dealers sometimes do not fill the container when measuring out quantities. Particularly is packaged goods do many manufacturers convey the impression that the buyer is getting more than he actually receives. The cardboard packages containing such articles as tubes of tooth-paste and shaving cream are notable examples of this deception, the excess space in the box often being stuffed with pamphlets and sheets of instructions to cover up the discrepancy. Bottles and jars containing cosmetics appear large on the shelves, and even when examined in the hand, but it is not until the contents have been emptied out that one sees the thickness of the bottom. Some manufacturers of hair-oil and other preparations deliberately use a large thick bottle in order

to fool the people.

The evil is not confined alone to the so-called commercial manufacturers. It has long been customary for growers and farmers to put the inferior berries and fruits on the bottom of the crate and falsify the contents of the box by placing a layer of large unblemished fruit or berries on the top.

The writer recalls an incident of his commercial experience some years ago. The firm for which he was working was the purchaser of large quantities of animal fertilizer, and was at the time buying sheep manure in train-load lots from a Nevada source. The terms of the purchase were a stipulated amount per ton based on public weighmaster's certificates from scales at the point of shipment. As a matter of caution, some of the first cars received were again weighed on public scales at the point of destination with the astonishing discovery that the destination weights were considerably less than the shipping weights. Subsequent weighing of all cars at destination points disclosed a rather uniform discrepancy. The matter was investigated and it was found that the shipper was turning the hose on each car as it was loaded, ostensibly to keep the material from flying during the movement of the train. His "conscientiousness" in this regard would have resulted in the receiving company's paying fertilizer prices for ordinary water, which as a matter of fact had evaporated in transit. The final outcome of the affair, after much wrangling and bitter feeling, was an adjustment of the weights.

Other Miscellaneous Practices.

There are any number of "tricks of the trade" peculiar to different kinds of businesses, which do not readily lend themselves to classification. Examples of only the more common misfeasances will be given.

Cancellation of Orders.

Depending on the manner in which an agreement is made, orders may or may not come within the field of legal contracts actionable in the courts, and even when they do, the amount of money involved often would not justify the expense and delay incident to a suit for damages. Thus it is often possible for a dealer to cancel an order previously placed when he sees the chance to get the goods at a lower price or on more advantageous terms elsewhere. That to do so is a violation of fidelity is obvious. Such practice probably has its own corrective in the fact that one who follows such methods will sooner or later find that manufacturers and wholesalers will no longer do business with him. On the other hand, because of the large number of sources of supply and the intense competition for outlets it may be possible for a dealer to pursue this kind of unfaithfulness for some time. The policy is widespread enough to be regarded by business leaders as one of the commercial "sins".

False Claims.

False claims for breakage and on account of inferior quality are often made by unethical dealers. Even with the perfection of transportation methods and clearing on way-bills,

it is possible for some of this conduct to creep in. Especially can it be worked when shipper and receiver are at some distance from each other and claims demanded are not large enough to warrant the sending of an inspector by the shipper. Likewise, the threat of losing a customer may cause the shipper to tolerate occasional abuses of this kind.

Summary.

We have now passed in review many of the principal practices which are regarded as unethical in the transaction of business. Any one of the fields mentioned would provide the scope of a major intensive investigation. Prices, profits, competition, commercial honesty, misrepresentation in advertising and in selling, commercial bribery - each is a fertile area for study.

Let us now pass on to a consideration of the movement for the elimination of such unethical practices as appear in connection with these, and some of the agencies which are at present instrumental in their correction.

BETTER BUSINESS BUREAUS

It is no doubt symbolic of a general awakening on the part of business and the public to the need of more ethical standards in business that the two agencies which have done and are doing the most effective work along this line, the Better Business Bureau and the Federal Trade Commission, came into existence at about the same time, the former in 1912 and the latter in 1914.

In the year 1911, the Associated Advertising Clubs of America held their seventh annual convention in Boston. The dominant theme of the meeting was reform in advertising practice, in order to eliminate dishonesty among advertisers and publishers. This was probably the opening gun in the long and continuous battle for Truth in Advertising.

A few months after the adjournment of the convention, Printers' Ink, the advertisers trade paper, engaged Harry D. Nims, a recognized authority, to prepare a model statute.¹ This he did, and through the sponsorship of Printers' Ink, the following model statute was first adopted by Ohio and Minnesota, and later by all the more important states.²

Any person, firm, corporation or association who, with intent to sell or in any wise dispose of merchandise, securities, service, or anything offered by such person, firm, corporation, or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into

¹ Edgar L. Heermance, Ethics of Business, 66.

² ibid.

any obligation relating thereto, or to acquire title thereto, or an interest therein, makes, publishes, disseminates, circulates, or places before the public, or causes, directly or indirectly to be made, published, disseminated, circulated, or placed before the public, in this State, in a newspaper or other publication, or in the form of a book, notice, hand-bill, poster, bill, circular, pamphlet, or letter, or in any other way, an advertisement of any sort regarding merchandise, securities, service, or anything so offered to the public, which advertisement contains any assertion, representation or statement of fact, which is untrue, deceptive or misleading, shall be guilty of a misdemeanor.¹

As a result of the convention the New York delegates appointed a voluntary vigilance committee, out of which later grew the National Vigilance Committee of the Association. Subsequently the Committee evolved into the National Better Business Bureau which became the appointed representative

"of a very substantial portion of the national advertising industry, with the duty of promoting ethical standards in advertising.

To carry out this responsibility, the National Bureau is incorporated as an independent non-profit corporation. It is financed through voluntary subscriptions by over nine hundred business firms. It functions in three major fields of advertising - commercial, financial and medicinal."²

With the National Bureau as a general clearing house, Better Business Bureaus are now organized and operating in the principal cities of the United States. Each of these bodies is independent, and controlled by local business men through whose contributions they are supported. The local Bureaus confine their activities to raising the standards of

¹ National Association of Better Business Bureaus, Inc., Facts you should know about Advertising, 16.

² Edward L. Greene, Ethical Standards in Advertising, 125.

advertising and business in their respective communities. The National Bureau devotes its efforts to serving those companies whose business is broader than the local community and termed as national and semi-national in extent.

Recognizing the growing influence of the National Bureau the magazine publishers in 1928 designated it as their agency of cooperation for the elimination of fraudulent advertising. This was followed in 1929 by similar recognition from other organizations interested in the same problem including the

Association of National Advertisers, Inc.,
American Association of Advertising Agencies,
Periodical Publishers Association,
National Publishers Association,
Associated Business Papers,
Agricultural Publishers Association,
Outdoor Advertising Association,
Street Railway Advertising Interests,
National Association of Broadcasters.

The National Bureau's operating program as outlined by Edward L. Greene, General Manager of the National Bureau with headquarters in New York City, is briefly as follows:¹

Fraud - Investigation of products by type, publicizing the fraud, reporting of facts to publishers and law-enforcing agencies.

Fraud - Investigation of products by individual case, publicity, reporting of facts to publishers and law-enforcing agencies.

Legitimate Business - Investigation of unfair advertising of legitimate products by type and the promotion of ethical standards for the entire group.

Legitimate Business - Investigation of unfair advertising of legitimate products by case and the exercise of corrective influence through negotiation, publicity, or law-enforcing agencies.

Mr. Greene's statement of the further method of the Bureau

¹ ibid., 127.

² ibid., 128.

is succinct and is therefore quoted:¹

The method employed by the Bureau in the development of basic material regarding an entire field of questionable or fraudulent advertising illustrates the thoroughness and care with which the program is undertaken. Instead of making many individual investigations, the advertising of the field under investigation is first surveyed and the claims of advertisers are analyzed. These claims are then referred to a large number of authorities on the subject for an expression of opinion as to the facts involved. The replies are studied and a preliminary report is drafted. This is returned to the same authorities and is referred to other authorities for checking purposes. The resulting information can be considered as representative of the weight of authority in the field.

For instance, after an investigation of obesity remedies, we issued a bulletin to the advertising industry and supported it by press releases in which we stated obesity remedies are of two types - internal and external. The internal are regarded as being harmful and the external as useless. As a result of furnishing publishers with these facts, obesity remedies were, for the most part, quickly deleted from the pages of magazines.

Each year the Bureau issues to periodical publishers some two or three hundred bulletins containing factual information concerning certain advertisers, or groups of advertisers, thus aiding the publishers in avoiding fraudulent copy. By its system of investigation and reporting the Bureau is able to "blanket the advertising industry with information on fraudulent offers". The result in practically all cases is that the advertisers find the avenues to their

¹ ibid., 128.

markets, which were furnished through the publishers, blocked.

Not only does the Bureau report to the publishers on the advertisers, but at regular intervals it makes a survey of the magazines themselves to ascertain which ones, if any, continue to carry advertising which has been exposed as fraudulent. These surveys have a salutary influence in as much as the information is made available to law-enforcing agencies, and where the facts uncovered are of public interest they are released to the press.

The Bureau furnishes the Association of Newspapers Classified Advertising Managers with a special investigation service to keep them advised of schemes to defraud in classified advertising, where offers of home dressmaking, addressing envelopes, card gilding, foreign employment, mail order propositions and drawing prizes are made. It is reported that one operator who promised he would pay up to \$18.00 per dozen for sewing aprons, but whose sole business consisted of selling a sample apron for \$1.50, collected nearly \$100,000. before he was stopped by the postal authorities.

The significance of the Better Business Bureau organization in the United States is that it shows a desire and an attempt, on the part of business itself, to rectify unethical practices. As such a voluntary movement, it comes well within the definition of ethics, as such, postulated in the beginning of this paper.

One of the evils which provoked the movement was the

practice of publishers in over-stating the amount of their paid circulations. This, of course, was matter of vital import to those engaged in the business of advertising. Such exaggerations led to the inauguration of the Audit Bureau of Circulations in 1914, through which sworn statements of the exact amount of circulation of the reputable advertising media can now be obtained.

While it may be said, therefore, that these actions on the part of business to clean its own house were self-protective in nature, and were necessary because the adder was biting itself, to those who claim that there are no ethics in business this movement can legitimately be offered as bona fide evidence that they do exist.

THE FEDERAL TRADE COMMISSION

To those who can see little but the unethical side of business, and who point to regulation by government as the only thing which keeps business within reasonable bounds at all, it should be pointed out that the Federal Trade Commission which is the Government's chief agency for the prevention of unfair business practices, was actually created by Congress at the request of the National Chamber of Commerce, often regarded as but the tool of big business for the promotion of selfish ends.

President Wilson in his Congressional message in 1913 on the subject of additional legislation concerning monopolies and restraints in trade, had said:

The business men of the country desire something more than that the menace of legal process in these matters be made explicit and intelligible. They desire the advice, the definite guidance and information which can be supplied by an administrative body.¹

As an outcome of a referendum taken in response to a call from government for its views on the subject, the Chamber proposed the creation of a Federal Trade Commission with jurisdiction in conducting investigations over all corporations engaged in interstate and foreign commerce with the exception of such matters as were already subject to the jurisdiction of the Interstate Commerce Commission. As a

¹ J. N. Van der Vries, *Collective Business, its methods and objectives*, in Ethics of Business & Government, 118.

direct outcome of this recommendation, there was passed by the 63rd Congress the Federal Trade Commission Act, No. 203, which was approved by the President September 26, 1914. The Act provided for a Commission "which shall be composed of five commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate" not more than three of whom "shall be of the same political party".¹

In Section 5 of the Act "unfair methods of competition are hereby declared unlawful" and "The commission is hereby empowered and directed to prevent persons, partnerships, or corporations, except banks, and common carriers subject to the Acts to regulate commerce, from using unfair methods of competition in commerce." The Act gave to the Commission the power to decide what was "unfair" and to issue orders to any business organization "to cease and desist" from any practices so decided to be. The Act further provided for the review of such orders by the courts, and when sustained, for their enforcement.

During the first years of its existence the Commission took the attitude of a prosecutor. As stated by the Honorable W. E. Humphrey, Chairman of the Commission in 1952, under this policy the Commission:

".....became an instrument of oppression and disturbance and injury instead of help. It harassed and annoyed business instead of assisting it. Business soon regarded the Commission with

¹ Federal Trade Commission Act, 1914, 1.

distrust and fear and suspicion - as an enemy. There was no cooperation between the Commission and business. Business wanted the Commission abolished and the Commission regarded business as generally dishonest. The Commission was at that time unalterably opposed to giving anyone accused a hearing before he was condemned."¹

When Mr. Humphrey became chairman, a different policy was inaugurated which, to condense his exposition of it, was a policy of cooperation with business in which the Commission took an attitude which might be characterized as that of a kindly father who corrected, but who would enforce his corrections with firmness if they were not voluntarily followed. Instead of the immediate issuance of orders to cease and desist, which were sometimes resisted with resultant litigation involving not only bitterness but expense, the policy of conducting a hearing was followed at which both the accused and accusers stated their sides. If after the hearing the Commission believed the accused guilty of unfair practices, he was given the opportunity to sign a written stipulation that he will forever cease and desist from the practices in question, such stipulation to be accepted by the Commission and proceedings dismissed. Only if the accused was unwilling to sign such a stipulation, was it necessary to take the case into court for trial, and enforcement if sustained.

This new policy met with the universal approval of the

¹ W. E. Humphrey, Ethics of Business and Government, 43.

entire business world, according to Chairman Humphrey, who said:

It is a great credit to the business men of the country that our records show that 99% of those who sign these stipulations keep them in good faith. Today we settle twenty cases by stipulation to one by litigation.¹

With a helpful attitude being displayed on the part of the Commission, business evinced a willingness to assist in removing objectionable features from its practices. There thus developed what is known as the Trade Practice Conference and the Trade Practice Submittal.

These conferences are held entirely at the solicitation of the members of the industry requesting them, and are not authorized by the Commission unless requested by a sufficient number to indicate the probable successful outcome of the conference. The Commission does not call a conference of its own motion, nor does it urge the holding of such a conference. The industry must itself show the necessity and make the request. A commissioner presides, but only in an impartial capacity. He gives the industry the benefit of his advice and suggestions, but he does not direct. Freedom and frankness in discussion of problems is maintained, and none are incriminated. The rules and regulations which the industry itself formulates are then used as a guide of conduct in the industry, and are submitted to the Commission as a standard which the industry believe fair. The Commission, while it may use the submittal as a guide and

¹ ibid., 45.

reference, is not obligated to do so. They do not increase the Commission's power nor change the law. But largely through the fact of the members of an industry getting together voluntarily and through frank discussion formulating their own rules of conduct, many fraudulent and unfair practices have been eliminated.

The creamery industry was the first to seek a trade practice conference which it did in October, 1919. Since that time conferences, voluntarily solicited, have been held with the following industries:¹

- All-cotton wash goods
- Anti-hog cholera serum and virus
- Baby and doll carriages
- Band-instrument manufacturers
- Bank and commercial stationers
- Beauty and barber supply dealers
- Bituminous coal operators (Southwest)
- Bituminous coal (Utah)
- Butter, egg, cheese, and poultry (Pacific Coast)
- Butter manufacturers (Southwest)
- Castile soap
- Cedar chests
- Cheese assemblers
- China recess accessories
- Clothing cotton converters
- Commercial cold storage
- Common brick
- Common or toilet pins
- Concrete mixer and paver industry
- Correspondence schools
- Cottonseed oil mills
- Creamery industry (Omaha)
- Crushed stone
- Cut stone (building)
- Cut tack, cut nail, and staple industry
- Direct selling companies
- Dry cleaning and dyeing service (Dist. Of Columbia)
- Edible oils
- Educational jewelry (school and college)

¹ Federal Trade Commission, Report on Trade Practice Conferences, 1933.

Electrical wholesalers
Electrical contracting
Embroidery
"Engraved-effects" printing
Fabricators of ornamental iron, bronze and wire
Fabricators of structural steel
Face brick
Feather and down industry
Feldspar grinders
Fertilizer
Flat glass
Fur industry
Furnace pipe and fittings
Gold-mounted knives
Golf ball industry
Golf, baseball and athletic goods
Greeting cards
Grocery industry
Household furniture and furnishing
Ice cream industry (Dist. of Columbia and vicinity)
Ingot brass and bronze
Insecticides and disinfectants
Interior marble
Jewelry industry
Knitted outerwear
Knit underwear
Kraft paper
Lightning rods
Lime industry
Live poultry industry (New York City and vicinity)
Medical gas
Mending-cotton manufacturers
Metal burial vaults
Milk and ice cream cans
Milk producing and distributing industry (Michigan)
Millwork
Mopstick industry
Multi-color printers of transparent and translucent materials
Oil industry (Chicago & Denver)
Package macaroni
Paper bags
Paperboard industries
Paper bottle caps
Petroleum and petroleum products
Plumbing and heating
Public seating
Publishers of periodicals
Pyroxylin plastics
Range boilers
Rebuilt typewriters
Reinforcing steel fabricating and distrib. industry

Retail furniture dealers (New York City)
 Roll and machine tickets
 Sanitary napkin industry
 Saw and blade service
 School supply distributors
 Scrap iron and steel
 Sheffield silver-plated hollow-ware
 Shirting fabrics
 Silk weighting
 Sled industry
 Solid section steel windows
 Solvents industry
 Southern hardware jobbers
 Southern mixed feed manufacturers
 Spice grinders and packers
 Standard sheet music
 Steel office furniture
 Structural clay tile
 Subscription book publishers
 Upholstery textiles
 Vulcanized fiber
 Wall paper
 Walnut wood
 Warm-air furnaces
 Waste paper dealers and packers
 Watchcases
 Waxed paper
 Woodturning industry (hickory handle industry)
 Woodworking machinery
 Wool stock
 Woven furniture

It is probably fair to say that the Federal Trade Commission, through its trade practice conferences, has done more for the establishment of ethical standards in business than any other single agency. While the conferences have been held under the auspices of this fostering agency, it must be remembered that they have all been held at the request of the industries themselves, and due credit must be given to business for taking the initiative in elevating its own standards and practices to the extent to which this has been achieved. The benefits accruing to the public and to business may be summarized by extracts from

the foreword of one of the Commission's recent reports.¹

The trade practice conference is a procedure whereby an industry takes the initiative in establishing self-government of business, making its own rules of business conduct, subject to approval by the Commission.

The procedure deals with an industry as a unit. It is concerned solely with practices and methods. It wipes out on a given date unfair methods of competition, unethical conduct and trade abuses condemned at the conference and thus places all competitors on an equally fair competitive basis.

Trade-practice conferences result in a generally recognized and clearly marked trend toward the use of higher standards of business conduct and bring into closer relationship industry and the Commission. Many engaged in business and industry are not aware, until a trade-practice conference is held, that some competitive methods commonly used by them constitute actual violations of the law, or that the unnecessary cost of unfair competition and wasteful practices, if abandoned at one and the same time by voluntary agreement of all in the industry, may be converted from an item of expense to a substantial profit without adding to the price paid by the ultimate consumer.

The value of the trade-practice conference is further shown by recent legislation enacted by the State of California providing for the enforcement of certain conference rules pertaining to an industry of that State, a policy which might well be adopted by other states. "General dairy law of California", approved June 15, 1923, and as amended May 31, 1927.

The United States Chamber of Commerce has been criticized on many occasions as being the instrument of big business. It should be noted, however, that it also has played and is playing a part in the raising of morals in trade, through constant emphasis on better standards. Its Principles of Business Conduct¹ are worthy of study for the ideals they set:

Principles of Business Conduct.

1. The foundation of business is confidence, which springs

¹ Trade Practice Conferences, 1933.

² Quoted in Ethical Problems of Business & Government, 121.

from integrity, fair dealing, efficient service and mutual benefit.

2. The reward of business for service rendered is a fair profit plus a safe reserve, commensurate with risks involved and foresight exercised.

3. Equitable consideration is due in business alike to capital, management, employees, and the public.

4. Knowledge - thorough and specific - and unceasing study of the facts and forces affecting a business enterprise are essential to a lasting individual success and to efficient service to the public.

5. Permanency and continuity of service are basic aims of business, that knowledge gained may be fully utilized, confidence established and efficiency increased.

6. Obligations to itself and society prompt business unceasingly to strive toward continuity of operation, bettering conditions of employment, and increasing the efficiency and opportunities of individual employees.

7. Contracts and undertakings, written or oral, are to be performed in letter and spirit. Changed conditions do not justify their cancellation without mutual agreement.

8. Representation of goods and services should be truthfully made and scrupulously fulfilled.

9. Waste in any form of capital, labor, services, materials, or natural resources, is intolerable and constant effort will be made toward its elimination.

10. Excesses of every nature, inflation of credit, over-expansion, over-buying, over-stimulation of sales, which create artificial conditions and produce crises and depressions are condemned.

11. Unfair competition, embracing all acts characterized by bad faith, deception, fraud, or oppression, including commercial bribery, is wasteful, despicable, and a public wrong. Business will rely for its success on the excellence of its own service.

12. Controversies will, where possible, be adjusted by voluntary agreement or impartial arbitration.

13. Corporate forms do not absolve from or alter the moral obligations of individuals. Responsibilities will

be as courageously and conscientiously discharged by those acting in representative capacities as when acting for themselves.

14. Lawful cooperation among business men and in useful business organizations in support of these principles of business conduct is commended.

15. Business should render restrictive legislation unnecessary through so conducting itself as to deserve and inspire public confidence.

Time will not be taken to trace in detail the foundations from which these present-day organized efforts in American life grew. Alexander T. Stewart in New York with his inauguration in 1825 of the policy of one price to all and the truth about commodities; John Wanamaker in Philadelphia in 1861 with the addition of the idea of goods returnable if not satisfied, the payment of clerks with cash rather than in store orders on which the firm might take a commission, shortened hours, courtesy to customers; Marshall Field in Chicago, with the idea that the customer deserved every consideration and money refunded if goods not satisfactory; these were the pioneers in business ethics whose initial efforts were the beginnings of the movement now gaining headway.

A
COURSE
IN THE
SOCIAL FUNCTION
OF
BUSINESS

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Prepared for
the
Stockton Junior
College

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INTRODUCTION.

In recent years business has come to be recognized as having the status of a social institution. Long regarded simply as an accumulation of unrelated ways of earning a livelihood by the buying and selling of commodities and services, modern business now appears before us as a wide-spread integrated phenomenon embracing not only an ideology of its own but a way of life, and having a profound influence on the welfare of a people. As such it has provoked a critical evaluation of its underlying philosophy; it has drawn toward itself an examination of its methods and their social implications. Especially during the years of economic maladjustment the question has been raised as to whether or not business as an institution has an obligation to society, a social function to perform. Progressive thinking people have indicated an affirmative answer to this question. The result has been the development of a literature on the subject, and the inauguration in higher institutions of learning of Schools of Business Administration whose curricula are based on the idea of training business administrators who, in addition to their skills and knowledge, will have an appreciation of the social responsibility of business as an institution. Leaders in this movement have been Harvard University, Stanford University and the University of Pennsylvania.

In recognition of this newer attitude, there was inaugurated in the Department of Business Administration of the Stockton

Junior College in 1937 a course of study entitled "The Social Function of Business". To the writer was given the duty and the privilege of developing this course. The syllabus contained in the following pages should by no means be thought of as final, but rather as an experimental program subject to constant revision.

AIMS AND OBJECTIVES.

General: To encourage in the student a positive attitude toward the development of better ethical standards in business, and a willingness to lend his efforts toward further elevation of these standards; to develop a realization of the social responsibility of business.

Specific: To acquaint the student with the importance of business as one of the institutions of modern society.

To show him its relationship to other phases of life.

To show him how business has developed from the simple to the complex, creating problems of conflict of interest and the need not only for regulation and control but for restraint.

To explain the difference between self-control and governmental control, and their supplemental relationship.

To discuss the evolution of capitalism, its philosophy and psychology.

To show that ethical standards have improved in many ways and that business does cooperate in this improvement.

To trace the means by which they have been evolved and improved.

To discuss the agencies and methods now in use for improving business levels and standards.

To tabulate and examine practices generally accepted

and those generally regarded as unethical.

To present actual cases of business practice taken from court records, government files and current newspapers and periodicals.

To indicate the avenues in which improvement is needed.

To generalize certain principles of ethical business conduct.

ADMINISTRATIVE LIMITATIONS

Administrative limitations: The proposed course of study is to be given as a two-unit course; the class meeting twice per week for a series of eighteen weeks, or a total of thirty-six meetings. Deducting four of these hours for mid-semester examinations and written analyses, and one week for final examinations, there remain only thirty hours for instruction. It is questionable whether or not this is sufficient time in which to accomplish the aims and objectives of the course.

Student Limitations: The students eligible to the course will be average unselected public junior college students, some of whom will take the course because of a genuine interest in the subject and others simply as an elective in the Business Administration field to fill out a program of sixteen units. There is a likelihood that the majority of the class will be 14th year students as the course is listed as an elective in that year in a required two out of four course choice. However, it is permissible to 13th year students under their choice of two units of electives the first semester. Counselors will be enjoined not to enroll freshmen in the course as it is felt that the study can be more fruitful in the sophomore year, especially after the student has had a grounding in business fundamentals in the required Accounting and Business Management courses of the first year, and while he is taking other sophomore courses in the same field.

PHILOSOPHY UNDERLYING THE COURSE

1. There is in man some innate and inherent conception of right and wrong, an apriori sense of good and bad. This is assumed without examination.
2. That there is in most human beings the desire to do what is right, or what his social group considers right, but that this is often counteracted by the desire for self-aggrandizement and the fear of insecurity.
3. Environment plays a very great part in determining the philosophy and conduct of the individual and the group. The literature of psychology substantiates the influence of conditioning factors.
4. That group sentiment is necessary to enforce individual desire, and is a powerful force in making the individual conform.
5. That group standards evolve through initiation by individuals and their subsequent acceptance by the group.
6. That individuals tend to give greater weight to those things on which their attention is focused, and that therefore courses of study and publicity are likely to result in conduct similar to ideals upon which attention is held.
7. That it is necessary to make clear by study and enumeration what good conduct is, as many are in doubt as to the proper course of action in a given situation.
8. That there is a decided pragmatic preponderance to the philosophy of the American people, and that when ethical business

is shown to be the only way of permanent business they will move in this direction.

9. That gradually perfecting methods of dissemination of information, with publicizing of results of unethical conduct, will create a public opinion intolerant of the unethical.

PEDAGOGICAL METHODS

The pedagogical philosophy underlying the teaching of this course is to a large extent that of Henry C. Morrison, Professor of Education in the University of Chicago, and is as follows:¹

1. The unit type of organization in so far as it is applicable.
2. A preliminary appraisal of the present experiential background of the pupils with respect to the unit itself, with subsequent procedure thereafter to be followed determined very largely by the disclosures of this step. Adaptation to individual differences and to the cultural level of the class will be kept in mind.
3. Motivation, through the awakening in the student's mind of normal learning curiosity, by proceeding from his experiences to what is to follow.
4. Essential understanding to be established in broad terms by direct expository teaching, at the outset, by the instructor.
5. Learning is a change in attitude, or the acquisition of a new ability. The change is an inward affair which can be achieved in the most thorough-going and economical manner only by the student himself as he works over in a long study period an adequate body of assimilative material focused upon the unit. Adaptation is a form of growth, and growth requires time and

¹ Henry C. Morrison, The Practice of Teaching in the Secondary Schools.

feeding.

6. A systematic technique must provide for every unit of learning a period in which the student is led to react as effectively as may be to the content of his learning. It is this reaction which seems to accomplish the final establishment of the new attitude.

According to Morrison, a unit of learning is "any comprehensive and significant aspect of environment, of an organized science, of an art, or of conduct, which being learned results in an adaptation in personality".¹ "The whole process of education is made up of unit learnings, each of which must be mastered or else no adaptation to objective conditions of life is made."

The size of the units to be learned need not, in fact as a matter of necessity are not, uniform. The nature of the material to be mastered will determine the unit size, varying from subject to subject, and also within a subject field. Some phases of a subject are simple and easily understood; units here may be short. In other instances, complex concepts present themselves and longer units are necessary. ".....analysis of the teaching objectives gives us the unit learnings to be mastered."² Some units may thus be mastered in one assignment; others may take several assignments and cover a period of several days.

¹ ibid., 75

² ibid., 77.

Briefly, the method may be summarized as:

1. Exploration
2. Presentation
3. Assimilation
4. Organization
5. Recitation (or use)

The course is, in some ways, of the appreciation type, in as much as it seeks an inculcation of and the establishment of an appreciation for the ethical attitude in business.

"Psychologically, this type is concerned with the effective side of man's nature. Now the materials with which this type has to deal and its products are sometimes put to critical evaluation by process of rationalization." "The standards of moral behavior are traced in their evolutionary developments and attempts are made to separate that which is valuable from that which is worthless. As soon, however, as it is deemed desirable to set up a course dealing with this aspect of the subjects which belong to the appreciation type, that course goes back under the science type." Professor Morrison, however, classifies the study of ethics and logic under the science type¹ where the "adaptations are in form understandings of principles or processes in the relation of cause and effect. The method of learning is a process of reflection and rationalization. The product is an intelligent attitude toward some aspect of the environment or of a science."

¹ Henry C. Morrison, Practice of Teaching in the Secondary School, 89.

Because of the importance to this course of the second step in the learning cycle as stated by Professor Morrison¹ the steps are here listed:

1. Stimulus, assimilation, and reaction.
2. Initial diffuse movements.
3. Identification of teaching objectives.
4. Direct teaching.
5. Study.

As previously quoted, the changing of attitudes and the making of adaptations is an inner affair and requires time. For this reason the second step seems quite important. Not only from the standpoint of initial movements as being first things, but especially from the standpoint of maturation or seasoning. It is difficult to say just when a person's attitude on a certain matter changes. We read, we study and then some day we find that our viewpoint is different. In a course of this kind therefore, the more of the diffuse movements we have in the form of collateral readings and observation of pertinent happenings in the world about, the more likelihood is there of a re-shaping of attitude in conformity with one's assimilation and weighing of the facts and thoughts experienced.

Motivation.

Rather than to begin this course with an historical or logical approach, it is deemed best to use what might be termed

¹ ibid., 154.

the institutional approach; that is, the instructor will present to the class at its first meeting, typical ethical problems taken from the world of business, preferably cases concerning which the students may have some familiarity, if there have been suitable cases discussed in the newspapers or periodicals. Familiarity with circumstances, and the arousing of natural curiosity should thus make an excellent way to work into the later study of ethical considerations. A constant keeping in touch with reality throughout the course by reference to actual happenings will be a definite procedure.

Lectures. Direct teaching will be done through lectures in which historical, expository and explanatory matters will be presented, with salient parts emphasized.

Problems. Problems will be used to develop in the student a method of evaluation and to make the subject more realistic by setting him up as the judge or the participant.

Discussion. Whenever possible, class discussion will supplement lecture and problem method. This serves to crystallize individual viewpoint, to develop sentiment, esprit de corps, and through contribution to assist in re-adaptation.

Collateral reading. Approximately two hours of outside reading will be required for each hour of class meeting. Multiplicity of facts and variety of viewpoints should arouse the student's critical attitude and result in an intelligent precipitation of outlook. Class and written reports on readings on specific cases will be required.

Materials. Reading material in the college library for this course is at present inadequate. It should be supplemented. Current articles in magazines and newspapers will be utilized.

Text. No text will be used, providing sufficient books may be obtained for the library to insure independent learning activity.

INTEGRATION WITH LIBERAL ARTS CURRICULA.

It is apparent that a consideration of the social function of business reaches out into other fields of study and integrates with them. As an institution, business can not be studied without reference to other social institutions, political, religious, economic and educational. The roots of business go deep into these various phases of human activity, as is seen for example in the influence of Calvinism on capitalism. Likewise, the study of business leads on inevitably to an examination of the fields of philosophic thought, especially those of utilitarianism and pragmatism, of opportunism and teleology. Aims and methods are based on man's conception of his place and purpose. Business policies and standards are thus directly related to sociology and philosophy.

In present day society business is intimately bound with politics and government. With licenses, taxes, tariffs, wages and hours laws, legislation in respect to monopolies and trade practices, participation of government in business, it can truthfully be said that there is hardly a business transaction that does not have a counterpart in government. Fundamental theories of the state and its methods of control and guidance, of paternalism, individualism and regimentation, make a proper orientation in the realm of political science necessary.

Economics has been defined as the study of man's wants and their satisfaction. Business is the practical operation of satisfying wants. In the process conflicts develop between the

factors which are engaged - land, labor, capital and the entrepreneur. We must go below the surface of business practices to deeper lying principles of theoretical economics, to theories of value, of wealth, of the justification of interest, of the accumulation of capital, of the ownership of land, of the wages of labor and of the profits of the entrepreneur. The concept of private property, the socialization of natural resources, the sanctity of contract and the freedom of the worker to contract his hire must ultimately be given evaluation. Any study of business philosophy, therefore, must take into account the theoretical economics upon which business is based.

It is one thing to perceive the "how" of a thing; it is another to understand the "why" of it. One may have a clear-cut picture of present-day business practices, yet fail to understand the reasons for many of them. Not only must we seek their explanations in fields previously mentioned, but we must go behind the present into the past to locate their beginnings and trace their developments. Only by viewing the historical approach can we reconcile many of the incongruities which now manifest themselves. History, then, affords another foundation upon which to base a study of the social function of business.

Of particular significance is the field of psychology, both individual and social. Perhaps the most difficult of all considerations in connection with the raising of business standards is the matter of sanctions; that is, the fundamental

bases of action which influence men's conduct. It is here that the study of instincts, of drives and motivating influences, of springs of action, and the conditioning of behavior enlist the aid of psychology to assist in understanding human conduct in business and in raising its standards. In the phase of business known as marketing, in which selling and advertising play such a dominant part, psychology is likewise all important.

The social study of business integrates with all the social sciences. It also ties in with other studies, although perhaps not quite so obviously. Art is playing an increasingly important part in business, in advertising, in packaging merchandise, and as a medium through which the subtle influence of advertising is made active. The natural sciences, for example, do not seem so readily connected with business; yet some of the ethical problems in industry have as the focus of their inquiry a matter of physical, chemical or biological science. The famous case of the Royal Baking Powder Company, cited by the Federal Trade Commission for unethical practices, hinged on the use of alum instead of cream of tartar, and a large part of the testimony in that case concerned the relative properties of these two chemicals and their biological effects.

When it is remembered that the processes of production and marketing involve practically all phases of human activity and utilize all available knowledge in attempting to create and to satisfy wants, it is realized that a social appraisal of business inter-relates and coordinates with and needs the assistance of other branches of organized knowledge.

TESTS

The expected outcomes of this course of study are a certain amount of factual knowledge, understanding and appreciation of relationships, and the development of attitudes.

Measurement of results in the first named areas can be accomplished with reasonable accuracy. Objective tests of the true-false type are admirable for this purpose for the reason that they permit of extensive sampling over a wide spread, insuring an adequate coverage of the material involved. It is important, here, as always, that extreme care be taken to follow the rules of construction of this kind of test. Completion, multiple choice and matching tests may be used also, as well as the essay type test. The exact type of test to be used will vary with the particular segment of ground being covered, the essay test being favored where unaided recall is desired.

The essay type seems to be preferred also where it is desired to evaluate the student's ability to organize and to correlate his information. Understandings and mis-understandings are thus more likely to become apparent. Discussion questions calling for reasoning, substantiation and justification will furnish a pattern from which can be judged the extent of appreciation of relationships and significant realizations.

The most important outcome of the course, the development of attitudes, is the one that is most difficult to measure because of its intangibility. Not only this, but the multiplicity of factors which determine attitudes cause these to fluctuate.

The tendency to verbalize, to generalize and to classify experiences and make judgments on insufficient evidence complicate the problem. Added to these the strong influence of emotion makes attitudes and their appraisal an intricate affair. The difficulty attendant upon testing attitudes is well summarized in the Report of the Commission on the Social Studies of the American Historical Association as follows:¹

The pitfalls of a direct effort to test the attitudes of students on questions which they regard as important and about issues of a controversial nature are so many as to defy any form of test. The new-type test is most direct and perhaps, therefore, least efficient in gaining results. The essay type affords the student an opportunity to reveal his attitude on many questions. The methods used by the historian in checking act against verbal statement may still be the surest method of determining real attitudes. Next to that, the essay type, as interpreted by the teacher, would promise to yield most satisfactory evidence.

In the summary and conclusion of the same report, written by A. C. Krey, Professor of History at the University of Minnesota, the same position is again stated:²

In the tests of attitudes and traits of personality, an effort was made to penetrate somewhat to those ethical and aesthetic elements which condition nearly all social practice. Tests of attitude, long a preoccupation of psychologists, have been employed with some degree of success by social psychologists. The character of the attitude tests employed, however, and the limited extent of their application by this investigation do not justify any definite conclusion as to their possible modification for use in the schools. The Jordon study of honesty and cheating in school situations confirms the impression of most social scientists that these qualities are not definite traits of personality, but rather reactions to immediate situations.

¹ Truman L. Kelley & A. C. Krey, Tests and Measurements in the Social Sciences, Part IV, 101.

² ibid., 485.

The Commission seems not to have been unanimous in its conclusions, however, and a Divergent Opinion as to the Function of Tests and Testing is stated by T. L. Kelley as an appendix to the Report.¹ His statement indicates the existence of a schism in the Commission and undertakes to refute the claims of those holding the viewpoint just stated. The following excerpt is pertinent to the measurement of attitudes:²

The opponents assert that the forthcoming social order will be different from the present in important things of the spirit and that these cannot be measured by objective tests. Any reliance upon them is at best a concern with the trivialities of the new age.

Granting a probable difference in social outcome as great even as a reversal of attitude toward private property, nevertheless, we do not grant a probable basic difference in the instincts, satisfactions, intelligences, skills, and types of social contact which will be ordinarily manifest in the new order. Further, we do not grant the impossibility of measuring by semi-objective means the new traits or accomplishments which will be deemed socially desirable. We do grant no present instruments for measuring these new things and very inadequate instruments for measuring most of the traits and accomplishments essential to happy living together in our present social order.

While upholding the suitability of objective tests for the measurement of attitudes and expressing confidence that reliable and valid tests can be developed to meet the need, his opinion is in agreement with the main conclusion of the Commission that at present there are not satisfactory or adequate instruments for accomplishing this result.

¹ ibid., 487.

² ibid., 495.

There is appended to the Commission's Report an extensive bibliography of studies on the testing of attitudes. The writer has had occasion to refer to some of these studies, and is attracted by the methods of Watson in testing fair-mindedness and ethical judgment.¹ Especially are Watson's conclusions indicative of the hope expressed by Professor Kelley when he summarizes:²

Perhaps, therefore, it may be concluded that unless conflicting evidence should be obtained, these tests may be regarded as usable measures of prejudice as contrasted with fair-mindedness, upon certain religious and economic issues.³

An attempt is being made to construct objective tests for this course along the lines of those described in the studies to which reference has been made. Their construction and checking necessarily involves a length of time which makes it impossible to report concerning them in this paper. Pending the creation of adequate tests of this type, it is felt that chief reliance in evaluating the development of attitudes in this course should be placed on the written essay and discussion type of examination and on the careful noting of student's reactions in oral class discussions. The primary objections, of course, to these two methods is that the standard is a subjective one, namely, that of the instructor. While the objection is a valid one, the subjectivity can be reduced by care on the part of the instructor in his evaluations, and

1 G. B. Watson, The Measurement of Fairmindedness.

2 ibid., 3.

3 ibid., 35.

by the exercise of discrimination in the choice of questions. Against the objection is balanced the advantage that in writing on a topic the student's mind has free play to express itself, and it is probably only through this sense of freedom that real attitudes are likely to be expressed. Students are less likely to be suspicious of the fact that they are being analyzed, or that they are likely to incriminate themselves. Even in well-constructed objective tests, where corroborative statements are scattered and supposedly hidden throughout the subject matter, students are likely to detect the check-up statements and to feel that they are being trapped or tripped up. Students are prone to avoid revealing a real attitude which they feel might be disapproved.

Another obstacle encountered in the testing of attitudes is the operation of a defense mechanism. Those secretly guilty of socially disapproved conduct or feelings are quite careful to achieve a reputation of the opposite nature in order to win approval and avoid disapprobation. Again some students are anxious to please, and are likely to give the responses which they feel will net them the highest esteem with the instructor or with the class group. These difficulties were encountered by Thurstone in his tests on attitudes concerning social problems, and although he was working with students younger than the college age, it is also true that the same observations apply to the older students.¹

1 Truman L. Kelley & A. C. Krey, Tests and Measurements in the Social Sciences, 83.

Other appraisals of the situation indicate similar obstacles. In writing concerning the undesirability of developing any standard attitude among students with respect to such things as the public ownership of public utilities, Hawkes, Lindquist and Mann argue:¹

It should be pointed out that even if it were possible to describe in terms of a position along an arbitrary scale a pupil's attitude toward, for instance, private ownership of public utilities, and even if it were possible to designate one end of the scale as that on which the pupil's answer should be located, it still would not follow that his attitude in any real sense had been "measured". As soon as the pupil senses that responses are being evaluated in terms of correct and incorrect his chief concern is to make the "correct" response. Whether or not he really has accepted the opinion he has expressed it is impossible to tell.

Professor Burton of the University of presents still another phase of the problem. In speaking of the teaching of ideals, attitudes and standards of taste, he says:² "Do not attempt to measure or test in the traditional manner." In referring to the measure in which a mother's love for her baby would be measured, namely by the way in which the mother took care of it as to cleanliness, feeding, etc., he goes on to say:

Here we have the clue to determining the nature and strength of emotional standards. We can not measure precisely. We must watch and note any action in accord with the desired ideal or standard. The term "trait-action" has been evolved to mean those objective observable acts which are presumptive of symptomatic evidence of the possession of an ideal, belief or standard.

An actual estimation of a learner's progress

¹ H. E. Hawkes, E. F. Lindquist & C. F. Mann, The Construction and Use of Achievement examinations,

² W. H. Burton, The Nature and Direction of Learning, 302.

in this type of learning will thus be a lengthy process. As a matter of fact it is a continuous process. It will involve patience and watchful waiting. We may look for incidents which embody illustrations of the desired reaction, or we can use codes or lists of desired reactions as a check list. The latter both supply the standard and aid in seeing and recognizing the evidence.

We know from the uniformity of the experiences of many individuals that knowledge acquired and the understanding of relationships between facts and between causes and effects do have an important bearing on the formation and retention of attitudes. It seems further apparent that there is a good deal of inexplicability concerning the holding of attitudes, especially concerning their rooting in emotion and prejudice and their illogical rearing often upon isolated experiences and inadequate evidence. Further analysis of this all-important phase of education is a major problem of the entire social studies group.

COURSE CONTENTS

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Student Reports & Discussions	- 7 hours
Mid-semester examinations	- 4 hours
Final Examination week	- 2 hours

UNIT ONE
LECTURE ONE

The Famous Sulfanilamide Case of 1937.

(Purpose of this lecture is to introduce the subject by reference to a circumstance concerning which students had probably read. To motivate by arousing curiosity; to arouse emotionally by the dramatic sequence of events in this important case.)

1. Announcement At American Medical Association convention of new solution with varied curative properties.

Caution regarding its use until experimentally tested.

2. Announcement in newspaper of first death from the "elixir".
3. Reading of subsequent announcement of other deaths from newspaper clippings. (To build up the sense of time passage and the importance of the case.)
4. Condemnation by Medical Journal, American Medical Association.
5. Manufacturer's refusal to accept any responsibility, as he had broken no law.
6. Significance.

77 deaths.

Was the manufacturer at fault? No law broken.

Should the Food & Drug Laws be more strict? If so, how strict?

How far should Government Regulation of private enterprise be extended?

7. Class discussion. How to bring about greater social responsibility on the part of business.
8. Assignment. Prepare a list of practices from personal experience which were regarded as unfair or unethical.

UNIT TWO
LECTURE TWO

The Laissez-faire philosophy.

1. This lecture will describe the laissez-faire philosophy, indicate its early foundations in the writings of Adam Smith and others.
2. Illustrate its pursuance in the life of Colonial American and later pioneer days.
3. Trace the gradual need for control of some kind, resulting in governmental regulation, of various types.
4. Delineate the foundations of individualism inherent in the laissez-faire policy and the American philosophy of independence.
5. Show the conflict between rugged-individualism and regulation.
6. Ethical problems arising out of competition under individualism, and the struggle between the individual and the group.

UNIT THREE LECTURE THREE

This lecture will deal with the Social Control of Business as distinguished from the Social Function of Business, the thesis of the course, to be expounded in the next lecture.

1. Definition of Business.

Commercial, industrial, mercantile, etc.,

"Big" business,

Organized business.

Types of business,

Extractive, manufacturing, marketing, etc.

Size and kinds of business organizations,

Single enterprises,

Partnerships,

Corporations,

Absentee ownership, divorced from management.

11. Definition of control as external.

Formal control,

Laws, Boards, Commissions, Courts,

Enforcement of contracts,

Punishment of crime, protection of property.

Informal means of control.

Groups and minorities, Church,

Press,

Chambers of Commerce,

Unions,

Fraternal Organizations,

Service Clubs.

Nature of control. Not always unanimous; partial controls.

UNIT THREE (continued)
LECTURE FOUR

This lecture brings out the meaning of the social function of business, as a form of internal control, as distinguished from the social control of business, external control, expounded in the previous lecture.

I. Primary function of business is economic.

Business arose to supply needs that naturally existed.

Production always behind demand - economy of
scarcity

Few regulations - caveat emptor

Production catches up with and surpasses demand.

Changed position of business from that of a follower to that of a leader,

Seeking outlets for its goods, with

Advertising,

Salesmanship, etc.

Business tries to create demands and desires and
this raises the broad question of

II. The Social Function of Business.

Business as a social institution.

New obligations replacing old duties,

What goods is it legitimate to produce?

Influence on personal and national habits,

Women smoking, etc.,

What methods is it legitimate to employ?

In selling,

Toward labor,

Between competitors, etc.

III. Interdependence of Business and Society.

Society has furnished

Peace and protection

Legal recourse to aid business, etc.,

Business has provided

Goods,

Transportation, etc.,

What business expects,

What society expects.

The social function of business as an internal and
voluntary means of fulfilling its obligation to society.

UNIT FOUR LECTURE FIVE

This unit on Capitalism is inserted in the course in order to go deeper into the explanation of the workings of present day business. In the fundamental roots of capitalism are the causes and explanations of some of the unethical practices now current. This study should give a truer appreciation of the nature of our problem.

I. Capitalism, the basis of our economic system.

Definition

Religious background, Calvinism, etc.,

Philosophy of capitalism,

Freedom of enterprise,

Equality of competition

Reward for effort,

The Profit Motive,

The Right of Acquisition,

Acquisitiveness in an economy of scarcity,

Virtues of thrift, economy, etc.,

The institution of Private Property.

II. The Virtues of Capitalism.

A natural system of reward for effort,

Encourages industry and progress,

Encourages thriftiness for security,

The individual is an entity, a free being,

Psychological soundness of the system.

Results of capitalism,

High standards of living,

Development of resources,

Retention of individuality.

UNIT FOUR (Continued)
LECTURE SIX

The essential acceptability of capitalism as a system has now been emphasized. There follows a consideration of the evils of the system, which this course seeks to present as abuses rather than inherent unsoundnesses of the system. The point of view is that these can be remedied through an assumption by business of a realization of its social function.

I. Indictments of the Capitalistic System.

A. Unequal distribution of wealth,

Poverty -- riches

Statistics regarding distribution,

Income tax returns, etc.,

Taxation as a remedy -- redistribution

Income tax -- graduated --

Engel's law -- justification

Excess profits tax, etc.,

B. Exploitation of labor.

Child labor,

Woman labor,

Wages, hours,

Working conditions,

Compensation.

UNIT FOUR (Continued)
LECTURE SEVEN

Indictments of the Capitalistic System, continued.

C. Waste of Natural Resources.

Self-aggrandizement

Lack of planned use and utilization,

Oil, coal, lumber, fish, water, etc.,

Examples of cases, statistics of depletion.

D. Human waste.

Unemployment,

Results of in suffering, etc.,

Accidents in industry - types

Diseases of industry - types

E. Attitudes toward labor.

A commodity - the economic man,

A part of the social whole.

Exploitation of labor.

F. Responsibilities of industry toward labor.

Continued employment,

Accident and disease compensation,

Conservation of human values,

Retirements.

UNIT FOUR (Continued)
LECTURE EIGHT

Indictments of the Capitalistic System, continued.

G. Encouragement of unsocial customs.

Conspicuous consumption - Veblen

Discontent

Crime

H. Dangers to Health

Encourages use of tobacco

Men

Women, advertising campaigns

Children

Encourages use of alcohol

Youth

Encourages use of drugs, sedatives, stimulants

I. Exploitation of the public

High prices - what the traffic will stand

Excessive profits

Limitation of outputs

Inferior commodities

J. Dangers to morals

Magnification of sex

Sex magazines, movies, stage plays, fiction

Burlesque and strip-tease shows

Sex crimes

Sensationalism in newspapers

UNIT FOUR (Continued)
LECTURE NINE

Criticisms of the Capitalistic system, & rebuttals:

Karl Marx - exploitation of the worker,
- the labor theory of value

Henry George

- land-owners and unearned increment the
cause of unequal distribution of wealth
and cause of poverty

Henry Demarest Lloyd

- Monopoly is to blame, taking of profit and
restriction of outputs

Foster and Catchings

- under-consumption

Competitive production and over-production

Imbalance between production and consumption

UNIT FIVE
LECTURE TEN

Competition as a part of the Capitalistic System:

I Philosophy of competition and reward for effort.

Is the system socially desirable?

Is the system itself a good one, but simply being
abused?

Is the system inherently bad?

What makes men work?

Incentives.

II Good effects

Promotes efficient production

Promotes inventive genius and new production

Promotes lower prices

More and better commodities

Effect on standards of living

Comparison with other countries

III Bad effects

Duplication and waste

Lowers quality

Drives down wages

IV Comparison of good and bad effects

Clark's test - Social Control of Business, page 155:

"Does business and competition organize and carry
on production for society's best interest - efficient
service at lowest social expense and sacrifice."

UNIT FIVE (Continued)
LECTURE ELEVEN

Abuses of the competitive method.

I. Unfair competition

Cut-throat competition

Definition

Selling below cost

Spying on competitor's business

Hiring men to spread dissention and foment
strikes

Hiring men to make false statements

Selling competitor's goods at a lower price to
disparage

Intimidating competitor

Intimidating customers or agents

Inducing the breaking of contracts

Malicious and ill-founded law suits to disparage
reputation

Commercial bribery

Price discriminations

False disparagement of competitor's products

Relations to

Competitors

Customers

Public

Trade

UNIT FIVE (Continued)
LECTURE TWELVE

II Commercial dishonesty

Misrepresentation

As to quality

price

character of product

ingredients of product

properties of product, medicinal, etc.

nature and place of origin of product or

ingredients

beneficial quality of preparations

As to courses of study, encyclopedia services, etc.

As to procurement of positions

As to rates of interest on contracts

As to being the manufacturer of products

Other misrepresentations

Actual cases from Federal Trade Commission Reports

UNIT FIVE (Continued)
LECTURE THIRTEEN

III Advertising

Historical beginnings

Importance of advertising as a public influence

Types of abuses:

Intentional misrepresentations

"Knocking" copy

Scientific claims

Testimonials

Trade puffing

Cases of each

Truth in advertising movement

Advertising Clubs of America

Printers' Ink Model Statute

Edward Bok

Curtis Publishing Company

The public's attitude toward advertising

The psychology of advertising

UNIT FIVE (Continued)
LECTURE FOURTEEN

Other abuses of the competitive method:

IV Imitation

Methods

Purposes

V Misbranding

Consists in what

Using same trade name when not entitled

Using a variation of a trade name with intention
of having it appear to be the trade name imitated

Imitation of package or container

Size, shape, color, markings

Use of descriptive terms which indicate that the
product has properties which it does not in fact
have

Deception as to formulae used - Army, Navy.

VI Adulteration

Kinds of

Purposes

Examples and illustrations of above abuses

UNIT FIVE (Continued)
LECTURE FIFTEEN

VII False Weights and Measures

Historical evidence of abuses

Methods by which false weights and measures given

False bottoms

Wrong sizes

Not filling, etc.

Containers

Baskets

Boxes

Bottles

Cartons

Packages

Mixers

Scales

Governmental agencies for regulating

VIII Miscellaneous unfair practices.

Cancellation of orders without due cause

Excuses given

False claims

Breakage

Quality contested, etc.

UNIT SIX
LECTURE SIXTEEN

This lecture will deal with a consideration of Price, pointing out its relationship to Value, its importance as a standard of living and of trade, its influence in modern living where everything is based on an exchange, and abuses of the price system.

Price; fair and unfair.

Evolution of price; historical background

Money as a means of expression of price

Value concepts

Price as the market expression of value

Importance of price to the individual in his
standard of living in a world of exchange

Considerations involved in determination of fair price

Relativity of the problem

Unfair practices

Price cutting

Motives and methods

Outcomes

Price wars and results

Price fixing

Bases of

Relation of to competition and monopoly

Need for adequate cost data

Better accounting as a solution to fair price

Price legislation

Robinson-Patman Act - National

California Fair Trade Act - State

Other legislation - local

Labor unions and price fixing

UNIT SEVEN
LECTURE SEVENTEEN

This lecture will point out the importance of the "profit-system" in the capitalistic scheme, discuss their nature, consider attempts to fix profits, and present abuses arising out of the profit system.

Profits

Nature and meaning of profits

Definitions

Fair profit - Profiteering

Difficulty of determining the risk

Relativity of fairness of profits

Establishment of fair profit

Related to the business cycle

Relation to secular trends

Relation to seasonal and other variations

Relation to fluctuating valuations and investments

Bases of evaluation

Business averages

Indices

Governmental investigations

Relation to interest and wages and rent

Attempts to fix fair profit

Government and the railroads

Public utilities

National Industrial Recovery Act

Importance of cost accounting as a means to fair profit

Federal tax returns,

Publicity

UNIT EIGHT
LECTURE EIGHTEEN

Agencies for the control of profit abuses

Private

Better Business Bureaus

History

Purpose

Methods

Results

Chamber of Commerce, National and local

History

Purpose

Methods

Results

Consumers' Research Bureaus

Consumers' Research, Inc., New York

Methods

Results

Consumers' Union, San Francisco

Method

Results

Publishers

Newspapers

Independent investigators

Service Clubs

UNIT EIGHT (Continued)
LECTURE NINETEEN

Agencies for the control of profit abuses

Public

Federal Trade Commission

Establishment by Congress

Outgrowth of private business' request

Organization of

History of policies followed

Initial policy

Later policy

Purposes

Methods

Stipulations

Cease and desist orders

Trade Practice Conferences

Trade Practice Submittals

Industries submitted

Results

Representative cases

Interstate Commerce Commission

Establishment by Congress

Purposes - Railroads

Organization - cases

California Railroad Commission

History

Utilities control - price and profits, franchises

UNIT EIGHT (Continued)
LECTURE TWENTY

Agencies for the control of profit abuses (continued)

National Industrial Recovery Administration

Depression circumstances

Over-production

Low prices

Lack of coordination

National Industrial Recovery Act - Congress

Code Authorities

Separate industrial codes

Difficulties in promulgation

Results of the codes

Unconstitutionality of the act - Supreme Court

Cases

Economics of the attempt at recovery by legislation

The role of prices

The law of supply and demand

Effect of governmental restrictions on business

UNIT NINE
LECTURE TWENTY-ONE

Voluntary efforts of business to set up its own standards

First codes of practice - voluntary

Significance of

Methods used

Businesses to adopt codes

Representative codes

Ideals and practices covered

Codes and trade practice submittals

Supplementary

UNIT TEN
LECTURE TWENTY-TWO

This lecture will seek to present the problem of why people do what they do; the drives, the springs of action that cause conduct and that condition it; inner controls and censors of behavior.

The Problem of Ethical Sanctions.

Definition

Primitive sanctions -

Mores

Religious

Economic

Modern sanctions -

Religious, redemption

Social approbation and disapprobation

Selfish acquisitiveness

Expediency - pragmatic philosophy in America

Group loyalties

Morality as such

The problem - to find a workable sanction or sanctions
of wide effectiveness for ethical controls

Education

Publicity

Propaganda

Patriotism

Group spirit

Punishment

UNIT ELEVEN
LECTURE TWENTY-THREE

Significance of the ethical movement in business

Relation of business standards and practices to
general social and ethical standards

Comparison of business ethics level with levels in
other walks of life

Social

Sports

Professions

Thesis that ethical business is good business

Filene

Illustrations

The nature of business -

Repeat orders and custom

Confidence

Square dealing

Importance of proper attitude toward elevation of
standards

Responsibility of college graduates in business

Necessity for leadership

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