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LEGAL ETHICS

An Address by Chief Justice Mathers to the Manitoba Bar Association,
May 19th, 1920.

Early in the nineteenth century David Hoffman of Baltimore prepared a list of fifty resolutions for the adoption of students upon admission to the Bar. Resolution forty-eight says: "The ill success of many at the Bar is owing to the fact that their business is not their pleasure. Nothing can be more unfortunate than this state of mind. The world is too full of penetration not to perceive it and much of our discourteous manner to clients, to Courts, to juries, and counsel has its source in this defect. I am therefore resolved to cultivate a passion for my profession or after a reasonable exertion therein without success to abandon it. But I will previously bear in mind that he who abandons any profession will scarcely find another to suit him. The defect is in himself. He has not performed his duty and has failed in resolutions, perhaps often made, to retrieve lost time. The want of firmness can give no promise of success in any vocation."

In that resolution Mr. Hoffman struck the keynote of success in the legal profession and of ethical conduct therein. The member of the Bar who has real liking of his profession as such, apart from its usefulness as a means of earning a livelihood, and has a knowledge of its history, customs, and traditions, will as a rule find his own ethical instincts a sufficient guide to right conduct in almost any circumstances; and the great majority of the members of the profession are admitted to practise as solicitors or called to the Bar and launched upon their respective careers with no other guide.

The curriculum of our Law School is singularly defective in this respect. We cram a few legal principles into the law student and then turn him loose to grope his way through and to discover for himself what is and what is not professional misconduct.

In I believe all the provinces of Canada, with the exception of Ontario, Alberta and British Columbia, the candidate for call or admission is required to take an oath to truly and honestly demean himself in the practice of his profession to the best of his skill and knowledge, but he receives no instruction as to what constitutes correct demeanour. ⁽¹⁾ Often when it is unfortunately too late the young lawyer discovers that without any intention of doing wrong he has

⁽¹⁾ The oath administered to a barrister in Ontario and to both branches of the profession in Alberta and British Columbia constitute brief ethical codes in themselves.