

of these moral duties, kindness, respect, generosity, in love preferring one another, and the like, civilized natures have agreed to leave in the realm of conscience and do not attempt to enforce. No one nowadays would regard as a good citizen one who, however venerable and venerated, would have forty-two little children torn by she-bears out of the wood, because the young toddlers had gazed him about his bald head. It is not unlikely that the children in and near Beth-el, and their parents, too, were much more civil to the prophet after the lesson, but in our state of society such a proceeding would not be tolerated.

In the early period of Anglo-Saxon, as of all other, civilization, relative duties and rights were in great measure determined by status: a slave because he was a slave, a villein because he was a villein, a baron because he was a baron, had certain fixed duties. The rule subsists in family relations; the husband and wife, the parent and child, because of being husband or wife, parent or child, have their fixed duties. A very few occupations still have their duties: no innkeeper can refuse to accept a decent guest so long as there is room for him and the guest is able and willing to pay; no ferryman, railway, or steamship line can refuse to accept a decent traveler so long as there is room; the common carrier must accept goods (such as he carries) from anyone: apart, however, from such special cases, the rights and duties of individuals toward each other are determined by contract, bargain, agreement.

It is not necessary that the contract should be express and openly stated; the affairs of life could not go on with speed and comfort if an express bargain had to be made at every turn. Accordingly the law says that bargains may be implied, that is, understood from the nature of the transaction. When you order a

beefsteak from the butcher, he does not expressly agree, in so many words, to send you a sound, wholesome steak; nevertheless the nature of the transaction is that he is considered to have agreed to do, and, if the steak is putrid or unfit for food, he has broken his bargain, you need not pay him, and if by inadvertence you eat some and have ptomaine poisoning you can sue him for damages.

So when one holds himself out as a physician or a lawyer, he impliedly agrees with anyone who employs him as such that he will apply reasonable skill and care in that employment; and, if for want of reasonable skill or care the patient or client suffers, he may sue the professional. This looks very like determining the duties by status; but in theory at least it is quite different. Where the duty is fixed by status, as it is in some countries which believe themselves to be civilized, the doctor cannot refuse to attend any patient who offers and who is able and willing to pay; with us, in our so-called Anglo-Saxon civilization, we have got beyond that stage: the doctor need not attend anyone he does not choose to attend and he may exercise that choice as arbitrarily as he sees fit; his duty arises only when he has accepted the employment, and the fact of his being a doctor in itself implies no duty to anyone.

This implied duty does not depend upon being paid or even upon the expectation of being paid—the pauper whose case is taken up by doctor or lawyer is entitled to the same care and skill as the millionaire. Lawyers have a jingle which keeps them in mind of the law that it is the employment, not payment or hope of payment, which raises the duty. More than two hundred years ago one Bernard undertook to remove from one cellar to another some casks of brandy owned by Mr. Coggs. His men let one of them fall and some of the liquor was spilled. It did