

PERSPECTIVES

On the Professions

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"Local Politics and Ethics: A New Note"

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Technology

The Center recently signed its second contract with the City of Chicago. Under the first contract, completed February, 1987, we interviewed about half the 40 department heads, developed 24 cases for discussion, and held a half-day workshop for the whole cabinet. Under the second, we have already done a training session for the new Board of Ethics. We expect to do more interviewing, to hold a second workshop for the cabinet, and to prepare materials for use in ethics training within departments. The work has so far let us see city government from an unusual angle. It has also changed significantly what we consider important in "political ethics."

Like most residents of Chicago, we unthinkingly assumed that local government is corrupt in the same way that the summer here is humid. We made no distinctions between, say, aldermen and administrators, or between the civil servants who run departments and the political appointees who set their policy. We certainly did not take talk of reform seriously.

We drew our sense of "their" ethical agenda in part from the newspaper, then reporting more than the usual number of indictments of local lawyers, judges, aldermen, contractors, and miscellaneous city employees for bribery, extortion, tax evasion, and racketeering. But, in part too, we drew it from such philosophical discussions as Michael Walzer's "Political Action: The Problem of Dirty

Hands." We were not sure what to make of the Mayor's Ethics Order (which, by March of last year, had become an Ordinance.).

In short, we initially entered City Hall as we would enter the lions' yard at Lincoln Park Zoo, that is to say, with the excitement of one knowingly making a terrible mistake.

We were, it turned out, not eaten alive. Instead, we met a great many interesting people, less retiring than most academics but otherwise not so different. They were busy trying to do the public business efficiently and quietly. Many had a question or two for which they could find no easy answer. How, they wanted to know, should they handle this or that situation? Such questions never listed lying, cheating, or stealing among the alternatives. The questions were nevertheless hard because the most efficient alternative was often the one that

would look like lying, cheating, or stealing to someone with less than full information. This issue includes a sample of the problems we collected. The full set of 24 is now on the Center's publications list.

Our experience with Chicago's city government suggested that we might usefully devote an issue of PERSPECTIVES to the relation between ethics and politics. This is the result. Included in this issue, you will find: the Executive Director of Chicago's Board of Ethics describing the politics of getting and maintaining a municipal code of ethics; a description of contemporaneous events in New York State (for comparison); a former alderman's report on how he kept his political hands clean during the bad old days; and some suggestions for teaching ethics from a former professor of public administration.

As we prepared this issue, we heard a little about what cities like Sacramento, California and San Antonio, Texas have been doing. We have, in fact, been left with the impression that municipal government may be entering a period much like that we have observed first the professions and then businesses enter, a period of new, or at least renewed interest, in ethics. Whether or not this impression is correct, the Center has certainly benefited from

contact with the City of Chicago. It is therefore fitting that, though this issue was planned months before the sudden death in November of Chicago's reform mayor, we dedicate this issue to the Hon. Harold Washington without whose concern for ethics in city government this issue would never have been conceived.

**"Ethics in Government
Legislation, New York State,
1987"**

Sarah A. Merrill, Ph.D.,
Kansas State University With
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J.D.

Two pieces of ethics legislation were signed into law in New York State in 1987. As the Governor says, one tells us "what the public officials are doing with their own money" (The Ethics Law) and the other tells us "what public officials are doing with our money" (The Public Audits Law). The second is probably the more significant legislation, and the one that has had relatively little public attention paid it. It requires regular auditing, by outside auditors, of all major agencies and the legislature every two years.

Our focus here, however, is the so called "Ethics Law." The original ethics bill, which the Governor vetoed, passed just before Easter break. It was more than seventy pages long, and full of weaknesses. When individual New York State legislators were lobbied over Easter vacation on behalf of changes the Governor proposed, most would not reply "until my leader comes back from

recess." Because of this short-circuiting of public activism, the outrage over the ethics in government issue was mere press outrage. The final bill was in consequence much weaker than many had hoped. We will now review the bill pointing out major weaknesses.

The Ethics Law provides for full public disclosure of the personal finances of legislators and key state employees. This is now the strongest feature of the new law.

Weaknesses: The legislation requires that any employee with income of more than \$30,000 a year file a public disclosure form. Even many of those who make more than \$30,000 a year have little political influence, and a significant portion of those making less are in important policy-making positions or deal with confidential matters about which conflicts of interest could easily arise. So a better test of what constitutes a "key" political position is needed.

Another weakness of the disclosure provision is that the information to be disclosed includes much not relevant to political corruption. For example, alimony payments of a state worker or legislator are not something about which the public needs to know. State workers and the thousands of others now required to report will be able to apply for exemptions from making such information public. But granting exemptions will require an ample bureaucracy vulnerable to the usual inertia, difficulties in updating and expunging data, and computer assisted error.

The Ethics Law forbids legislators and their staffs to have any conflict of interest and forbids

executive staff to lobby state government for several years after leaving office.

Weakness: Executive staff had never been permitted to come back to lobby on an issue on which they had legislative or policy input. While the new law strengthens this prohibition, it does not extend it to the legislative branch. A member of the legislative staff can resign in December and lobby during the very next session in January, advising people on policies and strategies in the session he or she had just helped to plan.

The Ethics Law prohibits legislators, party officers, or their partners from practicing law before state tribunals and agencies.

Legislators and party officers have to show that they do not benefit from that portion of income their law firm receives for cases their partners bring before government agencies, tribunals, and regulatory bodies. Law firms with which public officials are associated must submit categorized lists of their clients.

Weakness: The legislation does not bar profits coming to the firm, and so to the legislator, because he is a partner in the firm. Lobbyist still have an incentive to give business to a legislator's firm as a way of getting on the legislator's good side.

The Ethics Law bars state part officials from simultaneously holding a state job. Weaknesses: While state party officials are thus barred, local party leaders, are not. Yet, in most of the recent corruption scandals, it was the local (county or borough) official or party leader who was

corrupted. For example, in the Biaggi scandal which reached into the U.S. Congress, Brooklyn party official Expositowas in the hot seat.

The Ethics Law gives the Ethics Commission considerable independence. The compromise bill held up the session several weeks while haggling continued over whether the Governor or the Legislature would appoint Ethics Commission members. In the end, each branch executive, legislative, and judicial was given independent powers of appointment.

Once this legislation takes effect in 1989, the power to punish those who have been corrupted in the specific new areas covered by the law, rests not with the prosecutors, but with the Executive Ethics Commission. The twenty-one Commission members, nine members of the review boards (for hearing appeals), and the exemption-granting committee members will deal with and sometimes represent the three branches of government. At least three members of the legislative commission are specifically selected for the reason that they are (and were) not legislators, and do not represent legislators; they are to "have no ties to the legislature."

Weaknesses: A district attorney will have no power to do his traditional job with regard to the new ethics requirements and prohibitions unless expressly asked to do so in a particular case by the legislatively appointed commission. Failure to file financial disclosure statements or false disclosure must, further, be shown to have been not only willful but also done with intent to deceive. This situation, according to journalist Alan Chartock,

constitutes a situation in which "the fox is left to guard the henhouse."

"Why Teach Ethics?"

Louis C. Gawthrop, Weston School of Theology, Cambridge, MA

In case anyone has not noticed, faculties of professional schools are under fire. The question being posed with increasing urgency is why students are being prepared to enter into the professions without adequate training in ethical decision making. We have become superbly expert in training our students as to what they can do; and as a consequence these young professionals are anxious to attack the 21st century with a vengeance. But we have failed to prepare these same students to decide what they should do when faced with the improprieties of financial manipulation, the agonies of the homeless, or the invidiousness of functional illiteracy. The extent of our ethical knowledge, as noted by the venerable Earl Latham many years ago, "is roughly at about the stage medicine was in when the cure for typhoid was a ritual dance by a man with deer horns and a rattle." (Employment Forum, April 1947).

If not much has changed since then, is it not reasonable to conclude that we may be asking the wrong question? Rather than discussing how young professionals are to be taught to calculate the value of ethical variables in the strategy of decision making, maybe we

should wonder if ethical decision making should be discussed at all in the professional schools. Why even attempt to teach ethics if the gap between theory and practice is roughly comparable to the gap between the space explorer and the witch doctor? And, indeed, even if one is inclined to insist on the universal value of formal ethical training in the professional schools, can the gap between that which t can do and that which I should do ever be closed? In other words, why bother about the "should" if, in the final analysis, what I will do is determined solely by the calculable strategies of what I can do?

One homey strategy for decision making in political circles is eloquent in its simplicity: Who's glad? How glad? Who's mad? How mad? What this basic dogma of prudential pragmatism has to recommend it self is that it makes the decision maker critically conscious of the political realities of policies, programs, and organizational operations. But even the most savvy political realist would admit that the answers to this pragmatic formula cannot be taught; they can only be learned by those who are always consciously aware of its all pervasive presence and importance.

Much the same, it would seem, can be said about ethics. If our future professionals, who are now being trained to guide society into the 21st century, are to consider the ethical ramifications of their decisions, now is the time for them to develop an abiding and all-pervasive ethical sense in the same manner the political pragmatists have honed their intuitive sense of human self-interest. Unfortunately, the latter sense is much easier to develop

than the former, which probably explains why there are many more pragmatic professionals in our society than there are those who could be considered ethically mature.

If one is to develop an active ethical sense, a critical consciousness that can be focused on the professional domain, one must accept at least these three propositions: First, no policy, program, or operation is value neutral when it is implemented; second, every policy, program, and operation has a discernible subjective impact (positive or negative) on the lives of other human beings; and third, the responsibility for the effects of the impact rests with those who by virtue of their professional authority (i.e., accredited competence) are directly or indirectly in valued in the decision making enterprise. Accepting these three propositions is frequently very difficult. That ethics cannot be discussed apart from the notion of personal responsibility is a radical proposition. That is why the responses most frequently invoked to disavow the relationship between ethics and responsibility-i.e., variations on the theme, "Am I my brother's keeper?"-actually form the keystone of the "ethics" that comprise the pragmatism of the political realists.

"Am I my brother's keeper?" is not an idle, metaphysical speculation. To be sure, in various religious traditions the answer to this question carries with it profound theological implications, but the question's specific purpose is to focus our attention on performance, not promise; on actions, not intentions; and on individual responsibility, not

aggregate, neutrality.

Herman Wank was tremendously successful in transposing the Genesis story of Cain and Abel to a literary masterpiece entitled *The Cain Mutiny*, but he provided not definitive answer to the perennial biblical query. Rather, in masterful fashion he skillfully and subtly moved the question, deeply buried in the essence of our being, into the present reality. Wank saw the paradox that was involved; one can learn that which cannot be taught. As a consequence, in focusing our attention on the question, "Am I my brother's keeper?", Wank forced his readers to develop and refine their own "answers" which, in effect, amounted to nothing more than the emergence of a conscious awareness that ethics and responsibility are indivisible.

In preparing our students for the professions, we lack the skill and subtlety of a Herman Wank. Many of the millions who read his book, saw the play (*The Cain Mutiny* Court Martial) or the movie, came to the uncomfortable realization that the notion of individual ethical responsibility is not absolved by hierarchical systems. No one who embarks on the U.S.S. *Caine* can avoid confronting the eternal verity of ethics: contrary to another basic dogma of the pragmatists, the buck doesn't stop at the top.

The death bed scene of another famous literary giant, Gertrude Stein, should be juxtaposed with the Cain and Abel story in every student's mind. As her devoted disciples purportedly gathered around her bed, one especially distraught follower is supposed to have burst out in utter despair: "Oh, Miss Stein, what is the answer?" Gertrude Stein's answer

was a question: "What is the question?" The title of this article is also a question: "Why teach ethics?" Like Gertrude Stein's question, mine is more of a challenge than a question in search of an answer. It is a question in search of a questioner, a listener, a hearer. Its only value is in the asking.

The eminent man of letters Lord Chesterfield noted long ago that the world will never suffer from the want of wonders but only from the want of wonder. Can we begin to wonder what it means to confront the question, "Am I my brother's keeper?" To pose this question inevitably leads us to wonder, "Why teach ethics?". Exploring these queries critically might lead us to wonder further-about ourselves as responsible human beings, for instance. In the process we may learn much about ourselves as individuals and as professionals and, indeed, we may begin to wonder if we have not learned more than we care to know. The kind of freedom that is attached to ethical maturity is not bought cheaply; indeed, the ethical immaturity of the pragmatists is seemingly costless by comparison. If one can penetrate this awful deceptiveness of the political realists, one has learned what could never be taught.

"Ethical Dilemmas Faced by Honest Public Officials"

Dick Simpson, University of Illinois Chicago

As a former Chicago alderman, I

am often asked about ethical dilemmas faced by public officials. Since more than a dozen of my former City Council colleagues have gone to jail over the past two decades, it does seem that public officials in Chicago have a hard time determining how they should act. Yet, in fact, they face few hard ethical choices.

The easiest ethical dilemma to decide is outright bribery. Taking money in exchange for a vote or administrative decision in government is not only immoral, it is illegal. However, there are subtleties. First, there is the difference between what George Washington Plunkitt of New York's Tammany Machine called "honest" and "dishonest" graft. Dishonest graft in Chicago is receiving an envelope with \$500 in small, unmarked bills in return for getting a zoning change through the City Council. "Honest graft" is when your law firm gets paid large legal fees for a minor job or your insurance firm writes a million dollar business policy in return for the same zoning change. Or better yet, you just happen to buy land that the government will need to purchase later for a yet unannounced park or highway.

The solution to these ethical dilemmas is very simple: Cast no vote on any issue in which you have a material interest. You can simply abstain and make your interest in the legislation or administrative policy a matter of public record. Why is this so difficult for public officials in Chicago? Because the Chicago Democratic Machine is built on the exchange that voters make of their votes for favors (government services) and that precinct captains make of their precinct work for government jobs. The

distinction between these transactions, by which machine politicians come to power, and the exchange of their vote for cash payments is hard for them to understand.

There are more substantial ethical dilemmas for public officials. Should they accept campaign contributions or gifts from individuals or businesses they have helped in the past as part of their governmental duties? Generally speaking, the answer is no but there are gradations to be considered. What about small Christmas gifts, for instance? The simplest solution to the dilemma was developed by former alderman and U.S. Senator Paul Douglas fifty years ago. He recommended that public officials set a low limit-in today's economy perhaps \$25-and reject gifts over the set amount with a letter of explanation. As to campaign contributions, a public official or candidate should personally monitor all campaign contributions and reject any from individuals or businesses with legislation pending (such as proposed zoning changes or liquor licenses) or from constituents who have had ordinances passed within a set period of time.

These ethical problems are straight forward and easily solved. But public officials also have to decide between two good laws or between mildly positive legislative victories to be achieved by compromise and a less sure opportunity of an even better result in the long run. As leader of the small opposition bloc in the Daley and Bilandic dominated City Councils, I found this to be a less difficult problem than it might appear.

The problem arises most often in

voting for the city budget. Should an alderman favor street repair needed by many people or more food for the hungry needed more desperately by a few people? Even with a \$2 billion city budget, choices must be made. Not all programs, even if needed, can be fully funded.

While I often fought for better street repair and general city services, I always felt that my job as alderman was to fight for the poor who didn't have the clout in city hall to get their fair share of the city budget. But I always knew there was plenty of waste in the patronage-bloated city budget to cover the costs of both street repair and help for the poor. If I had been mayor and had had an obligation to balance the budget and keep all political forces happy, I might have voted differently, but I doubt it. As long as the waste in the budget was great, I felt free to advocate strongly both the needs of the poor and better city services for everyone.

The problem of when to compromise is harder. For example, if the city administration would give \$3 million to support emergency shelters for the homeless now but \$10 million is the funding really needed, should a public official accept the \$3 million and vote for the budget? Honest, reasonable public officials differ and can justify their position by examples of public accomplishments. The true answer is sometimes yes and sometimes no-it depends on what is at stake in a particular decision.

In general, however, I am convinced that public officials should start by advocating the more radical position in government and compromise only

when it is clear that no more can be won. Most public officials capitulate too easily in the hope of gaining more power and higher office for themselves. The most important role of a public official is to demand major changes in public policy and to formulate strategies by which they could be achieved. The best public officials leave a legacy to be enacted by others long after they leave public office. The test of public service is not the immediate compromise but the long term shift of public policy.

Possibly the most difficult thing for a public official, as it is for most of us, is to go against unspoken norms. Very early in my first term as alderman, Mayor Daley proposed Tom Keane, Jr. (son of the most powerful alderman in the City Council and Daley's floor leader) for a seat on the Zoning Board of Appeals. Compounding the nepotism was a conflict of interest. Tom Keane, Jr. was also Vice-President of Arthur Rubloff Company, one of the most powerful real estate developers in Chicago.

I was alone in opposing the appointment. Council norms dictated that action involving another alderman's family should not be questioned.

Having violated the norm once, I found future efforts to raise embarrassing questions in the City Council much easier. Questioning this appointment, which would otherwise have gone unquestioned, helped to undermine public support of a machine built on nepotism and favoritism. Sometimes good ethics is also good politics.

"Ethics in Chicago" Harriet McCullough, City of Chicago

First they grin. Then they laugh and ask, "Are you serious?"

This is the usual response I receive when I tell people I am the Executive Director of the City of Chicago Board of Ethics.

I've now been in this position for sixteen months. There have been, and continue to be, major hurdles to overcome. First is the challenge to be taken seriously.

In January, 1986, Mayor Harold Washington issued an Executive Order on Ethics. Since the Mayor was serious about Ethics, many City employees became concerned about abiding by the new Code of Conduct. However, Executive Orders can't cover aldermen, so there was little need for members of the City Council to be concerned.

Several thousand employees filed Statements of Financial Interests, as required by the Executive Order. The Mayor appointed a seven-member Board of Ethics. Staff was hired and an office was set up. Requests for advisory opinions on the application and interpretation of the Code of Conduct began to arrive. The major issues were: free travel, gifts, employment of relatives, and post-employment restrictions.

At the same time, civic leaders had been drafting and lobbying for an Ethics Ordinance which, as part of the Municipal Code, would cover elected and appointed officials as well as the City workforce. Even the most idealistic had trouble believing it

would be possible to get such an Ordinance passed by the Chicago City Council. Cynics just shook their heads.

However, late in January, 1987, the Ordinance was brought before the Committee on Rules. During a grueling eight hour session, fifteen amendments were attached to the Ordinance. Most were bearable. Some horrible amendments were defeated. One amendment changed jurisdiction over aldermen from the Board of Ethics to a City Council Committee. Ironically, four aldermen in the hearing room were under indictment for accepting bribes.

Days later, just before the primary election, the Mayor forced the full City Council to take a vote on this Ethics Ordinance. This Council meeting started four and one half hours late because some aldermen were trying to get the Mayor to hold back the Ordinance. He insisted. Some spoke vehemently against the bill, while others supported it. Finally, there was a vote. An Ethics Ordinance, with an effective date of July 1, 1987, was approved by City Council with a vote of 49-0.

For several months, we continued to work under the Executive Order on Ethics while planning the implementation of the Ethics Ordinance. The staff was gearing up for the change on July 1. But May came first.

With the election over, members of the City Council were now in office for four years. Many began to look at the Ethics Ordinance. They thought Ethics was a good idea for somebody else. For anybody else-but not for themselves.

Some aldermen honestly said they didn't want any Ethics Ordinance. Others argued they didn't need an Ethics Ordinance. Still others just complained about features of the Ordinance. When asked for specific suggestions for changes, the constant refrain was to postpone the effective date and study the issue more. They succeeded in postponing the effective date for one month to August 1, 1987. One alderman had suggested an effective date of 1990.

In this go-round, there were twelve amendments. Some were clarifying amendments offered by the Board of Ethics. The staff of the Board of Ethics was directed to hold seminars for members of City Council to train them on the Code of Conduct contained in the Ordinance. Some aldermen admitted they had never read the Ordinance. Some were seriously interested in how it would affect them.

Again, the staff geared up for an implementation date (August 1). At a July 29 City Council meeting, a parliamentary move was made to change the effective date of the Ordinance from August 1, 1987 to January 1, 1988. Because of Council rules, this maneuver needed thirty-four votes. It fell three votes short.

August first came. August first went. The City of Chicago did not cease to operate because there was an Ethics Ordinance in place. City Hall did not cave in.

Business has continued. But not quite as usual. A new Board of Ethics was appointed by the Mayor and approved by the City Council. They began meeting on a monthly basis. More than one

hundred cases have been presented to the Executive Order Board and the Ordinance Board so far this year. Investigations are done. Summaries are written. Opinions are rendered by the Board.

Thus, change has occurred in the government of Chicago. Some people stop before they take action or accept something and ask whether the action or activity is legal and appropriate. Now, with a Board of Ethics, they have a place to go with their questions.

But the battle is not over yet. Rumbles can still be heard from Council Chambers in City Hall. Amendments have been suggested which would weaken the Ordinance. There seemed to be a rush to make some changes. And, yet again, the benefit of "timing" in politics came to the rescue of the Ethics Ordinance. Just as the looming presence of the primary election helped in the passage of the Ordinance, the publication of a newspaper series quieted the rumbles. The Chicago Tribune released a major series on corruption among members of City Council.

I do not doubt that the desire to weaken, mutilate, or eliminate the Ethics Ordinance still exists within City Council. But the rush to do so has faded.

We are "not out of the woods yet." Since this is Chicago, a city which has taken a perverse pride in its corrupt history, I am just not willing to guess how long this process will take. And yet, the amazing fact is that the process has begun. I believe there will be a continual struggle. But I also believe that the benefits of having an Ethics Ordinance will

ultimately win.

Postscript: This article was completed November 24, 1987, the day before Mayor Harold Washington died.

"Announcements"

CSEP BOOKS. The following books and monographs are now available through the Center at the prices indicated. Handling and shipping included. Please include payment with order. We cannot afford to bill. Make checks payable to CSEP

- Beyond Whistleblowing, 2nd Printing, \$7.00.
- A Selected Annotated Bibliography of Professional Ethics and Social Responsibility in Engineering, Ladenson et al. 1980, outline of field and annotations still provides a useful starting point. \$4.00
- Professional Responsibility for Harmful Actions, Curd and May. \$7.45.
- The Moral Status of Loyalty, Baron. \$6.95.
- A Critical Examination of RiskBenefit Analysis in Decisions Concerning Public Safety and Health, Sagoff. \$6.95.
- Technology Assessment: A Historical Approach, Cameron and Millard. \$6.95.
- Whistleblowing: Ethical and Legal Issues in Expressing Dissent, Petersen and Farrell. \$6.95.

• Conflicts of Interest in Engineering, Wells, Jones and Davis. \$7.95.

BOOK.

• William C. Frederick (ed) Research in Corporate Social Performance and Policy: Empirical Studies of Business Ethics and Values, v. 9 (Greenwich, Conn.: JAI Press, 1987). Ten articles include report on empirical studies of moral reasoning in work-related conflicts; ethical climate in organizations; organizational factors conclusive to crime; the relation of corporate crime and codes of ethics; a comparison of the values of corporate managers, union members, and community activists; methodological issues of workvalues measurement; ethical aspects of cognitive ability tests; the relation of employee assistance programs and corporate social responsibility; and a national survey of the current status of research on business ethics and values in the United States.

• Larry May, The Morality of Groups: Collective Responsibility, Group-Based Harm, and Corporate Rights (Notre Dame University Press: Notre Dame, 1987), attacks each of the three traditional modes of understanding organizational ethics-individualism, collectivism, and holism-as it explores the logic of group morality. Looking at groups as diverse as mobs, ethnic groups, and corporations, it argues that a

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