Chapter 8
The Professions

Abstract
Transactions with professional people differ in that they claim to be acting disinterestedly and not to be concerned to make a profit. Although it is difficult to give a completely satisfactory account of disinterestedness and benevolence in terms of the Theory of Games, it is clear that such conduct is possible. The professional ideal, however, is difficult to realise, in view of the fact that professional people are human, with human wants and needs, and only limited time and resources available to them. In a monetary economy they need to be paid, sometimes by providing them with a salary from outside sources, sometimes by their charging fees. Both methods have their disadvantages, and can in the course of time lead to a loss of professional idealism. There is a fundamental clash between the professional’s fiduciary role, doing what is best in his judgement for the client, patient, pupil, or parishioner, and identifying with the individual so completely as to do what he happens to want. Recent attacks on the professions have emphasized the importance of consumer choice, but failed to recognise the need for reliable guidance and the importance of the fiduciary role.

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1 Does it look better to have the abstract above the contents?

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§8.1 The Professional Ethos

The professions present an important contrast with business. Whereas business transactions are avowedly bargains between parties with different priorities associating together for the benefit of each, the professional man distances himself from his own self-interest, and tries to do what in his judgement is best from the other’s point of view. There are obvious practical difficulties in realising this ideal, but deep theoretical ones, too, in articulating it coherently. In one way it seems to be carrying to its logical conclusion the necessary concern with the other’s point of view that is implicit in all business transactions, and many types of business aspire to professional status, and seek to establish themselves as proper professions. But besides difficulties over remuneration, there is the deeper one of how far it is possible to treat a particular individual as a particular individual and to know better than he does what he really wants. Between the ethos of the professions and that of business there is a dialectic which brings out not only the weaknesses of the business ethos, but also its strengths.

§8.2 Benevolence

Adam Smith erred in denying the effectiveness of benevolence. Although I am the only person who can take the ultimate decision about what I shall do, I do not have to decide selfishly, or pursue my own third-personal interests. Not only may my first-personal interests diverge from the third-personal interests that can be standardly ascribed to me, but I can change the pay-offs I ascribe to outcomes in the light of the pay-offs of others. It had not mattered to me at all where the harried mother with two toddlers took herself, but when she asked me the way to the bus station, it became an objective of mine to accompany her a short distance and set her on her way. In a family although I may distinguish my own interest from my brother’s, I nevertheless rate his good highly, and what is good for him is *eo ipso* fairly good for me too. St Augustine, lamenting the death of his son, Adeodatus, said he was the only person in the world whom he wanted to do better than

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2 See above, ch.1, §5 (interests) p.10 of Adam4
himself.\textsuperscript{3} It is a familiar theme, difficult to do justice to within the framework of the theory of games. Once we start incorporating into the pay-offs of one the pay-offs of another, we are in danger of embarking on an infinite regress. It may be all right for me to add to my pay-off 90\% of my brother’s, and \textit{vice versa}, but we may then each take account of the other’s adjusted pay-off, and do so again and again, \textit{ad infinitum}; indeed, if we were each 100\% altruistic, we should both adjust to infinite pay-offs. We need to insist on some, slightly artificial, distribution between primary and all-in-all evaluations, so that it rated highly in Augustine’s primary evaluation that he, Augustine, should be rich and successful, and rated highly in that of his son, Adeodatus, that he, Adeodatus, should be, but it would have been rated even more highly in Augustine’s all-in-all evaluation that Adeodatus should have lived to be rich and successful. Rather crudely, we can characterize the all-in-all evaluation of the benevolent man as assigning the same pay-offs to outcomes as are assigned by those most concerned. He is, so to speak, the mirror image of a public good, which is an outcome that is assigned the same pay-off by all concerned: (the symmetry is not perfect, because the benevolent man assigns a greater pay-off to outcomes that I value than are assigned by others, different from me and less benevolent than him). But whatever the difficulties in giving a games-theoretical analysis, the practice is easy. Most of us are benevolent some of the time, and many of us have been the beneficiaries of much beneficence from others.

Some benevolence is institutionalised. Charitable associations, notably the Church, set out to minister to the needs of people generally: the Church provides pastoral care and spiritual counsel, and in the ancient and mediæval world also education and medical care. The modern professions stem from the mediæval ideal of dedication to providing for the needs of others in certain respects. Whereas in the ordinary business transaction the parties do not naturally have a common objective, and only by means of a transfer of money can they construct a package that both want to bring about, in a professional relationship the professional man and his client have a common objective which they both want to achieve in the ordinary course of events. The doctor and the patient both want the patient to be restored to health; the schoolmaster and the pupil both want the pupil to learn and achieve a proper understanding of the subject; the priest wants the penitent to achieve a right relationship with God as much as the penitent does. The sense of shared objective colours all our perceptions of the professions, and these in turn colour our expectations in other cases, and, in particular, give rise to adverse views about trade, motivated solely by the desire for profit, as contrasted with the professions, animated by motives altogether higher and purer.

\textsuperscript{3} St Augustine, \textit{Confessions}, RefReq.
§8.3 The Oldest Profession

‘Motives altogether higher and purer’ sounds good, but then we begin to wonder. Are they really doing it for love? If so, why do they charge fees, sometimes quite substantial ones? There is a suspicion not just of hypocrisy, but of something worse. The butcher’s meat is not tainted by his selling it for money, but some actions, those whose value lies in what they signify as much as in what they effect, are compromised, or even corrupted, by being done for money. The Franciscan friar gives freely, demanding no money in return. The priest ministers to his flock for love, not for money. The doctor heals the sick because they are sick. The teacher has an understanding to impart, loves the young, and wants them to develop their full potential. These are admirable motives, which we can all respect. We naturally draw a contrast between actions done out of these motives and those done for the sake of money, and begin to look askance at the profit motive, and wonder if those who do things for money are not prostituting their talents—the talented artist or writer who spends his time working for an advertising agency, is he not prostituting himself, in devoting his God-given talents to making money instead of expressing himself unconstrained by thoughts of filthy lucre? A priest who absolves me from my sins and then asks for a fee makes me doubt the validity of his actions. The integrity of the professional’s professed dedication is compromised by any mention of money. It must be done disinterestedly if it is to be any good, and disinterestedness is destroyed by pecuniary interest.4

4 The words ‘disinterested’, ‘disinterestedly’ and ‘disinterestedness’ are being used in their traditional sense of denying a third-personal interest, but not a first-personal one. See footnote §1.4 pp.14-15 of March 95]
§8.4 Disinterestedness

The disinterestedness of the professions was expressed in terms of shared values. The surgeon, anaesthetist and nurses set great store on the operation’s being successful. Each individual patient’s good matters greatly to the doctor; the spiritual welfare of his flock is the prime concern of the pastor; the teacher cares greatly for his pupils’ success. There is no significant divergence of values in their ministrations, as there is in the paradigm business transaction. The community of interest makes their association more a family affair than a business one. Although the association may be only temporary, while it lasts they are members of the same community, sharing the same concerns, cooperating together in order to realise the same values. The pupil in his efforts to learn is pleasing his teacher just as he appreciates his teacher’s efforts to help him. They both want him to be able to solve differential equations, write Greek verses, or remember the dates of the Kings of England.

But the community of interest is not complete. As sometimes in a family and always in a firm there are some divergences of values which cannot be completely overlooked. It costs the professional something to render his services. Time is limited. If the doctor attends to me, he is not doing other things he might want or need to do: he is not playing golf, not mending his car, not cooking his supper. Given enough money, he can pay others to mend his car, cook his supper, and in a world where few people are clever enough to be doctors and it takes a long time to train them, it is eminently sensible that they should be given enough money to be able to devote the bulk of their waking hours to keeping us healthy. That money must be provided somehow. In Britain it has been, at least until recently, a national concern to provide a health service for everybody. Teachers are commonly employed by schools, and the school constitutes the community which provides enough to free the teachers from the need to earn their living elsewhere. Clergymen of the Church of England hold benefices, originally endowed by the benefactions of long ago, and in return for a (somewhat exiguous) stipend hold themselves in readiness to serve the spiritual needs of any of God’s children at any time, and in particular to look after their parishioners. In each case there is some recognition that complete disinterestedness cannot be sustained by a human being over long period of time, because he has needs of his own which
must be met if he is to give himself to the implementation of the values of his profession.

In the modern world we often pay stipends to professional men, the difference of terminology signifying the different basis on which it is paid. A stipend is not a reward. It is not performance-related pay. Nor is it a bargain. Rather, it is an enabling: the stipend is paid in order that the person to whom it is paid need not spend time on his personal concerns, but can devote himself entirely to his profession. The difference is shown by the different reactions to not needing to earn a living. Occasionally clergymen, schoolmasters, academics, or doctors have come into a fortune. They do not thereupon throw up their profession, and go to live a life of ease, but continue as before, though in a more affluent way. We find this quite natural, whereas we should be considerably surprised if a car salesman on winning the pools returned to the showroom.

§8.5 Professional Pay

Many people in modern Britain believe that clergymen, nurses, teachers, academics and social workers ought to be content with the bare necessities of life, since they have rewarding jobs. There is some force in this argument. They have the privilege of doing what they would want to do anyhow. They are not in it for the money, so there is no need to pay them. The monks did without money, wife, or family, requiring only food, raiment, and shelter; but though we sometimes expect others to practise apostolic poverty, we are less keen to embrace it ourselves, and there are disadvantages in requiring it of others. People with very little money spend a long time eking it out. The clergyman cannot afford to take his car to the garage to be serviced, so he does it himself, when he might have been visiting the sick. The schoolmaster cannot afford to buy new books, so he waits until he can get them from the public library but finds it closed on the one day he goes into town. Apostolic poverty was a feasible option in first-century Palestine, with a rural economy in which money did not play a crucial role, but is hampering in a twentieth-century society of bus fares and credit cards. If professional people are to play any normal part in society, they have to be monied like everybody else. It is neither sensible nor just in a rich society to think that because teachers have a vocation to teach, therefore they ought to be paid a pittance.
There is a further difficulty. Many people have a vocation to marriage and family life as well as to some professional calling. And they are understandably reluctant to embrace apostolic poverty on behalf of their wife and future children. It is possible, as in the Church of Rome, to make it a clear choice, and insist on the celibacy of the clergy. Some will then choose marriage rather than the priesthood, and there may be a shortage of those willing to give up all prospect of marriage and children in order to minister to others. If we insisted that dons, doctors, or schoolteachers, should remain celibate, we should be unlikely to staff our universities, Health Service, or schools. Moreover, as again the Church of Rome has found, those willing to remain celibate do not always fare well. There are genuine advantages of celibacy, in the mission field, in slum parishes, and, quite differently, in the Oxford and Cambridge Colleges of yester-year, but disadvantages too. The married clergyman with his family has more points of contact with his parishioners, and a greater experience of the problems of family life, the married schoolteacher less tempted by the advances of precocious adolescents, the married social worker a stable base of normality as a refuge from the intractable problems of the deprived and the depraved. Celibacy, though suitable for a season for some, and as a life-long vocation for others, is neither suitable for all, nor desirable as a general rule in the professions.

But if professional people are not to be celibate, then we ought not to wish on the vicar’s family a very low standard of living. We have to adjust the level upwards to some sort of going rate. What that should be is again a matter of dispute. Some think that the families of the clergy and of social workers should be as poor as the poorest of those they minister to, in order to show a greater sense of identification and to secure that those ministered to should not have occasion to envy them their easy life. This may be appropriate in some circumstances, but the considerations adduced are not all that compelling, and we should be chary of vicariously embracing poverty on others’ behalf in order to manifest their identification, or to assuage the supposed envy of yet others. Often the standard of comparison should be with other families with less dedicated fathers: “If father had been an income-tax inspector instead of a schoolmaster, we would have been able to go to the pantomime at Christmas” is the line of thought we need to ponder. Precise answers will not be forthcoming: circumstances are too complex and varied for any precise rule to be valid. But questions on behalf of the family may help us not to take professional dedication as a reason for short-changing their families.
§8.6 Benefices and Fees

Two ways of paying professional people have been tried. Both have disadvantages. We may make a rigid separation between the payment of a stipend and the performance of specific duties. We appoint someone to a post, with a definite stipend and a somewhat indefinite job-description attached, leaving it to him to do the best he can. The stipend provides him with, in the terminology of the old Church of England, a “living”. Livings, or benefices, often financed by some benefaction of long ago, enable the incumbent to devote himself entirely to his calling without having to concern himself with winning his daily bread. Academic posts are the modern equivalent, and so, until recently, were many jobs in the National Health Service. In each case the service was free at the point of delivery. No money passes, and there is no suggestion of impurity of motive, that the professional only did it for money, and would not have done it if we had not been in a position to pay. The relationship satisfies an ideal of a cashless world of shared values and disinterested action in which there is no conflict of interest or sense of awkwardness.

Such an ideal is intelligible, and can be realised, up to a point. But the old Adam remains active, and over the years the separate interests of the different parties tend to reassert themselves to the detriment of all. We, the beneficiaries, tend to contribute less than we should: nurses, like teachers, give their services free at the point of delivery, and like them are paid less than secretaries and administrators who are not expected to work for love. But also we, the professionals, tend to attenuate the connexion between salary received and services to be rendered, and we may let ourselves off lightly as regards our duties while being zealous in defence of our rights. It happened in the Church of England over the centuries, and in the National Health Service over a few decades, where many employees became keener on keeping up their pay than looking after their patients. Restrictive practices grew up, the unions started to strike, and the patients began to lose out.

The other way of paying professional people is through fees. It also appeals to a moral sentiment, though a different one. The community of interest that underlies the professional relationship is incomplete in two directions: not only does it impose some cost on the professional, but the recipient of professional attention is benefited in a peculiarly personal sense. The surgeon, anaesthetist and
nurses set great store on the operation’s being successful, but not as much as I do, if I am the patient. I cannot, as an agent, not be concerned with my survival and future ability to do things, whereas they could be. It is out of the goodness of their hearts, not of their self-interest, that they are dedicated to making me better. Even in the Adeodatus case,⁵ where someone seeks another’s good in preference to his own, there is the modal difference, that the concern for the other is a commitment of his that he could have made differently, whereas concern for himself is a necessity of his being. It is this difference that justifies us in imputing third-personal interests even in the absence of consultation or first-personal avowal.⁶

Thus in spite of the shared values that form the basis of the cooperative association between the professional man and his client, there is an inevitable imbalance of interest in that the client is obtaining a personal benefit peculiarly his own, and the professional man is giving up time which he could have put to other uses. Greatly though the doctors and nurses valued my coming through the operation, I valued it more, and at the end of my stay I may well want to express my gratitude in words to the doctors and with flowers for the nurses. Monetary payments are a more tangible token of gratitude. And hence corresponding to the need for the professional to be paid enough to live on, there is a willingness on the part of those benefited by his attentions to contribute. In default of other arrangements, the payment of a fee fits both halves of the transaction, and has often proved a reasonably satisfactory basis for professional work.

But we feel uneasy, and often find ways of not handing over cash, as we would to a tradesman. We make a donation to the research fund, the school appeal, the parish funds. Although we have benefited, and the professional man ought to enabled to live, and indeed, to live well, we fear to contaminate the gift relationship of his disinterested attention to our needs with monetary payment. Even where monetary payment is the accepted practice, professional people like to be very late in sending their bill in, hoping that the time interval will somehow sever the connexion between services rendered and money demanded; and in time past used to render their account in guineas rather than £ sterling, to express the notion that what was asked for was not a crude commercial

⁵ See above, §1.

payment, but a gentlemanly token of gratitude and esteem. There is an awkwardness about fees, not adequately dealt with by most professions. Although, as we shall see, the professional man takes on the obligation of considering the client’s interest rather than his own, thus creating the shared value that is the basis of the relationship, when it comes to the payment of fees, it is their interests, not the client’s, that are being served. Although it is quite right that one should pay for good advice—far better than to be given it “free” by an financial adviser who is paid a commission on the insurance policies he sells, and has an interest in persuading the customer to buy one—the adversative\(^7\) element of having to fork out nevertheless sits ill with the community of interests professed.

The adversative aspect is increased when the client is left in the dark as to what he is letting himself in for. Often, in fact, there is a scale of professional charges, so that there is no bargaining process, and no question of the professional taking advantage of the client’s ignorance and generally weak bargaining position. But it does not feel like that if the client does not know where he stands. Some professions set a fixed scale of charges, and publish them: some partnerships take care to state in advance what an initial consultation will cost, and the basis on which other services are charged. These are good practices, and go far to remove the adversative aspect of their professional dealings with clients.

\(^7\) The Concise Oxford has ‘adversative’ but not ‘adversarial’: check further for exact difference.
§8.7 The Fiduciary Role

We are now in a position to refine our account of professional ethics: the ideal of absolute disinterestedness cannot be sustained in our sublunary world in which people have to live; but granted some reasonable and controlled concessions to the need to earn a living, a professional man can be required to subordinate any interest he may have to the interests of his clients. He should occupy a fiduciary role, which stands *caveat emptor* on its head. The professional man, because he has professional knowledge and knows his client’s interests better than the client can know them himself, puts his knowledge completely at his clients’ disposal, and gives him the advice that is best from his client’s point of view, even though it may be against his own personal interests. The rich Arab patient comes to me, a Harley Street surgeon, complaining of pains in his abdomen. I examine him carefully, and come to the conclusion that it is only heartburn due to over-indulgence after the end of Ramadan. I tell him that no treatment is necessary: there is no need for an operation, no need for an X-ray, no need for expensive treatment, although I could have sold him all these; he is still not completely re-assured. I tell him that he could have a barium meal and an X-ray to make absolutely sure that there is no cancer starting up in the oesophagus, although my own opinion is that it is not really necessary. The ultimate decision is his, but the advice he gets from me is in what I take to be his interests, not mine.

Similarly with the solicitor. A would-be client steams in, wanting to sue a taxi-driver for not stopping to pick him up. Although the case is hopeless, it would be quite profitable for the solicitor. But he does not immediately take out a writ. He listens to the client patiently, writes down the taxi’s number, the client’s name and address, gives him some coffee, and when he has calmed down suggests a letter to the licensing authority instead, gradually bringing out that a court case would have no chance of success. Keeping the client out of court is good for clients, but bad business for lawyers.

In accepting the obligation to look after the client’s interests rather than his own, the professional man is not being “non-tuistic”. He is going much further than is expected of a businessman dealing with a potential customer. The businessman should

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8 Se above, ch.2, §2.4. (Thou and You); and (new) ch.7, §7.1 (Customers)
be offering something which would meet the standard requirements a customer could be expected to have, but is not required to go into the detailed personal circumstances of the individual customer, and advise him from his particular personal point of view. The professional man is. Of course, if the advice is rejected, he may then feel obliged to do what the client wants: a solicitor is prepared, ultimately, to act on instructions, but regards it as a failure on his part if he has not succeeded in dissuading the client from an inadvisable course. The doctor will often refuse to treat the patient in a way he regards as unnecessary or hazardous, though pointing him towards another doctor who will give a second opinion, and might be willing to do what is demanded. Some sense of the patient's being an autonomous being ought to be retained. Where there are dangerous or difficult choices, the doctor should take the patient into his confidence, and enable him to choose between treatments, none of them beyond all doubt the correct one. But, this important proviso made, we can say, as a first approximation, that whereas in business transactions the businessman should adopt a vousistic, but not a tuistic, attitude, the attitude of the professional man should be not merely vousistic, but tuistic as well.  

9 In some situations the professional man is not completely at the disposal of one individual, but has to consider others as well: the schoolmaster has to consider other pupils, the clergyman other parishioners. But the obligation of disinterestedness remains.
The distinction between *tu* and *vous* is not sharp, or always clear, and parallels the distinction between wants and needs. Many old-fashioned shop-keepers go some way to considering individual customers’ particular interests, advising customers not to make purchases that will not suit their personal circumstance. But it is old-fashioned shop-keepers who do, occupying an established *niche* in society, serving customers with known wants or predictable needs. It would not be feasible for a fashion house, or a dealer in CDs or videos, to do this, because he cannot know what they need, and only they can decide what they want.

The parallel between the two distinctions is the root cause also of our problems over payment. As we divorce the provision of professional services from the transfer of money, we also weaken its connexion with actual wants. The professional man acts in the interests of his client because the client is not in a position to know what his interests are. But the vicarious interests the professional man can impute to his client are fundamentally third-personal: they are what someone other than the client thinks the client needs, not what the client himself knows that he wants. And over the course of years the professional view can drift too far out of line with actual wants to be seen as genuine interests at all.10 Medically, perhaps, I ought to have a painful and debilitating operation that will postpone death by a few months, but actually I would rather die sooner, uncut up, at home. It suits the convenience of the hospital administration that I come into hospital next month, but I would rather go to my daughter’s wedding then. The patient has no leverage on services free at the point of delivery. He can take what is offered or leave it, but he is in the position of a needy supplicant who should be grateful for what is given him, but never insist that something else would, actually from his point of view, be better.

Needs and wants are inter-connected.11 Third-personal imputed interests are not interests at all unless they can, by and large, be seen as such in the end by the person concerned. Some opportunity of exercising idiosyncratic choice, of satisfying wants

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10 See above, ch.1, §1.4, p.10 of Adam4.

11 See ch.1, §1.4, p.9 of Adam4.doc fn 9.
that are not recognised as needs, must be preserved if the professional service is not to ossify. We can compare the ossification of the National Health Service in our time with the ossification of the Church of England in the eighteenth century, and the growth of BUPA and other private schemes with that of the Methodists and the other dissenting sects. There is no single solution. For the most part we are not conscious of idiosyncratic wants rather than standard needs, and welcome the guidance of the doctor, the priest, the schoolmaster, or academic, and respect him for his disinterested concern with us and for values we share; and then the provision of services free with no question of paying the professional man for what he does seems entirely appropriate. But occasions arise when we, either individually or collectively, are not content with what is being offered, and want to have things our own way, and are willing to accept a connexion between paying the piper and calling the tune. It is implausible to make out, as some free-marketeers have done in recent years, that this should be the norm; but implausible, too, to hold, as socialists have done in recent years and Establishmentarians in time past, that it is inherently wicked to allow money to buy such services. In fact, they not only act as a safety valve, but provide the free services with healthy competition and a valuable stimulus to innovate.\[12

\[12\] I am not sure if I have made this point sharply enough. In practice the professional man enters into dialogue with his client, and helps him to make up his own mind sensibly. But the antithesis between the existential I, who can be addressed as tu and the universal, rational vous, whose needs and interests can easily be known from outside, may need more discussion.
§8.9 Taking on the Professions

In recent years the British Government has been “taking on the professions”, regarding them as white-collar equivalents of trade Unions, running a cosy cartel restrict competition, keep up prices, and retain feather-bedding practices, against the public interest. It is difficult to deny these charges completely. Any visit to a court of law conveys a strong impression of overmanning. But it is important to recognise the value of the professional *ethos*, and unwise to suppose that opening up professional life to the rigours of competition and the bracing breezes of the market place will prove uniformly beneficial.

We need disinterested advice. We value disinterested concern. In the admass society our individuality is in danger of being swamped by the unindividualised concerns of market managers, interested in us only as units, and not a persons. The non-tuistic approach of commercial life cannot answer all our needs. Life would be poorer—and shorter—if we could not turn with confidence to a doctor, a priest, or an academic, in the knowledge that he would accept a fiduciary role, and give us not only standard good advice, but advice tailored to the best of his ability to our own, highly specific individual needs. The market cannot give grounds for justified confidence. As consumers, we lack the *expertise* to make a rational choice, or to think that others are able to. When buying a car, we know that each salesman is concerned to sell his wares, but we can consult *Which?* and the specialist magazines, ask friends, and if the car proves unsatisfactory, not go to that showroom again. We have only one life, only one soul, and cannot afford to learn by trial and error. We need guidance in fields where knowledge is beyond us, and not being able to attain it ourselves, need to know whom we can trust, so that we do not fall into the hands of charlatans.

The professions are not perfect. They have the opportunity of feathering their own nests, and feather-bedding their own members, and it is right to look for institutional checks to safeguard the interests of the public. But it is perverse not to recognise much high-mindedness in the professional *ethos*, and much devoted service to valuable ideals and the public good on the part of many professional people. And it would be short-sighted and a dereliction of public duty to destroy the professional *ethos* out of mistaken zeal for the competitive activities of the market place.