THE DUTIES OF A DOCTOR AS A CITIZEN*

BY

E. C. DAWSON, M.R.C.S.

The concept of the preservation of secrecy between doctor and patient is something that is accepted as a matter of course and is a basic factor in the doctor-patient relationship. The concept dates back to the teachings of Hippocrates, and is as much alive to-day in the minds both of doctors and of patients as ever before, even in the face of the massive interchange of confidential medical information that passes to and fro in the Welfare State.

In the course of his work the doctor daily learns from his patients much of their personal contacts and dealings with other people which help to build up the environment of their existence and about which he is often able to give helpful advice.

The occasion may arise when the patient's relationship with others may be such as to expose them to harm or danger. The duty of the doctor in such a case is to condemn the relationship and to use all his power to persuade the patient from taking any steps likely to harm other people. Such action on the doctor's part is usually successful. The patient, however, may stubbornly refuse to follow this advice, and he makes it quite clear that, in order to soften his own position, he intends to harden it for others to the extent of committing fraud or crime or of endangering life or health. The ordinary citizen placed in such a position would have a clear duty to take steps to prevent the commission of crime or to see that the offender was apprehended for punishment or the prevention of further crime. The doctor who learns of the circumstances through professional relationship is under an obligation of secrecy to remain silent, yet his moral inclinations and duty as a citizen urge him to do all in his power to prevent harm to others. His duty as a doctor is in direct conflict with his duty as a citizen.

The object of this paper is to examine the teachings of authority, the position in law, and the moral aspects involved in such circumstances and to analyse the replies to four specific questions bearing on the subject from representative groups of doctors and laymen.

In looking for guidance on the matter of professional secrecy, I propose to examine in turn any obligations of secrecy that doctors may have contracted, the requirements of the professional disciplinary body the General Medical Council, current medical policy as defined by the British Medical Association, and the position of the doctor in relation to the law.

Contracts of Professional Secrecy

The Hippocratic Oath¹ was originally an indenture binding the pupil to his master, and is thought to have been propounded about 400 B.C. The original version of the oath is lost, and the form now commonly accepted is a translation from a French version by Peter Lowe about the year 1599. The following passage is an extract from the oath: "Whatsoever in the course of practice I see or hear (or

outside my practice in social intercourse) that ought not to be published abroad, I will not divulge, but consider such things to be holy secrets."

In considering medical teaching of 2,000 years ago, a first thought must be whether it is out of date. A look at another passage in the oath which says, "I will impart a knowledge of the art to my own sons and to those of my teachers . . . but to none others," shows that at least some part of the oath is outdated. The ancient civilizations of Rome and Athens were of a different order from that of modern times, yet the spirit of the oath still lives, and to-day must be regarded not as a binding oath—for indeed I can find no evidence of any doctors having been formally bound by the oath—but as a teaching long accepted and retained by tradition and as a foundation on which modern medical ethics have been patterned.

Oath on Graduation

The Belfast and Scottish Universities at graduation ceremonies call upon their graduates to acknowledge the *Sponsio Academica*.¹ This is a formal promise or declaration first introduced by Edinburgh University in 1803. It is a declaration obviously patterned on the Hippocratic Oath, and has changed its form of words through the years, evidently to suit the changing conceptions of the times. Briefly it calls for loyalty to the university, a high standard of medical practice, and ends with these words: "That, whatever things seen or heard in the course of medical practice that ought not to be spoken of, I will not, save for weighty reason, divulge." It will be noted that the rule of medical secrecy allows exception if justified by "weighty reason."

An inquiry into the customs of a sample dozen English universities and colleges reveals that no oath or vow of professional conduct is called for from medical graduates with two exceptions. Birmingham University invites its newly qualified graduates voluntarily to sign a register acknowledging the Declaration of Geneva (see below), an invitation accepted by the vast majority of graduates. The Royal College of Surgeons requires its members to sign a declaration which imposes, in effect, honourable behaviour and loyalty to the College.

I think it would be true to say that most doctors have no clear conception of what oaths or vows of professional secrecy, if any, they have taken, or if a vow has been taken; its words and its significance are soon lost to conscious memory. The young doctor learns to conduct his practice on ethical lines by gradually acquiring the traditions of his profession from the example of his seniors.

The Declaration of Geneva² is an international code of ethics evolved by the World Medical Association in 1951. The aim of the association was to introduce an ethical code in the style of a modern Hippocratic Oath, acceptable to all member nations. The code was accepted by the British Medical Association, who in turn passed it over to the universities and colleges with a request that the acceptance of the code should be open to their newly qualified graduates. For one reason or another Birmingham University was the only body to adopt the code as a voluntary declaration. One passage of the declaration reads: "Except when required by the law of the country concerned a doctor shall not disclose without the consent of the patient, information which he has obtained in the course of his professional relationship with the patient." It will be noted that the rule of medical secrecy has been modernized to allow, exception where demanded by the law.

The General Medical Council makes no mention of professional secrecy in its warning notice. It is probable, however, that the Council would take a serious view of any complaint against a registered medical practitioner of breach of confidence without good reason. The President of the Council informs me that, so far as he is aware, no inquiry has ever been held by the Council or Committee into a charge of infamous conduct in a professional respect on the ground

*Presidential address to the Derby Medical Society, December 7, 1954.

of alleged breach of professional secrecy. One cannot say what view the Disciplinary Committee would take, especially in the absence of precedent, but I find it hard to believe that the committee would take exception to a breach of secrecy committed in good conscience for the protection or safety of others.

The British Medical Association takes a primary interest in ethical matters. The Council of the Association, through its Central Ethical Committee, is responsible for a written code on many aspects of ethical behaviour and for reviewing and modifying the code in the light of changing fashion and professional thought. The committee devotes considerable time and care in directing advice to members on current ethical problems.

On the subject of professional secrecy the Association has a clear and rigid policy. In recent years the policy of the Association has been that of complete secrecy under all circumstances, with a sole exception³ that a doctor might warn others against possible infection of venereal disease in an affected patient. In 1952 the Council of the Association, realizing that other exceptional circumstances might well arise in which complete secrecy would endanger the welfare or even the lives of others, sought to modify its rigid policy.

At the Annual Representative Meeting in Dublin in 1952 the Council proposed that the current policy of the Association on professional secrecy should be modified by the addition of these words: "There will doubtless occur certain special occasions when it may become a doctor's moral or social duty for the protection of innocent persons to make disclosure to an interested party if the patient, after having been properly and clearly advised as to the appropriate action which he should take, refuses or fails to do so on his own responsibility." This modification, after debate, was decisively beaten on the vote of the meeting.

The policy of the Association⁴ is now quite clear and precise. "A practitioner shall not disclose voluntarily, without the consent of the patient, preferably written, information which he has obtained in the course of his professional relationship with the patient. This includes information concerning criminal abortion, venereal disease, attempted suicide, and concealed birth. The State has no right to demand information except where notification is required by Statute, such as in infectious disease."

Professional Secrecy in Law

I make no pretence of any specialized legal training, and for this section of the paper I am indebted to Mr. Lyndon Irving for instruction and for the loan of textbooks and references. It is convenient to divide the legal implications under three headings.

The Doctor as a Witness

This aspect is not strictly relevant to the limited considerations of this paper, but I am tempted to digress a little in order briefly to cover the whole legal picture. The doctor in any duly constituted English court of law, from the magistrates' court upwards, has no privilege as a witness in the matter of professional secrecy. The law says⁵: "A medical practitioner may be asked to disclose, on oath, information which came to him through his professional relationship with his patient, and if the question is not inadmissible on other grounds, he may be committed to prison if he refuses to answer."

This ruling, which is subject to the discretion of the presiding judge, has been enforced on many occasions, and is now accepted, if unwillingly, by the medical profession. It is of interest to compare the position of the doctor with that of the priest. The textbook says⁶: "The question whether ministers of religion, and in particular Roman Catholic priests, have any privilege of giving evidence of

confession has not been authoritatively decided. . . . The tendency of judicial dicta is that, while in strict law the privilege does not exist, the minister should not be required to give evidence as to a confession made to him." The legal profession alone holds privilege as witness, but only in narrow and special circumstances. The textbook says⁷: "Legal professional advisers are permitted to withhold verbal or written communications passing between themselves and their clients provided they are acting in their professional capacity for the purpose of giving legal advice or assistance, but not otherwise."

Voluntary Withholding of Incriminating Evidence

Many of the comments in reply to my questions which presume that the doctor is in possession of incriminating evidence gained through professional relationship suggest a belief that in withholding the evidence the doctor himself would be guilty of an offence in law. There are certain clear legal definitions bearing on this point indicating how a third party, though not actually present or taking active part in a criminal offence, may nevertheless be guilty of offence through indirect participation. A brief summary of them is as follows. (a) *An accessory before the fact*⁸ is one who, though absent at the time of the felony committed, doth yet procure, counsel, command, or abet another to commit a felony. (b) *An accessory after the fact*⁹ is one who, knowing a felony has been committed by another, receives, relieves, comforts, or assists the felon. (c) "To aid, abet, counsel, or procure"¹⁰ is to participate in an offence otherwise than as a principal in the first degree.

It will be observed that for a doctor to be found guilty under one of these definitions he must take some active part in the commission of crime or must actively aid or assist the offender. To remain silent when in possession of incriminating evidence is not in itself an offence. There is, however, a fourth and apparently little-known definition. (d) *Misprision of felony*¹¹ consists in concealing or procuring the concealment of a felony known to have been committed. It is itself a misdemeanour at common law and is punishable by fine or imprisonment. This definition would seem radically to alter the position, but on *misprision of felony* the textbook has this further to say: "There does not appear to be any authority as to what constitutes concealment, but the offence appears to be founded on a duty to inform the Queen's officers of the commission of a felony. Prosecutions for *misprision of felony* have been extremely rare in recent years." It seems, therefore, that this is but a legal bogey which need not, in the present mood of law, be taken seriously.

No solicitor, in comments to my questions, has mentioned *misprision*, while several have expressed the view that in the circumstances a doctor is under no obligation in law to divulge information—a view which for practical purposes is evidently the correct one.

To condone, to compound, or to acquiesce are terms commonly used in comments to my questions. To the doctor who refrains from divulging information these terms are incorrectly applied and have no legal significance.

Implied Contract of Secrecy

In a treatise on legal contracts a textbook¹² says: "A doctor is bound to keep his patient's secrets so far as he legally can." This means that there is an implied contract in law that the doctor shall not, without good reason, divulge his patients' secrets.

An aggrieved patient has recourse to law if he considers that a doctor, by divulging confidential information, causes him to suffer social or financial harm. I am assured, however, that a doctor who divulged confidential information solely for the protection or welfare of others, as opposed to a doctor who so acted by reasons of carelessness, malice, or personal gain, would not be liable for breach of contract.

The Questionary

A questionnaire was devised and sent to groups of doctors and laymen to ascertain both professional and lay points of view on the duties of a doctor when faced with specific problems in practice.

A letter which accompanied each questionnaire briefly drew attention to the fact that a doctor might on occasion find himself in a situation in which his duty as a doctor to preserve the secrets of his patient might conflict with his duty as a citizen to disclose to others information gained through professional relationship in order to prevent harm or danger to others. The letter asked that opinions expressed should be purely personal ones, not influenced by any authoritative body or by the law of the land.

Each of four questions was framed in such a way as to elicit a direct "Yes" or "No" reply, and short comments were invited to each question. No bias was used to influence a reply either one way or another.

Such problems as are posed in each question are but concrete examples of many of a similar nature the like of which are frequently submitted to the British Medical Association for advice by members. An opinion on the one problem will be a guide to opinion on others of a similar nature. Each question assumes that the patient has resolutely resisted pressure by the doctor voluntarily to disclose confidential information to an authoritative outside person.

Thirty questionnaires were sent to each of the following four groups of doctors: general practitioners of 50 years of age or over, general practitioners of 40 years of age or under (all practising in or near Derby), consultants attached to the Derby hospitals, and medical officers of health in England and Wales. All names were taken in alphabetical order from statutory lists. The general practitioners and consultants are, I believe, all members of the Derby Medical Society, whose opinion is therefore largely reflected in the replies. Of the 120 questionnaires sent to doctors there were 94 (78.5%) replies. The tables which follow set out replies under the various groups. There are three columns headed "Yes," "No," or "Uncertain." The latter column includes a very few replies that were non-committal and a very few in which a yes or no reply was given but the comment to which indicated a definite opinion in reverse. All figures are expressed in percentages to nearest 0.5 of 1%.

Question 1

A doctor diagnoses epilepsy in the case of an engine-driver who controls the engine of a main-line passenger train. The patient refuses permission to the doctor to disclose his disability to the railway authorities, and makes clear to the doctor his intention of continuing to earn his living as the driver of passenger trains. Has the doctor an overriding duty to ignore his patient's wishes and to report his state of epilepsy to the railway authorities?

TABLE I.—*Replies from Doctors to Question 1*

	Questions Sent	Replies		Yes %	No %	Uncertain %
		No.	%			
G.P.s over 50 (senior) ..	30	25	83.5	76	24	0
G.P.s under 40 (junior) ..	30	22	73	82	9	9
Consultants ..	30	25	83.5	88	12	0
M.O.H.s ..	30	22	73	91	4.5	4.5
Total ..	120	94	78.5	84	12.5	3.5

Table I shows the returns and an analysis of the replies. The first striking feature is the overwhelming majority in the "Yes" column, contrary, as I have already shown, to the teachings and traditions of the medical profession. The figures in the "Yes" column show that the senior general

practitioners have a relatively smaller percentage (76) than the other groups, which I suggest reflects a conservative attitude to tradition to be expected from this group and to be repeated in the next two questions. The relatively higher percentage (91) from the M.O.H.s, I suggest, reflects an expected response to the wide interests of public welfare.

In examining the comments to the questions, a wide variety of views have been expressed. Many replies were accompanied by interesting letters clearly showing that much time and thought had been devoted to the subject. I have attempted to classify comments under a few headings, some to be accepted as sound, others to be rejected as unsound. Among those who answered "Yes" to Question 1 several comments indicated an opinion that the doctor would himself be breaking the law if he refrained from disclosing the facts of the case; this I have shown to be wrong. The sound reason for voting "Yes" advanced by the great majority is that grave danger to loss of life, the safety of the community, social responsibility, or the interests of public welfare override all obligations of professional secrecy.

Amongst the replies of those who voted "No" were the following comments. "The railway doctor should have or has the responsibility of making the diagnosis of epilepsy himself, either on clinical grounds or with the help of doctors' certificates"; "The responsibility of the doctor ends with the treatment of the patient"; "An accident may never occur, as the driver is always accompanied by a stoker"; or "Pass the patient over to a specialist." Arguments such as these are fallacious or evade the issue and cannot be accepted as sound. Also unacceptable is the argument that notification to the railway doctor, either directly or indirectly, is no breach of professional secrecy because information is passing from one doctor to another. In the absence of the patient's consent, the railway doctor is as much a third party as is any layman.

Only two sound reasons can be advanced for voting "No" to this question: (1) the preservation of professional secrecy overrides all other obligations (this in effect is the basis of the present B.M.A. policy); and (2) violation of professional secrecy, even under most exceptional circumstances, will impair the doctor-patient relationship. Quite surprisingly, neither of these reasons has been suggested by any doctor, nor has any doctor referred to his obligations under the Hippocratic Oath.

The Layman's Point of View

To-day, more than ever before, the work of the medical profession is an integral part of the social structure. Medical and lay fields of interest overlap each other, and possibly in few other fields are lay interests more in the hands of the profession than in the one which is the subject of this review. The layman not only looks to the doctor for individual help but also regards him as a guardian of communal safety and welfare. For this reason I have invited opinions from interested and knowledgeable sections of laymen—namely, from groups of solicitors, justices of the peace, and Church of England clergy. I welcome their opinions, and lay considerable importance on their points of view. The names have been selected in alphabetical order from available lists of each group living and working in and around the Derby area. Forty questionnaires were sent to each group, and 86 (72%) of the 120 laymen sent replies.

TABLE II.—*Replies from Laymen to Question 1*

	Questions Sent	Replies		Yes %	No %	Uncertain %
		No.	%			
Solicitors ..	40	30	75	77	20	3
J.P.s ..	40	30	75	93	7	0
C. of E. clergy	40	26	65	77	19	4
Total laymen	120	86	72	82	15.5	2.5
Total doctors	120	94	78.5	84	12.5	3.5

Table II shows the returns and an analysis of the replies. It will be seen that, in this question, lay opinion runs almost exactly parallel with that of the doctors, with a very large majority in favour of "Yes." This is especially noticeable in the J.P.s, and is characteristic of their consistency in all four questions in showing a relatively heavy bias in favour of public welfare and upholding of the law.

The comments of all these groups of laymen show a lively appreciation of the principles involved and, on the whole, a sounder level of arguments than is shown by the doctors.

The comments of the solicitors and J.P.s are generally the same as those of the doctors, with a tendency to lay greater stress on the importance of public safety or on the removal of a menace. The solicitors naturally show a keen appreciation of the legal aspects, though all do not think alike, nor are their replies unduly influenced by the law. Two comments from solicitors in support of a "No" reply need mention. One says, "Information must not be given unless asked for," thus envisaging an impracticable situation; another expresses his belief in the integrity of professional secrecy with these words, "We must close our eyes and concentrate on the patient."

Some laymen answer "No" in the belief that the railway doctor would in any event discover the epilepsy for himself; this, of course, may be quite unlikely in an uncooperative patient. It is left to a sole member in the J.P. group to answer "Yes" in the interests of the patient. The special views of the clergy will be studied later when considering the moral aspects.

Question 2

A doctor attending a woman for abortion finds that it was criminally induced by a professional abortionist; he learns also the abortionist's name and address. The patient forbids the doctor to report the matter to the police, or even to disclose to them the abortionist's identity. Has the doctor a duty to disregard his patient's wishes and to report the abortionist to the police?

It must be made clear that an attempt unlawfully to procure miscarriage either by the abortionist or by the patient, whether pregnant or not, is a felony, the maximum penalty for which is imprisonment for life. This is the only question that involves a felony, thereby laying the doctor open to a charge of misprision of felony should he fail to report the circumstances of the case to the Queen's officers. As already pointed out, this is more of technical than of practical interest. It must be remembered, too, that abortion is a sin in the eyes of the Church, especially the Roman Catholic Church.

Table III shows an analysis of the replies. In comparison to Question 1 the figures show a tilt in favour of traditional secrecy, although the average doctor's vote again shows a majority in favour of "Yes."

TABLE III.—*Replies to Questions 2, 3, and 4*

	Question 2			Question 3			Question 4		
	Yes %	No %	Uncertain %	Yes %	No %	Uncertain %	Yes %	No %	Uncertain %
G.P.s over 50 (sen.)	44	56	0	24	72	4	36	64	0
G.P.s under 40 (jun.)	50	50	0	36.5	63.5	0	27	73	0
Consultants	64	32	4	20	80	0	36	60	4
M.O.H.s.	45.5	50	4.5	54.5	41	4.5	36.5	59	4.5
Total (doctors)	51	47	2	34	64	2	34	64	2
Solicitors	50	47	3	43	57	0	57	43	0
J.P.s	67	27	6	60	34	6	47	53	0
C. of E. clergy	50	42.5	7.5	38.5	54	7.5	38.5	50	11.5
Total (laymen)	55.5	39	5.5	47	48.5	4.5	47	49	4

Within the doctor group, the senior general practitioners again show evidence of conservatism towards tradition, the junior general practitioners break even, while the consultants come down heavily by a 2 to 1 majority in favour of "Yes." Surprisingly, the M.O.H.s, in showing a slight majority in favour of "No," seem to think more in terms of the individual rather than of the public welfare.

In looking at the many and varied comments, the basic principle of preservation of secrecy versus public welfare applies as before. Among those who voted "Yes" many made it a condition that the patient's name should not be disclosed. This condition is very difficult to guarantee in view of the possibility of the abortionist's later disclosing the names of his victims in confession to the police. Two comments deserve special notice. One from a pathologist who, in replying "Yes," threw back this rhetorical question, "Have you ever seen a fatal procured abortion and the shocking mess produced?" A pungent question, to make one retort, "This sort of thing must never happen again." The other comment is, "A doctor will do himself and his profession harm by withholding information that endangers the public safety." Amongst the "Noes" are found these comments: "The patient knowingly and voluntarily takes a risk"; "The doctor should himself personally warn the abortionist"; "Abortion should be legalized"; "The doctor should send the case to hospital"; "A doctor should concentrate only on the patient's welfare." For one reason or another I consider all these observations unacceptable as sound argument.

The voting of the laymen again produces a result similar to that of the doctors, again with a slightly heavier majority in favour of "Yes" and again greatly influenced by the heavy bias in favour of maintaining the law in the J.P. group. This viewpoint is lucidly expressed by a J.P., who says, "Only by persistent prosecution can the menace of the abortionist be eliminated."

Question 3

A doctor treats a man who is suffering from a rupture. Later the patient is involved in a minor accident at work and successfully, and fraudulently, claims industrial injury benefit and a pension in respect of the rupture, which he asserts resulted from the accident. The Ministry accepts his claim. His doctor knows that the rupture was neither caused nor aggravated by the accident. Has the doctor a duty to report his knowledge to the Ministry?

This question is framed to present a problem involving a lesser crime and with the State as a victim. An analysis of the replies is given in Table III.

Amongst the doctors the voting shows a further tilt towards "No," the average showing nearly a 2 to 1 majority in favour of "No." Conservatism is again more marked in the senior as compared with the junior general practitioners. The consultants show a complete reversal of opinion compared with that in the two previous questions, while the M.O.H.s also show a reversal of opinion, but in the opposite direction with a vote in favour of "Yes," contrary to the rest of the profession.

The general principles governing the preservation of professional secrecy apply equally to this question as in the two previous ones, but the consequences of disclosure are different. Here there is a situation not involving danger to life or health, but involving only loss of money to the State. This difference appears to be the deciding factor in change of heart amongst the voters.

Of those who voted "Yes," some impose conditions such as "The Ministry must first ask for a report" or "A report must be sent only to a doctor at the Ministry." Both conditions evade the issue. Some mistakenly think that the doctor will be breaking the law by not disclosing the facts. Others present sound argument based on moral considerations or the upholding of the law. Many of those who vote "No" support their opinion thus—"The Ministry is quite

capable of looking after itself," or, "It is no duty of the doctor to act as a detective, a snooper, or an informer for the police." The question whether it is the duty of a citizen to support law and order by reporting crime to the police, or whether he should mind his own business and leave the police to get on with theirs, is a social problem about which there are two opposing schools of thought, both of which find expression in voting on this question.

The layman thinks rather differently from the doctor, and the average of votes show opinion to be about equally divided. Again it is the J.P. group, with its interest in the preservation of law and order, that tilts the balance slightly in favour of "Yes." A frequent comment from the layman is that he looks to the doctors to protect public funds.

Question 4

A doctor attending a patient in a patient's home notices, by chance, jewellery in the bedroom which clearly corresponds with a newspaper description of property recently stolen in a housebreaking raid. Is it the doctor's duty to report his discovery to the police?

This question differs from the others in that the information obtained bears no relationship to the purpose of the doctor's visit or to the patient's health or welfare. The majority of those who commented on this point argued that the doctor was in a position no different from that of the plumber or electrician; therefore, not being restricted by professional obligations of secrecy, he was free to report the case to the police. Only a few argued that the doctor entered the home as a privileged person and was therefore bound by professional obligations.

An analysis of the replies is shown in Table III. The average vote of the doctor shows an approximate majority of 2 to 1 in favour of "No," the figure being identical with that of Question 3, though the group-voting shows extraordinary changes in all four groups, the reasons for which I cannot understand. Adverse comments on the doctor acting as detective or snooper are very numerous, but, on the other hand, there are many champions for the cause of upholding the law. The laymen again show greater tendency than the doctors to vote "Yes." Again the average vote breaks almost even, as in Question 3, but yet again there is a reversal of voting within the groups. The switch-over of viewpoint amongst the solicitors and J.P.s is quite remarkable.

The Moral Issues

The moral issues involved in these problems open up a wide and fascinating field of thought that can only be briefly explored in this paper.

They are of considerable importance because many of the comments to the questionnaire show that decisions have been made on moral grounds. Further, the B.M.A., when giving advice to members, makes the habit of adding a rider to the effect that it is open to the doctor to act in accordance with the dictates of his conscience.

In looking to the Church of England clergy for guidance on the moral issues, no decisive lead is forthcoming. Their voting and their comments show that they line up in general with the average of the doctors. Perhaps more so than any other group, the clergy tend to lean towards the teachings of Hippocrates and the upholding of the law, while very few make direct appeal to theological or Christian teachings. Looking at all the comments from all groups to all four questions, the moral issues that favour an answer "Yes" can be summarized as follows: "It is a moral responsibility not to condone crime or fraud; the confidence of the patient in the doctor must presume good faith; the patient who acts immorally forfeits his doctor's confidence; the rule of charity overrides the patients' selfishness; and fraud undermines the social structure."

For those who voted "No," one of the clergy summarizes the moral issue most emphatically when he says: "The

sanctity of private trust overrides that of public trust. I would rather betray my country than my friends." He adds, further: "Christian teaching is that persons are more important than things."

Summary and Conclusions

Professional secrecy is an obligation evolved by tradition and probably founded on the teachings of Hippocrates. The graduates of the Scottish universities appear to be under moral contract of modified secrecy in a clause of the *Sponsio Academica*, but no such contract is undertaken by graduates of the English and Welsh universities or colleges, with the recent exception of Birmingham University. The law would appear to accept professional secrecy as an implied contract in professional relationship, but would not be actively interested in a doctor who voluntarily withholds incriminating evidence outside the courts.

The B.M.A. seeks to impose a rule of absolute secrecy regardless of consequences, however dire they may be.

The opinion by vote and comment expressed by a sample group of 94 doctors to a series of four questions posing specific problems would suggest that there is a large majority within the profession who would find justification for breach of professional secrecy in the protection of others exposed to the danger of loss of life or lesser hurt. The votes and comments expressed by a group of 86 laymen show an opinion similar to that of the doctors but with greater emphasis, suggesting that a doctor who failed to disclose information that would have averted a catastrophe would be open to severe public censure.

The doctor placed in a dilemma must decide whether to follow the principle that the preservation of professional secrecy overrides all other considerations, as advocated by the B.M.A., or whether to take the view that, in special circumstances, the safety or welfare of others overrides the obligations of professional secrecy.

The majority opinion of doctors and laymen subjected to test indicates that danger to life constitutes a justifiable reason for breach of professional secrecy. There is about equal division of opinion in the case of the felony of unlawful abortion, while a substantial minority considers that the prevention or punishment of fraud constitutes a justifiable reason.

Such substantial evidence of opinion should suggest to the B.M.A. that the time has arrived for reconsideration of policy on professional secrecy in the light of modern social structure and opinion.

My thanks are due to those doctors and laymen who responded to my questionnaire and sent helpful comments and letters; to registrars of universities and colleges; to the registrar of the G.M.C.; to the assistant secretary and the librarian of the B.M.A. for information; and to Mr. Lyndon Irving, solicitor, for instruction on legal matters and for other useful advice.

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