

# Doctor accused of 'gross immorality' loses license

"Physician No Longer, Fleener and His M.D. Separated with Deep, Dull Thud" was the headline on an article in the Oct. 25, 1907, edition of the *Bloomington Telephone*. Like the de-frocking of a minister, taking away the license of a doctor of medicine is no light thing.

The *Bloomington Telephone* learned of the career-ending penalty levied upon Dr. Joseph N. Fleener by the State Board of Medical Registration and Examination from an article in the *Indianapolis News* on Oct. 24.

Explained the *Telephone*, "The evidence in the case was heard at Bloomington several weeks ago."

And what was the evidence? Dr. Fleener's medical mistake was writing prescriptions for alcoholic beverages that could be then purchased legally at drug stores.

Things weren't going well for those who wanted to drink in 1907-08. Yielding to pressure from prohibitionists, the Indiana General Assembly had passed legislation that made it difficult for prospective saloon keepers to get a license.

George S. Cottman, author of *Indiana, Its*



## Looking back

By Rose McIlveen

*History and Constitution*, put it this way: "A temperance law that already existed was so amended that a majority of the legal voters of any township or city ward could, by a remonstrance or petition, vote the saloon business out of their territory."

Monroe Countians found that a drink was hard to come by. Hence the circumvention of the law by Dr. Fleener.

From its earliest days the pioneers had believed that alcohol had its medicinal uses — warding off colds and killing germs in the body.

The problem faced by Dr. Fleener was that some of his patients didn't need the alcohol for "medicinal purposes."

No doubt some of them were just old friends of the physician who liked to have a drink now and then.

The Bloomington law firm of Miers & Corr gave their best effort to stave off the revocation of Fleener's license. The lawyer's argument was summed up in the *Telephone*: "In the brief . . . it was contended that the act of which Fleener was accused did not constitute gross immorality. It was pointed out that the statutes contemplate the revocation of a physician's license for a felony or gross immorality, but that they do not contemplate the revocation of a license for a misdemeanor."

The formal accusation didn't seem to fit the elderly doctor. According to the *Telephone*, Fleener served in the Army for more than three years during the Civil War.

Furthermore, he had stopped writing the prescriptions during the previous April, when the complaint had been filed.

The most touching defense of all was also included in the newspaper article. "It was pointed out that he was an old man and that in all of his practice the road had never been too long, the night too dark or the patient too poor for him to answer a call."

No doubt the local Good Citizens League got some satisfaction from the state licens-

ing board's ruling. Having a pro-prohibition governor in the State House had given the members additional enthusiasm for a local option law (which was passed in a special session of the Indiana General Assembly in 1808. Its passage was the downfall of the Republican Party for a time.)

Actually, in the case of Dr. Fleener, it was the first opportunity for the state board to define "gross immorality" in relation to a physician's conduct.

Explained the *Telephone*, "W.A. Ket-cham, when he was attorney general, gave the opinion that the question of what should constitute a gross immorality on the part of a physician should be determined by the board."

Dr. Fleener's circumvention of the prevailing liquor laws was not the only case from Monroe County.

Noted the newspaper, "This afternoon the board took up the case of Dr. William P. Hacker, of Bloomington, who is to be tried on the same charge as that filed against Fleener. The evidence in the case of Dr. Hacker has not been heard. It is not known whether a decision in his case will be reached by the board at this session."

HT 2/7/94