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# Lawyer North Casts His Vote for a Self Governing Profession

BY WM. HEDGES ROBINSON, JR.*

Mr. Public may like lawyers as individuals. He thoroughly dislikes them as a profession. Mr. Public looks upon a lawyer as a man who should be called in to perform the miracle of saving him from his own folly, or as a witch doctor to harass his enemy. It is not until Mr. Public is hurt, either on his body or in his pocketbook, or until he becomes hot under the collar, that he seeks out his lawyer.

This is an unpleasant but indubitable truth which Lawyer Jim North does not like to hear. He looks upon himself as a leader in his community. He attempts to maintain a standard of living, entertainment, and general acceptance which will lead him to be designated as Lawyer North alongside Banker Smith and Senator West. Like the proverbial ostrich, Jim North has buried his head because he does not wish to acknowledge the bitter fact that he is only day-dreaming at a time when he hasn't any business to day-dream.

He has no desire to listen to the fact that the economic surveys taken over the country by various bar associations demonstrate that a maximum of only three per cent of the Bar (possibly dwindling in the future to half of one per cent) will, if things keep on going as they are now, find themselves able to keep up with the business and the banking leaders of their community, economically, socially or in prestige. The rest will be driven from practice or earn only a bare subsistence unless there is an organization behind them which represents all lawyers, and which is constituted to fight the battle for the entire profession.

He fails to recognize that lawyers are attempting to fulfill the needs of their clients by outdated methods. He fails to realize that acres of diamonds lay unmined in his backyard, waiting only spade work to create profitable business. No, Lawyer North, who can capably analyze

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the ills of Mr. Public's business, still insists upon day-dreaming in a horse-drawn buggy.

A study of bar economics shows that, unless some method of all inclusive organization is obtained whereby the Bar, as a unit representing all lawyers, can strike out for the economic and social protection of the profession as a whole, lawyers are simply living on borrowed time. Experience has demonstrated that the most effective method devised, so far, to aid lawyers in the solution of these problems is integration. It is not a panacea for all ills; it is not intended to be such. It merely sets up the structure through which and by which lawyers as a solid unit can solve their own problems as a group.

Perhaps it is unfortunate that the word "integration" has been used, but no better word has yet been coined. Lawyer North knows what "disintegration" means. He knows that it means the state of breaking up, falling to pieces, a division of a whole into parts, and he has the general feeling that the word implies decay and decadence. He thinks of the thirteen colonies, whose lack of unity brought no results except misery for themselves and profound annoyance for each of their neighbors. If Lawyer North would only think of "integration" as meaning the opposite of disintegration, he would then know that integration simply brings together all of the practicing lawyers within a state into one unified group for the more effective discharge of bar responsibilities and for the protection of the interests of the profession.

But Lawyer North refuses to accept any definition. He remembers the tirade that Tom Sears delivered against the integrated Bar. Sears was admitted to the Bar without any formal education and he has practiced most of his life in the hurly-burly days when every case in court was a contest, bitterly fought, not so much upon the principle of right and justice, as upon cunning and strategy. Law in his day was a contest waged before cheering partisans, a drama that took the place of the cinema and the theatre. Tom Sears, who proclaims himself to be a rugged individualist, is opposed to integration because he says it is regimentation.

Lawyer North thinks, too, of the arguments advanced by Dick Walsh. He represents the Best Clients. To him an all-inclusive Bar is anathema. He and every member of the profession would be placed on exactly the same footing and with the same power. Because Mr. Walsh hates trade unions, he hurls the charges of "unionism" and "closed shop" at the idea of an integrated Bar.

Lawyer North remembers, too, the accusations made by Harry Tompkins. Harry does not know anything about integration. Lawyer North is aware of that and also of the fact that Harry won't take the

time nor the trouble to understand. But Harry is a great patriot and any time he cannot assign a definite reason to any of his dislikes, he calls it "monopolistic" and "unamerican." In a time of national distress the tag is rather effective because it stops all thought on a question, unless those who oppose it will dare to run the risk of being branded as traitors.

Lawyer North remembers the suave argument of Jerry Fixel. Jerry has always lived on the shady side of the profession; nothing definite, you understand, no disbarments, no suspensions and no reprimands. While Jerry urges all of the arguments which have been made before, he poses as a friend of the association and declares that a compulsory organization destroys the fine spirit of the voluntary association.

The catch phrases—"regimentation," "unionism," "closed shop," "unamericanism," "monopolistic"—appeal to Lawyer North. They fit in with his conservative train of thought, his inertia to new ideas, his continual desire to shout, "I object" to anything that may be proposed. So Lawyer North was pretty well sold on disintegration. One day, however, he was permitted to sit on the bench with the players at the Big Game. State had a good team this year and was winning football games that experts doped it should lose. It was some time in the second quarter of the game that Lawyer North began to see why State was winning football games. They played the game as a team. If there was a running play, the halfback had plenty of interference; if there was a pass, the passer was protected and the receiver screened. It was teamwork, not individualism, which was winning the games.

When the shoutings and hurrahs of the victory had died down, Lawyer North thought more about this idea of teamwork. He wondered why lawyers never worked together as a team. He viewed the ideas of an all-inclusive Bar in this light. He asked himself: "Can lawyers work together as a team? If it is possible for lawyers to do so, what benefits will come to me and to the profession generally?" As he asked himself these questions, he also thought of the arguments advanced by some of his friends against the idea of an all-inclusive Bar.

There was Tom Sears' argument about regimentation. Lawyer North did some investigating. He learned that an all-inclusive Bar has been the only type of bar organization in England and in most of the Dominions. It existed in England before the landing of the Pilgrims. He discovered that all-inclusive bar organizations have been legally recognized in the United States since 1921 and that at the present time twenty-three states have integrated Bars. He found out also that integration had been recommended for adoption by the Bar in Montana, Massachusetts, Minnesota, New Jersey, Florida, Tennessee, Indiana, Connecticut, Kansas, Wisconsin, West Virginia and other states. He found out, too, that the same charge of regimentation had been made in

each state where the case of integration had been discussed and that practice in the integrated states had shown that the charge was unfounded. He recognized, however, that the legal profession has always been regulated and it must always necessarily be. Society demands, and justly so, that all lawyers be well trained and capable of aiding in the administration of its laws. Since it makes these just demands, society imposes standards, and unless an applicant can meet those standards, society denies to the applicant a license to practice law.

Integration does not call for any further "regimentation." All it says in this respect to a lawyer is this: "Your right to practice has always depended upon the will of the state and your ability to meet certain standards required of you by it. Integration does not change the requirements. The only change in this respect is that you pay an annual license fee. This requirement is not unusual. We require a license fee to be paid by doctors, dentists, druggists, engineers and accountants, among other professions. There is no reason why lawyers should likewise not be compelled to pay this fee. As far as your individual practice is concerned, as far as your attitude toward playing on the team is concerned, you can do as you please as long as you abide by the rules of the game, which remain unchanged. No additional burdens or requirements are made upon you."

Lawyer North also thought about the validity of the charges of unionism, closed shop and monopoly. First of all, he realized that lawyers now have a monopoly, and they now have a closed shop—if those terms are used in a broad sense. This has always been so and necessarily will always be so as long as society prescribes standards for a profession. Integration does not change that situation one way or another. It neither reduces the ranks of the profession nor increases them. It does not make any more of a monopoly than the monopoly which already exists. It does not exclude from membership anyone except those the state will not accept as qualified to be lawyers. It does not mean that those now admitted to practice will have to take any further examinations or meet additional requirements.

Integration does provide, however, for an effective and democratic, self-governing organization of all lawyers, to the end that they may be better able to render proper public services. Hence those who charge unionism, closed shop and monopoly attack not the integrated Bar but the very system upon which lawyers have been licensed and regulated by the state ever since there has been a profession in America. If their theory were followed to its logical conclusion, the practice of the law would be open to everyone and it would become a business, not a profession.

As to the charge of unamericanism, so far as that word could be defined, Lawyer North supposed that his friend meant that an all-inclu-

sive Bar was undemocratic. Stated in these terms, it was patent to Lawyer North that instead of being an undemocratic organization, an all-inclusive Bar was, on the contrary, exceedingly democratic. Every lawyer had one vote. Every lawyer in the state had the right to vote in the selection of his officers and in the choice of policies. As a matter of fact, the voluntary organization was about as undemocratic a system as has existed, thought Lawyer North; for the lawyers who are now outside of the voluntary association are controlled by it and without representation. The code of ethics, unauthorized practice agreements, and the policies of lawyers generally, were determined by the bar associations to which considerably less than all of the lawyers belong. A lawyer outside the association has no vote, no choice in the policies or in other matters which affect him and yet by sufferance, he must accept the dictates of the bar association which speaks for all.

Even more specious was the argument offered by Jerry Fixel. Where a lawyer has a financial stake in anything, he has a certain personal interest in it whether he is willing to admit it or not. Experience in other states has demonstrated that the interest of lawyers in bar work has increased. In Nebraska, which had a good voluntary organization before its integration, attendance at the annual meeting of the integrated Bar was fifty to one hundred percent greater than at those of the voluntary associations, and the "spirit of professional enthusiasm under the integrated Bar has spread, not merely through the work of committees and sections of the association, but over the activity of the entire membership." In general the desire to partake in the work of the association on committees and in other functions, increased many times in states having an integrated Bar.

Admitting that there are no valid arguments which can be advanced against integration, Lawyer North asks what will integration do for the public, for the profession generally and for himself. Selfishly, he supposed that the first two groups were of the least importance to him, but he decided to make a fair examination into the entire problem. He decided to start with the basic question: What is a profession?

The first and essential mark of any profession is that it provide a needed service even, if the need be great enough, at the expense of gain to the practitioner. Therefore, the idea of gain which is the paramount consideration of a business cannot be the primary factor of a profession. Hence the theory of some lawyers that the law is a business in which the fittest and fastest survive and in which money becomes the criterion of success, does not fit with the conception of the state when licensing the practitioner.

Lawyers must serve or lose the monopoly. This fact, he soberly thought, is not to be taken as preaching; it is a professional necessity. No lawyer should have any fear on this score if lawyers, as a group,

"lock shields in a fashion equally Roman and Icelandic" with the problem. But only a united, all-inclusive Bar can lock shields with a common foe. As it stands now, a whole profession, a needed profession, is fighting in some alarm, like a mob without a leader, for its very life. Encroachments by lay practitioners, competitive bidding for title opinions such as the federal Department of Justice foisted upon the Savannah, Georgia, Bar, prohibitions against lawyers representing clients before certain boards and bureaus as in the case of detention of aliens' hearings, unauthorized practice—are all indications that the public feels, and rightly so, that the lawyers have shirked or ignored their responsibilities.

Mr. Public demands, and justly, that lawyers as a group should be held responsible for the administration of justice, that they should establish and maintain high professional standards, that law should be developed by lawyers in conformity with modern conditions. Mr. Public can rightfully inquire, "Have the lawyers ever really cared about law and justice except as available instruments to get particular clients out of trouble or to secure gain or status for others? Is the Bar doing its duty and playing its part in the development of law?"

The public has answered these questions in the negative. It sees the Bar in modern dress, but in a buggy attempting to cross a metropolitan street. It sees the lawyer organize trusts and corporations, devise corporate financial structures; it sees him bring the farmers together in co-ops and the doctors and dentists together in medical associations; it sees him organize and coordinate the business of his clients, and it sees him as a profession demonstrate the maxim: "Divided We Fall." Until the Bar acts as a Bar, not as an agglomeration of individuals, the lawyer will suffer much as a profession at the hands of the public—and more important, since eating does precede service, in his pocketbook. The Bar can give finer, fairer and more widespread service.

The Bar must discard its buggy and apply business methods to the task of making contacts with its clients. As a Bar, it can tell the public by the press and by the radio of the services it has to sell. It can reach many who need the service of a lawyer but are ignorant of his worth or are afraid of him. It can reach into places *as a unit* where lawyers have never before entered, and widen, strengthen, and increase the service of the Bar to the people and thereby inure to the benefit of the individual lawyer. It may open the way for small business men and poorer families to be moved into the retainer field. Lawyers individually cannot do these things. It is unfair to request an association of a part at their expense to do these things for the benefit of all. In other states the integrated Bar has accomplished these things. As a newspaper editor of a large California daily has said of the integrated Bar of that state, "It appears that the law fraternity has received a new version of its responsibilities, new faith in its inherent goodness, renewed courage to attack

its problems. It is the most hopeful sign that has come into the life of the state in over half a century."

Lawyer North chuckled to himself at the thought of a newspaper editor in Colorado ever writing such an editorial about the bar association. But what that editor said reminded him of Elihu Root's notable address to the American Bar Association in 1916: "Too many of us have forgotten that not only eternal vigilance but eternal effort is the price of liberty. Our minds have been filled with the assertion of our rights and we have thought little of our duties * * * What part is the Bar to play in the great work of the coming years? Can we satisfy our patriotism and be content with our service to our country by devoting all our learning and experience and knowledge of the working of the law and of our institutions solely to the benefit of individual clients in particular cases?"

The answer was obvious, and Lawyer North began to think of the tremendous power for good, for progress that lay dormant in the Bar. It only needed to be organized. If every state had an all-inclusive Bar and if a national organization to coordinate these state units was imposed on top, it would be the most potent force in a democracy.

But, asked Lawyer North, what has integration done for the profession? Every state which has had an integrated Bar has always maintained it. Ninety per cent of the lawyers in every state having integration would not vote to do away with it. Surveys taken in Michigan, Wisconsin, and Colorado by means of writing to unknown attorneys in states having integration have demonstrated that the consensus in those states is practically unanimous for integration. Lawyers in integrated states point out that integration has developed a high *esprit de corps* among lawyers. There is a wider acquaintance by the Bar of its members. There is less name-calling and back-biting. Integration has brought about a higher degree of public respect for the Bar; it has enabled the Bar to get needed legislation through a legislature traditionally hostile to "lawyers' bills." It has broadened the field of the lawyers' clients by stopping unauthorized practice and by group advertising of the Bar's capacities. It has dealt with the problems of overcrowding—which simply means not enough income to go around comfortably—by seeking out additional sources of income as a group, by "specialized lawyer" services, by aiding the lawyer to locate in communities where legal services are needed. Only an all-inclusive Bar can do these things effectively.

And it also makes bar organization for the first time, as associate Justice William O. Douglas of the United States Supreme Court said to the Texas Bar when it became integrated, "truly democratic and representative. It includes all of the lawyers." Every lawyer then has a right to have a voice in determining the rules of the game and to select

the officers who shall represent him. Perhaps the time has now come for a unified Bar—and only an all-inclusive Bar can do so—to rewrite the canons of ethics, to bring about cooperative law libraries, to simplify the procedure of finding and stating the law, to stem the tide of undesirable and undesired legal publications; to apply business methods to the practice of law—to do those many things which decrease overhead, popularize the law and lawyers, and increase public respect.

Finally, Lawyer North began to set down the advantages to him. First, an all-inclusive Bar meant strength. By fighting the battles of all lawyers, it would fight his battle. By being organized and equipped to wage war on unauthorized practice, the all-inclusive Bar could stop inroads made on the practice by laymen and institutions and thereby increase his potential sources of income. By advertising for the whole Bar, new fields of services could be made available to the public and thereby more clients brought to his office. By cooperative ventures and by eliminating unneeded publications, law lists and the like, it would reduce overhead. By promulgating title standards on a statewide basis, the hazard and uncertainty of title examinations would be removed in a large part. By reason of unity and respect for fellow lawyers, the level of fees would rise. By having more money available, the Loose Leaf Service and DICTA could be expanded and made more usable. Institutes or refresher courses could be held more frequently and with greater practical advantage to the lawyer. With an all-inclusive Bar it would be possible to maintain a central office, supervised by a full-time secretary whereby many practical every-day services could be rendered to the lawyer.

His investigation was completed. Lawyer North decided that the demonstrated advantages and practical unanimity of opinion among lawyers in other states where integration was in effect was an overpowering argument based upon facts and not upon suppositions or flights of fancy.

Calling in his stenographer, he began a letter to the President of the Colorado Bar Association:

"To paraphrase the words of Norman S. Sterry," he dictated, "a lawyer practicing in California who was entirely unknown to me but who has been good enough to write me a fourteen-page letter on Bar integration, let me say: 'When the subject of integration first came up, it was looked upon with askance by a great many of us and with open hostility or contempt by the shyster element. I was among those who doubted the wisdom of the State Bar Act. I now have entirely changed these views. It is now my considered opinion that an integrated Bar is the only salvation for the profession, and the only way by which the present system of administering justice can be really improved. It is the only way through which the lot of the lawyers—the great bulk of us who attempt to earn a decent living by honest methods—can be improved' * * *"