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The Young Lawyer and the State Bar Association

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SYMPOSIUM

A. THE YOUNG LAWYER AND THE STATE BAR ASSOCIATION*

JOHN G. BIEL**

Much has been written and said, recently, on the requirements for admission to the Bar. Some of these writers and speakers lament the inferior type of men which is coming to constitute the profession; others stress the over-crowding, but all tend toward a determination of what should be the qualifications, educational and moral required of a student before he should be admitted to practice.

It is not denied this is a serious problem. In four years time, over eight thousand were admitted to the Bar in New York City alone. For the last fifty years, there has been an average of one and one-third lawyers for each thousand of population in the United States. Since the war, this ratio has increased rapidly. Phillip J. Wickser, Secretary of the New York Board of Law Examiners, has estimated that if the ratio remains constant, there will be approximately two hundred and fifty thousand lawyers in this country in 1940. The acceleration per cent is bound to increase, however, if it follows the past few years performance, and this number undoubtedly will be much larger.

Each year, more and more students are matriculating in the law schools of the country. They are enamored of the romance of the law. In general, they have little comprehension of what the practice of law means. Yet, they study for the profession, spending from three to eight years preparing for something of which they have but a vague conception. Some are accidentally fitted; others are entirely unfitted. After spending these valuable years and incurring great financial outlay, they are brought before the examiners for admission to the Bar, and, although they pass the formal examination, many of them subsequently fail in practice. Many, not because of a deficiency in legal education, but because of a definite lack of that elusive,

* Both Mr. Biel's and Mr. Stevens' addresses were delivered before the Indiana State Bar Association, at South Bend, July 8, 1932.

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yet all important qualification of professional character. But, after having made so large an investment of time and money, the time for failure has passed. In fact, for the benefit of the future economic development of the country, they should not be permitted to fail after having come so far.

In an article entitled "Legal Ethics and the Law Schools," published in the May, 1932, issue of the *American Bar Association Journal*, Professor Gavit of the Indiana University School of Law said: "The thing which concerns the Bar today is not that the new generation of lawyers do not have a familiarity with the rules of professional conduct, but that they fail when put to the test of the temptations and the ideals of the profession." He seems to blame this on an undeveloped professional character, and gives, as a reason for this undevelopment, the fact that "law school training quits too soon," and, parenthetically, undoubtedly begins too late and not at the beginning.

The complete solution is not more "book" education. It is not the requirement of a certain number of hours of study on courses in legal ethics, nor is it necessarily a more strict examination for admission; because a Bar examination can play but a small part in an appraisal of character and can not possibly add anything. The things which combine to constitute the fundamentals of professional character are not altogether capable of being acquired, but, with the proper attention, can be cultivated and developed. The solution of this problem is to teach the law student and the young lawyer, independent of a law school, the etiquette of his profession, to instill deeply in him the conventions and the customs of his chosen vocation. The Bar Associations to date have almost entirely ignored this aspect of the problem and its solution, yet the remedy rests largely with them.

The State Bar Associations today, in general, in addition to ignoring this problem, do nothing in particular for the younger member of the profession who does join their organizations. It is true the Associations invite the younger member to membership, but the hospitality ends with the invitation. A young lawyer in a State Bar Association rarely finds himself recognized in any work of that body. He may pay his dues and attend the meetings faithfully, but he does not find a place for himself until he has been in the practice for at least ten or fifteen years. There is really no place in a State Bar Association for the junior member. He realizes this and hence is not

interested. If he does join, he is at once submerged. He has no opportunity to demonstrate his loyalty to his profession, or his capacity for useful work. When his willingness to serve is finally recognized, he has left the younger group of the Bar.

The total, in any State Bar Association, of the members who have been engaged in the active practice of law less than five or seven years is a very small percentage of the whole, yet each year more and more young men are starting out on their legal careers. The ones who constitute this group have not become members because they saw a field where their capabilities and abilities would be given exercise, or because they saw an opportunity to render a public service in the way of reforms and innovations. They became members only because their fathers had been members or because some senior member of their respective firms was a member, and not because of any conscious desire of their own to join.

This situation which now exists between the Bar Associations and the young lawyer is not a result of a preconceived plan on the part of the Bar Association to cause it, but is the result of neglect and a lack of foresight. It was not until the so called "Youth Movements" in the legal profession had started in various communities over the country that Bar Associations became cognizant of this neglect, and realized that they were overlooking one of the most fertile fields for their activities.

A young lawyer must become acclimated to his profession just as it is necessary to become accustomed to any new and strange condition. He has no opportunity at present, except by trial and error. He has no knowledge of the precepts and receives no advice. In past years, it was customary for a student of the law to study in a law office. There, while he studied the law, he also studied and absorbed, unconsciously perhaps, the professional character, the ideals and ethics, of his tutor. His close contact with the older lawyer over a long period of time developed his character until he became, as a rule, the type which is desirable in the profession. Today, less than five per cent of the candidates for admission to the Bar are office trained, and with legal education institutionalized as it is, the young law student has little opportunity for contact with the older lawyer. Even after finishing his education and gaining admission to practice, with the Bar Associations as they are now, a young lawyer is still denied this contact. The

more fortunate ones who have an opportunity to become associated with an established, reputable firm are not greatly affected by this situation, but the great majority—those attempting the practice alone or associated with others of the same age and experience—feel it acutely. As a result of this lack of contact, an alarming number drift into the undesirable class of practitioners. In a way, the young lawyer cannot be blamed for this. There is a deficiency in his education and training which can not be filled by more time spent at law school. This deficiency is something which can be made up only by contact with older lawyers of high standing with their wealth of experience and their well developed professional characters. The ones constituting the better element in the profession—with whom contact is desirable—are invariably found among the active membership of the Bar Association.

The State Bar Association is the logical filler for this deficiency, but not in its present form.

How can this situation, as it exists today, be remedied? Many close observers believe that the Bar Association should create a junior section and, perhaps, even a student section. The student section, overlapping into the law school on the one hand and into the practice on the other, would assist materially in solving the problem. This section could, by speakers, surveys, contact with older lawyers, Bar Association literature, and a little friendly, but serious advice, inspire the ideals of the students who are later to become members of the profession. The junior section would fill the gap which now exists in the development of a young lawyer. It would be composed of the junior members of the profession who had practiced less than three or five years; having for its object, in the words of Lloyd N. Scott, of the New York State Bar Association, "to determine whether the assembled qualities of education, culture, professional responsibility and moral understanding of the candidates make a man of such a standard as can be entrusted with the administration of justice and the transaction of legal business." There are many ways of accomplishing this end. Each organization varies in its details, as professional conditions found in one State will not be found in another, but all have the same objective. The details of the organization should receive careful thought, but once the section is created, it will, undoubtedly, go through an evolutionary period and will soon find its proper place with an efficient

method of accomplishing the desired results. Junior members, during their first three or five years of practice, should be active in this section; controlled, however, by the older lawyers, but given freedom to develop initiative and individuality. Here too, as in the student section, professional character could be built and developed. Robert H. Jackson, Vice-President of the New York State Bar Association, has said: "The Bar should be given control of and responsibility for admissions. Competitive intelligence tests do not sift characters. Perhaps there should be a year or more of probation during which the applicant, after the success in his examinations, should serve an apprenticeship under older members of the Bar. Any claim that is a hardship is idle. All requirements are open to that objection. Apprenticeships are served in the building trades and many other lines. It is only by sustained observation in the actual stress and strain of practice that we can judge what pressure a character will withstand and whether one has the adaptability to the art of law practice."

The period of apprenticeship in a trade may be compared to the law school period of a lawyer, but the great difference is that the apprentice while learning his trade becomes adapted to it while the student learning the law does not become adapted to the practice. These two sections—the Student and Junior—possibly could be combined in some manner to give this adaptation, but even separate, they would render a service unlimited in scope and worth, both to the young lawyer and to the profession as a whole.*

The so-called "Youth Movement" is growing and taking form all over the country. It is true that the probationary bar idea is still in an academic stage, but unless it is intelligently directed, it may easily take the wrong form. In my opinion, there is no occasion for such a separate Junior Bar Association as Texas has established, because the young lawyer is greatly in need of contact with the older lawyer. Rather, I think, as before suggested, there should be created a Junior section, and perhaps, a student section, within the state organization itself.

The State Bar Association of Connecticut, at its annual meeting held last April, considered the division of its membership into a Junior and a Senior Bar; the Junior members to pass

* At this point, Mr. Biel traced the development of Junior Bar Associations, and of kindred organizations.

through a probationary period and be admitted to the higher section only after a certain period of practice and after proof that they possess the necessary character and fitness for such advancement. Connecticut is realizing, as other states have done and are doing, that there is a deficiency in the professional character of a young lawyer. It has adopted a practical method by which this can be overcome.

The State Bar Association of North Dakota has referred the recommendation of its past President—that the Junior Bar idea be adopted—to a committee for study. The State of Oregon has what is, in effect, a probationary bar for practitioners from other States who are seeking admission to the Oregon Bar. The United States District Courts in the State of New Jersey have adopted the Junior Bar idea in connection with the admission of attorneys to practice in the United States courts.

The Illinois State Bar Association has gone even further than most. It now has a Junior membership open to all students enrolled in Illinois law schools. It has, for a number of years, taken more or less of a parental attitude toward the young lawyer from the beginning of his practice and now is asserting that influence from the beginning of his student career.

The American Bar Association is at the present time grappling with problems of coordination and integration, trying to devise ways and means for increasing its strength and service. The Committee on Coordination of the Bar in its report to the Executive Committee of the Association recognizes the growth of Junior Bar Associations and tenders recommendations on it. The report among other things says: "Two of the most significant phenomena of the past decade have been the rise in the number of local Associations, which have doubled and now number twelve hundred, and the growth of Junior Bar Associations. There is also the question of a Junior or Interlocutory Bar. The recommendation of the General Council that the Executive Committee should consider the advisability of fixing the dues at \$1.00 per annum for members during the first five years after admission to the Bar—provided this can be done in the opinion of the Executive Committee without serious financial loss to the Association—should be considered in connection with the Junior Bar Association on the admission of junior members of the Bar to this Association."

Because of the growing influence of these "Youth Movements," even to their recognition by the American Bar Associa-

tion, other state Associations are beginning to take an active interest in this subject. The progress of the Junior Bar movement is evidence that the young lawyer wants to do his part, to contribute his minor efforts in the construction of the law and in the great struggle to overcome the law's inadequacy.

In general, this idea is not new. Other occupations furnish examples of self organization by their younger members. In the past few years, many Junior Chambers of Commerce have been formed by young business men. Junior political organizations are well established. Even some of the highest professions have long ago created Junior sections and departments.*

The responsibility for the development or lack of development of the professional character of a young lawyer rests squarely upon the Bar Associations. They should be—and are to a great extent—held accountable to the citizenry of the country for the type of practicing lawyer. One undesirable member of the profession reflects upon the whole. In the eyes of the layman, the entire bar is colored by one unethical member. It is true, that criticism of the Bar is not new. Lawyers have been subject to tirades from the laity since the law began. Even though much of it is unwarranted, there is a sufficient amount justifiable—so much, in fact, that Bar Associations should be eager to adopt any method which would tend to eradicate the basic evil.

One of the disadvantages which always attends the plans of those proposing any new change in an established order is that their ideas have never been tried. This is not true, however, of the plan for a junior section of a State Bar Association. Such sections are in operation in a number of states today and others are contemplating their creation. Although the results accomplished have not been startling, and the influence upon the professional characters of their members is, as yet, in the formative stage, nevertheless, their creation marks a further progress by the Bar Associations toward unification and toward the accomplishment of one of their primary aims—that of public service. The creation of these sections will result in a real and lasting benefit to their members, and will give to the older lawyer a sense of achievement and of satisfaction which can come only from having performed a distinct service to the legal profession.

* Here, Mr. Biel explained briefly the work of the American Society of Engineers along these lines.