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INTEGRATION OF THE BAR AND JUDICIAL RESPONSIBILITY

By Maynard E. Pirsig*

Integration of the bar has been accomplished by three methods in the various states which have adopted it. The first method used resorted to legislation which set forth in detail the structure and powers of the organization corresponding in content to the typical constitution of existing voluntary bar associations. Beginning in 1934 in Kentucky, the second method pursued was to enact a statute in short form directing or authorizing the highest court of the state to integrate the bar, leaving to the court the task of adopting rules providing for the details of organization. The third course, followed in Nebraska, Oklahoma and Missouri, has been by direct application by the bar to the highest court of the state for the adoption of such rules. This proceeds on the basis that the court in the exercise of its inherent power over the legal profession of the state may provide for the effective organization of the bar and no statute conferring power to act is needed.

The last two methods of integration present the question what precisely is the function and responsibility of the court when it integrates the bar of its state either with or without an authorizing statute. Integration in brief means that every practicing lawyer in the state becomes a member of the organization that is created and

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1. For an example see Cal. Stat., 1927, Ch. 34. This act followed the pattern of the model act prepared by the American Judicature Soc. See Bar Association Act, (1918) 2 Jr. Am. Jud. Soc. 111. Another model, followed in some states, see Ala. Acts, 1923, No. 133, was offered by the Committee of the Conference of Delegates of the American Bar Association on Bar Organization. See Bar Organization Act, (1920) 4 Jr. Am. Jud. Soc. 111.
2. Ky. Acts, 1934, Ch. 3.
is required to pay to it a specified sum as annual dues. In return he is entitled to the privileges of a member of the organization and participation in its activities. The decisions settle beyond question that the court, with or without statutory aid, may impose these obligations.  

This is on the ground that the privileges granted a lawyer on admission to the bar may be conditioned upon the assumption of obligations deemed by the court to advance the interest and welfare of the general public and the profession. Until recently, whenever short form statutes directing integration have been enacted the courts have without exception taken the necessary steps to organize the bar by the issuance of appropriate rules of court. Ordinarily, these rules have been prepared by a committee representing the bar and have been adopted as submitted with little or no change. Even when there has been no statute on the subject, courts have taken similar action, on petition of the bar, where the court has been satisfied that the general sentiment of the bar is in favor of integration and have approved the rules proposed.

4. In re Integration of Nebraska State Bar Ass'n, supra, footnote 3; In re Integration of State Bar of Oklahoma, supra, footnote 3; Ayres v. Hadaway, (1942) 303 Mich. 589, 6 N. W. 2d 905; In re Mundy, (1942) 202 La. 41, 11 So. 2d 398; In re Petition for Integration of Bar of Minnesota, (1943) 216 Minn. 195, 12 N. W. 2d 515; Commonwealth v. Harrington, (1936) 266 Ky. 41, 98 S. W. 2d 53; Integration of Bar Case, (1943) 244 Wis. 8, 11 N. W. 2d 604, 12 N. W. 2d 699.

5. In re Integration of Nebraska State Bar Ass'n, supra, footnote 3; In re Integration of State Bar of Oklahoma, supra, footnote 3. In 1944, the Supreme Court of Missouri issued rules for the integration of the bar on petition of the bar but no opinion was rendered. For the rules see Rules of Sup. Ct. of Mo., (1945) 352 Mo. i.

In several instances the courts have declined to grant the petition on the ground that there had not been a satisfactory showing that a majority of the members of the bar were in favor of integration. In re Unification of Montana Bar Ass'n, (1939) 107 Mont. 559, 87 P. 2d 172; In re Integrated Bar, (1947) ....... Mass. ......... 74 N. E. 2d 140. The opinion of the Montana court is also hostile in its tone to integration. It again denied the bar's petition in Re Unification of Bar of This Court, (1947) ....... Mont. ......... 175 P. 2d 773 in a cursory per curiam opinion stating some members of the court thought legislation was necessary and others thought an integrated bar organization was not needed. See also Els, Why Bar Integration was Rejected, (1944) 18 Conn. Bar Jr. 54, explaining why the Connecticut court denied the petition to integrate, and the per curiam opinion of the New Jersey court in denying a similar petition set forth in (1939) N. J. State Bar Ass'n Year Book 155.

In Integration of Bar Case, (1943) 244 Wis. 8, 11 N. W. 2d 604, 12 N. W. 2d 699, and in Re Petition for Integration of Bar of Minnesota, (1943) 216 Minn. 195, 12 N. W. 2d 515, decision on whether rules should be issued was deferred until the return of lawyers in the armed services. Compare the action of the Missouri court which accepted the 12 to 1 vote of these lawyers while in service as a sufficient showing of their preferences. See Hemker, Integrated Bar Created by Missouri Supreme Court, (1944) 28 Jr. Am. Jud. Soc. 50. The later action of the Wisconsin court is the subject of this paper. Further action by the Minnesota court has not taken place at this writing.
The first important departure from this course of judicial action with respect to integration of the bar is represented by the decision of the Wisconsin Supreme Court in *Re Integration of the Bar*, handed down in the closing days of 1946, in which the application to integrate the bar of the state was denied. In 1943, a typical short form statute had been enacted which provided:

"(1) There shall be an association to be known as the 'State Bar of Wisconsin' composed of persons licensed to practice law in this state, and membership in such association shall be a condition precedent to the right to practice law in Wisconsin."

"The Supreme Court by appropriate orders shall provide for the organization and government of the association and shall define the rights, obligations and conditions of membership therein, to the end that such association shall promote the public interest by maintaining high standards of conduct in the legal profession and by aiding in the efficient administration of justice."

In the decision referred to, the Wisconsin court, as no other court has done, refused, on application of the voluntary bar organization of the state, to comply with the statute and issue the rules of integration which were contemplated. In view of its unique position and the influence which the decision might have in other states, it was thought desirable to examine with some care the reasons which the court gave for its conclusions.

The court's objection to an integrated bar centered around the requirement that all practicing lawyers must pay dues to the bar organization which is created. "The fees," the court stated, "are the life blood of the integrated bar and to integrate the bar without fees would be useless." The court recognized that in the exercise of its inherent power over the bar it could require these fees to be paid and that they are not strictly license fees. However, it continued:

"No matter what these fees be called, they are moneys required to be paid into the treasury of the bar for a public purpose connected with the administration of justice. It appears to be assumed in all the briefs that the court will fully exhaust its function by setting up the organization and requiring dues to be paid and that from there on the court will leave the organized bar to operate in a completely democratic and voluntary manner, dealing with such problems as in the opinion of the bar are proper for them to consider and to solve, and expending its moneys for these democratically ascertained purposes."

"Nothing is further from the truth in our opinion. It appears to us that the same considerations that may call for the court to..."

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6. (1946) 249 Wis. 523, 25 N. W. 2d 500.
exercise power initially to integrate, require it to censor the budgets and activities of the bar after integration. If the moneys do not go into the State treasury and are not subject to audit or to the legislative process of appropriation in which the public character of the purposes for which the moneys are used may be considered, this court must assume the responsibility of seeing that activities of the bar for which these moneys are paid are sufficiently public to warrant the use of the money for their promotion."

That there could be a *self-governing* integrated bar organization under the authority and rules of the court was characterized as "self contradictory."

"The bar as integrated would be definitely subordinate to the court and under the disagreeable necessity of having its activities policed by the court and this being true, the price of integration would be much greater than this court or any lawyer ought to be willing to pay, unless the exigencies in respect to standards of admission and discipline are so great as to warrant adoption of some such expedient, either temporarily or upon a limited scale."

By way of illustration the court states some of the purposes for which the funds could or could not be used. They could be used in dealing with such problems as professional discipline, study of bar admission standards and post-admission education. But the emphasis is upon those activities which would be excluded:

The integrated bar "could not maintain a legislative agent. It could not use its dues for any purpose advantageous to its members that did not also further the good of the general public. We doubt whether it could conduct propaganda in defense of the legal profession. We feel quite sure that it could not seek legislative definition of the boundary lines of the legal profession so as to exclude accountants, labor agents and others from the trial of cases before commissions which do not require parties to have lawyers and that, we understand, is one of the purposes for which the integrated bar would want to work. It could properly consider judicial qualifications, tenure, salary or pensions, but carrying its conclusion into effect could only be done with the greatest embarrassment to bar and bench. The funds ought not to be used in judicial campaigns although members of the bar can properly act in this field. It requires a very short look at some of the possible activities of the bar to make it clear that this court would have to insist upon scrutinizing every activity for which it is proposed to expend funds derived from dues, and that a series of situations would arise that would be embarrassing to the relations of bench and bar. The bar ought to have the untrammeled power of acting in unison to consider any matter close to the administration of justice in which the members have special competency without any feeling that its activities are subject to control or censorship. A free and voluntary bar, even though embarrassed by lack of
funds, is to be preferred to one that is or feels itself to be dominated by the court unless some exigency tips the scales in favor of the latter."

Of course, no one would want or has advocated a bar organization subject to such limitations and restrictions. Integrated bar organizations functioning under rules of court have been in operation over a period of years. There should be ample evidence in this experience, therefore, to support the court's characterization of such an organization if it rests upon a sound basis. If "control," "censorship," "policing," and "domination" by the court are a product or necessary incident of an integrated bar created by court rules, this fact should be disclosed in the available literature which comes from these organizations. It should appear in the reports of the proceedings of annual meetings, in committee reports, in the addresses of leaders of the bar and in the contents of their bar journals. The opinion of the Wisconsin court does not indicate that these were considered. The writer has examined this literature, page by page, for each integrated bar association organized by rule of court. The results are briefly summarized in the following pages. In no instance was there found any substantiation for the court's description of the manner in which such an organization must function. The one possible exception is in the case of the integrated bar of Oklahoma.

Kentucky

Kentucky was the first state to adopt the short form statute conferring authority on the highest court of the state to integrate the bar. Court rules creating the organization were adopted within a few weeks after the act was passed. These were prepared with the assistance and advice of the committee on the subject of the existing voluntary bar association. Requests for suggestions were sent out to local bar associations but the speed with which the rules were adopted did not permit complete examination of the subject by these organizations. There were no public hearings or contests of the character held by the Wisconsin court. There is some indica-

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8. The available materials in most instances did not go beyond 1946 and sometimes not beyond 1945. Materials on the Wyoming State Bar and the status under the West Virginia short form statute were not accessible to the writer. See W. Va. Acts, 1945, Ch. 44.


tion that the organization was set up before the lawyers of the state were fully prepared for it.\textsuperscript{11}

The rules, as thus drawn, contain some provisions which might superficially suggest some interference by the court in the affairs of the organization. Thus, Rule 2 provides that the Board of Commissioners "shall act as administrative agents of the Court of Appeals for the purpose of enforcing such rules and regulations as are prescribed, adopted and promulgated by the Court of Appeals under the aforesaid Act." Likewise Rule 6 provides that the Registrar shall be appointed by the court and his duties defined by it. The Board, however, is elected by the members of the bar and it, in turn, selects the officers including the treasurer to whom the dues are paid. There is no provision for any report to the court or for obtaining any approval from the court on any proposed course of action. A study of the activities of the organization indicates not the slightest interposition of the court in any matter. Whatever rules or changes have been made in the rules originated with the bar. Nowhere was there discovered any suggestion of interference or comment or criticism from the court. At no time has the court raised any question as to the use being made of the funds of the organization, although their use has had all the range they have in voluntary bar associations including the activities which the Wisconsin court stated would have to be proscribed. The treasurer's reports are made to the association and not to the court. Appropriations are made to the various committees without consultation with the court, including the committee on unauthorized practice of law.\textsuperscript{12}

So far as content of subject matter dealt with, freedom of choice as to questions to be considered, freedom of discussion and of decision and recommendation are concerned, one could not distinguish the proceedings and activities of this organization from that of a voluntary bar organization.

The relations between the bar organization and the judges of the Court of Appeals have been most cordial, friendly and cooperative. The judges regularly attend the meetings of the association. At one time the court asked the aid of the bar in obtaining relief from the excessive volume of litigation before the court, stating it did not want to act without "the moral support and ap-

\textsuperscript{11} For a time there were from 700 to 800 lawyers in arrears in the payment of dues. White, Aims and Purposes of the Kentucky State Bar Ass'n, 1937 Ky. State Bar Ass'n Proc. 57. In 1942 there were but 7 delinquencies. President's Address, 1942 Ky. State Bar Ass'n Proc. 30, 33.

\textsuperscript{12} (1945) 9 Ky. State Bar Jr. 5, 7, 45.
proval of this association.” It asked that a committee on the subject be created. This hardly suggests an organization dominated or controlled by the court. On the contrary a degree of mutual respect and understanding is evidenced, equalled by few states with voluntary bar organizations.

**MICHIGAN**

The Michigan bar was integrated by rule of court in 1935. While a short form statute had been enacted authorizing the court to act and fixing the dues at $5.00 per year and, no doubt, stimulating the court into action, the court issued the rules in the exercise of its own inherent power. As soon as the act was passed, the court appointed a committee of lawyers to draft a proposed set of rules of integration. The committee’s draft on being presented was promptly adopted. There was no formal hearing and no questioning of the need for integration. No opinion was written. The following comments were offered by Chief Justice Potter as the organization started on its course:

“The aim and object of Act No. 58, Pub. Acts 1935, to a large extent was to give to the legal profession of this State the power to govern itself. Under this act, rules have been framed and adopted by the Supreme Court for the organization of the State Bar, and additional rules have been framed by the State Bar for the government of the profession. It is hoped these rules in their operation will be for the benefit of the profession and of the public. If mistakes have been made in them, the profession may suggest amendments thereto. At least a start has been made. If the organization of the State Bar under the provisions of this act does not prove of benefit and advantage to the bar and to the public, the scheme should and will be discontinued. It is not claimed this legislation and the action taken by the court in pursuance thereof is a cure-all. It deals with the members of a great profession. Those members are human, subject to all the frailties inherent in human nature. No great reform was ever accomplished suddenly. But if the act and the proceedings had thereunder shall in the long run make for success, then it will have accomplished all that can be reasonably expected.

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There is no reason why it cannot prove successful in Michigan. It has had the approval of the legislative and executive departments of government. The court has sought to cooperate with the bar in making the organization a working force for good. It remains for the members of the profession to give to the State Bar their earnest and hearty cooperation. If this is done as it is confidently expected will be done, the Integrated Bar cannot help but be successful in counteracting unmerited criticisms, maintaining higher ideals by the members of the profession resulting in better service to clients and to the public, and in maintaining the influence and importance of the lawyers of Michigan in society and in government.

The rules vest the governing powers of the organization in a Board of Commissioners elected by the members of the bar. Rule 11 explicitly leaves to the Board the making of "necessary appropriations for disbursements from the funds in the treasury to pay all necessary expenses of the State Bar." The books of account are to be audited by a certified public accountant and a financial statement presented at the annual meeting and filed with the clerk of the Supreme Court.

Since the rules were adopted, the organization has pursued its objectives with vigor, confidence and independence. The scope of its activities is as wide as will be found in any voluntary bar association. It has an active committee on unauthorized practice of law which has participated in litigation before the Supreme Court on the subject. It was instrumental in starting a campaign to reform the method of selecting the judges of the Supreme Court. It has a legislative committee which checks on pending legislation. Its head office at Lansing serves lawyers in their private legal business throughout the state in checking records, filing documents, etc., at the capitol. Throughout the recorded proceedings there is no indication that the court has in any way attempted to direct, limit, control, censor or supervise any activity of the association. Its part has been confined exclusively to the adoption of the rules governing the organization. After almost ten years of experience, the president of the association could say:

"The Court, with profound wisdom, and keenly sensible of democratic processes, created an agency by means of which the legal profession could effectively regulate and control itself, and thus preserved inviolate the independence of the Bar as a branch of the administration of justice."

18. See Grand Rapids Bar Ass'n v. Denkema, (1939) 290 Mich. 56, 287 N. W. 377. The propriety of this appears to have been accepted without question. Rule 8 expressly provides for this committee as a standing committee.

INTEGRATION OF THE BAR

That this represents the general judgment of the bar was recently confirmed in realist fashion when, through its efforts, the enabling act was amended to leave to the court, without legislative restriction, the fixing of the amount of dues to be paid. There is nothing in the experience of Michigan which lends support to the views expressed by the Wisconsin court.

NEBRASKA

Prior to 1936, repeated attempts had been made in this state to secure passage of a statute integrating the bar. In each instance, serious opposition within the legal profession itself led to failure. In 1936, a committee of the voluntary bar association recommended integration by application directly to the Nebraska Supreme Court. Notwithstanding the objection raised at the annual meeting that the Supreme Court, if once invited to act, might proceed to make rules without consulting the bar or observing its recommendations, the association approved the proposal and directed that the question be submitted to a vote of the members of the bar including the rules prepared by the committee. The vote, taken by secret ballot, resulted in approval with 595 lawyers in favor and 155 against. A petition was submitted to the court asking adoption of the proposed rules and, after a hearing was held in which both proponents and opponents were heard, a decision was reached, supported by an opinion, in which the rules as proposed were adopted practically without change. This is the first instance in which a court has integrated the bar of a state without a prior authorizing statute.

Under the rules adopted, the Executive Council, which constitutes the governing body, and the officers are selected by the lawyers, the former by ballot, the latter at the annual meetings. The office of secretary-treasurer is held by the clerk of the supreme

23. At the time there were approximately 2100 lawyers in the state. Campbell, The Association, Past and Present and Suggested Objectives, (1937) 28 Proc. Neb. State Bar Ass'n 337.
24. In re Integration of Nebraska State Bar Ass'n, (1937) 133 Neb. 283, 275 N. W. 265. See Rept. of Sp. Comm. on Bar Integration, (1937) 28 Proc. Neb. State Bar Ass'n 322. The dues were fixed at $5.00 per year instead of $3.00 as proposed.
court. His reports are to the association and his accounts are audited by a private firm of auditors. The funds collected as dues are thus treated as association moneys, not as state funds. Frequent lauditory comments upon his work as an officer of the association will be found.\textsuperscript{25} The disposition of the moneys of the association appears to be completely under the direction and control of the Executive Council of the association.

Among the most vigorous and successful committees is that on unauthorized practice of law. This committee, with others, was created by the rules adopted by the court. It has proceeded aggressively with its task as it affects real estate agents and brokers, trust companies and banks, arbitration associations, title abstractors, collection agencies, accountants, and others.\textsuperscript{26} It was instrumental in procuring the prosecution by the state's attorney general of a contempt proceedings against a layman practitioner appearing before the state railway commission. This litigation came before the Supreme Court which ruled against some of the contentions of the committee\textsuperscript{27} and in favor of others.\textsuperscript{28} There is no evidence in any available material that the court in any way has questioned the propriety of using the funds of the association for these purposes.

Of considerable significance to the present discussion is the fact that the association has a committee on public relations of the bar. It has also a committee on legislation which at one time sponsored legislation increasing the salaries of the judges of the state including those of the supreme court and met with but limited success.\textsuperscript{29} There is nothing to indicate that the bar was handicapped or the court embarrassed by the fact that this measure was sponsored by an organization created by the court. Neither was identified with the other.

There has been also a committee on selection of judges whose proposals for change in the methods of selection have been the subject of very substantial controversy within the organization with little agreement reached to the present time.

In these and in other activities of the organization, the Supreme Court has been completely out of the picture so far as recorded proceedings reveal. Nor have the lawyers of the state been without

\textsuperscript{26} See (1940) 31 Neb. State Bar Ass'n Proc. 42.
\textsuperscript{27} State v. Childe, (1941) 139 Neb. 91, 295 N. W. 381.
\textsuperscript{28} State v. Childe, (1946) 147 Neb. 527, 23 N. W. 2d 720.
\textsuperscript{29} See (1941) 32 Neb. State Bar Ass'n Proc. 61.
opportunity to express themselves on this very subject. In 1944, a resolution was offered at the annual meeting requesting the court to set aside the rules of integration and, if this was refused, proposing a constitutional amendment to the same effect for submission at the next election. The resolution recited that the rules "have resulted in the regimentation of the lawyers of this State and have tied their hands to carry out their duties to teach and inform the people when their rights are being threatened with destruction, and... it now appears that the abuses and inequities that have grown up under such rules and regulations have become so oppressive to both the lawyers and the people as to be no longer bearable." The executive council recommended against adoption of the resolution. While the recommendation was open for discussion on the floor at the annual meeting, none was offered either for or against it and on submission to a vote the recommendation was adopted. Had there been any substantial sentiment in favor of the resolution, it would undoubtedly have asserted itself at this opportunity. The fact is the Nebraska State Bar Association is conducted as free of restraint and domination and is as subject to the control of its own members as is any voluntary bar organization. The recorded proceedings of the association do not permit any other conclusion.

VIRGINIA

The State Bar of Virginia varies distinctly from those already discussed in that the statute creates the bar organization as a distinct arm or agency of the state government. The 1938 act\(^\text{32}\) authorized the Supreme Court of Appeals to make rules (a) defining the practice of law. (b) prescribing codes of professional

31. In 1941 the president of the association made this comment: "It is a safe assumption that few, if any, will deny that integration has brought about a stimulation of the sense of professional obligation, a quickened recognition of our opportunities for the improvement of judicial administration, and a measurable success in the modernization of our legal processes and their better adaptation to the needs of the people.

"With a more general understanding of our objectives and accomplishments, and of the disinterestedness which has actuated them, has come an elevation of the profession in public esteem, and in the regard and consideration accorded to it by the public press.

"Today the Bar of this state deservedly occupies a higher position and wields a greater influence for the good of the commonwealth than in the days when the expressions by individual lawyers of our purposes, although they were representative of our major attitudes, lacked the coherence and authority of well-considered, collective action." (1941) 32 Proc. Neb. State Bar Ass'n 7.
and judicial ethics. (c) prescribing the procedure for disciplinary action and (d) organizing and governing an association composed of the lawyers of the state "to act as an administrative agency of the Supreme Court of Appeals of Virginia for the purpose of investigating and reporting the violation of such rules and regulations" to a court for the necessary proceedings. The court was also authorized to fix a schedule of fees to be paid by the members "for the purpose of administering this act."

A "Committee of Forty," thirty-six of whom were selected by the bar and six by the court, drafted the rules for the court. They were adopted without a formal hearing and without rendition of an opinion. They provide for a Council, similarly selected, to govern the organization. Committees on professional ethics, on judicial ethics and on unauthorized practice of law were created. Local committees were provided for to render opinions on these subjects and to deal with complaints of violation of the standards fixed.

What was thus created was essentially a self-policing organization having the attributes of a department of state with the cost and responsibility of administration borne by the legal profession. The voluntary state bar association which secured the enactment of the statute has continued in existence and remains active in the field of professional and social activities other than those specifically conferred by the statute upon the new organization. This dual organization has undoubtedly dissipated the effective strength of the bar of the state and there has been some agitation, ineffective to date, to merge the two organizations. The integrated organization, the Virginia State Bar, has to some extent extended its activities into fields other than those enumerated by the statutes and this is permitted and contemplated by the court rules, but these efforts appear to have met with but limited success.

33. See Rules for Integration of the Virginia State Bar, Rule IV, (1938) 171 Vir. xvii.
34. Commenting on the small attendance at the annual meetings of the Virginia State Bar, its president said, "It is obvious that few men have sufficient leisure hours to contribute to the advancement of their profession through two separate organizations. It is a duplication of money and an invitation to rivalry which should not exist." Rept. of Guy B. Havelgrove, pres., (1942) 4th Annual Rept. of Vir. State Bar 21. See also President's Annual Report, (1946) 8th Annual Rept. of Vir. State Bar 9, 11.
35. Rules for Integration of the Vir. State Bar, (1938) Rule IV, sec. 9 (k) provides that the Council may exercise power:
"To cultivate and advance the science of jurisprudence;"
"To promote reform in the law and in judicial procedure;"
"To facilitate the administration of justice;"
"To uphold and elevate the standards of honor, of integrity and of courtesy in the legal profession;"
The experience in Virginia is thus unique and of limited significance to this discussion since the principle of integration has been applied to a limited degree only. Several points, however, are worth noting. The court respected the statute and issued the rules contemplated by it. Second, the organization set up has been self-governing. There is no evidence that the court has taken any part in its affairs. This is all the more significant when one considers the degree to which the organization is treated as an arm of the state and as an "administrative agency of the Supreme Court of Appeals." Moneys received from dues are treated as state funds and the reports of the organization as state documents. This approach was probably intended to strengthen the hand of the bar in dealing with problems of discipline and unauthorized practice of law. These are fields traditionally associated with judicial control of the legal profession. Under these circumstances one might expect the court to take an active hand in the affairs of the organization. This has not been the case. The committee on unauthorized practice of law has carried on an aggressive campaign against real estate dealers, collection agencies and others. Suits have been commenced to prohibit persons not admitted to the bar from practicing law and counsel have been employed to assist in their prose-

"To encourage higher and better education for membership in the profession:"
"To promote a spirit of cordiality and brotherhood among the members of the Virginia State Bar."

Special committees on such subjects as Revision of Procedure, Local Bar Association, Legislation, Legal Education and Admission to the Bar have been appointed. The committee first named has been particularly active in attempts to secure rule making power for the Supreme Court.

36. For a time funds unused at the expiration of the fiscal period reverted to the General Fund of the state. This was corrected by Vir. Acts 1940, Ch. 314; creating a State Bar Fund. The treasurer's reports have been audited by the state auditor.

In 1941 the Attorney General ruled that these funds were properly under the supervision of the Supreme Court rather than the executive department as had theretofore been the case. Rept. of Pres. John S. Battle, (1941) 3d Annual Rept. of Vir. State Bar 13, 14.

37. "There may be claimed for the Bar, however, a peculiar advantage over the parent association, an advantage appreciated by its founders, which in a proper case is fundamental to its usefulness. This advantage grows out of the official character of the Bar and its potentialities for expressing the wishes of all of the lawyers of Virginia. Such an advantage is an indispensable prerequisite to the proper functioning of the District Committees in the matter of discipline. It is equally indispensable in the valuable work of the Unauthorized Practice Committee, which, in its dealings with others of conflicting interest, must necessarily feel that the entire Bar is behind it." Rept. of Pres. Samuel H. Williams, (1940) 2d Annual Rept. of Vir. State Bar 8, 11.

38. See Rept. of Comm. on Unauthorized Practice of Law, (1946) 8th Annual Rept. of Vir. State Bar 30.
cution and paid from state bar funds. In these and other activities no check or control by the court has been discovered.

**Texas**

In 1939, through the efforts of the voluntary state bar association, Texas enacted a short integration statute. The act created the State Bar as "an administrative agency of the Judicial Department of the State" and directed the Supreme Court "to prepare and propose rules and regulations" on disciplinary proceedings, "for the conduct of the State Bar," and prescribing a code of professional ethics. Dues were limited to $4.00 per year, payable to the clerk of the court "to be held by him and expended by the Court or under its discretion for the purpose of the administration of this Act." Submission of the rules before adoption to a vote of not less than 51% of the members of the bar, with majority approval of each rule adopted, was required.

The court fixed the dues at $4.00 and arranged for the selection of a committee of nineteen elected at local meetings of the bar to draft the rules. After wide circulation, discussion and frequent revision of the rules drafted by this committee, the rules finally submitted received a favorable vote of 64% of the bar of the state with all rules individually voted upon receiving a favorable majority. Following this they were adopted by the court.

These rules place the power and responsibility for the functioning of the organization in the hands of a Board of Directors elected, along with the President and Vice-President, by the members of the bar. While the dues of members are paid to the clerk of the court, under the rules these are turned over by him, after deducting his expenses in connection therewith, to the treasurer of the association elected by the Board. The Board is authorized to "direct

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40. 46 Tex. Gen. Laws, 1939, Title: Attorneys, p. 64.
42. (1940) 3 Tex. Bar Jr. 187. During consideration of the proposed rules, a justice of the court assured the bar, "It is not the purpose of the rules to cramp or hedge the rights of lawyers. They will be fair and just because the lawyers are recommending them." (1939) 2 Tex. Bar Jr. 382.
43. Mr. Justice Douglas of the United States Supreme Court, in addressing the first annual meeting of the new organization, said: "You have brought about the self-organization of the whole Bar through rules drafted by a committee headed by your President and composed of lawyers elected at meetings held in each of your judicial districts. All these steps were under the supervision of your court. Your State Bar organization now is truly democratic and representative. It includes all the lawyers and not merely those who choose to join." (1940) 59 Proc. State Bar of Tex. 81.
the manner and purposes for which all funds of the State Bar shall be disbursed." How these funds are to be used appears to have been left by the court entirely to the State Bar and nothing has been found to indicate that the court has taken any part in determining how or for what purposes these funds should be disbursed.

The organization since its creation has been operating completely under its own direction. The scope of its activities is as wide as that of the typical voluntary bar association. The creation of committees, their appointment, activities and reports, the presentation of their work and recommendations at the annual meetings, the work of the Board and officers and the discussions at the meetings contain nothing to suggest that the court is in any manner supervising or limiting or even observing the work of the organization.

An important part of the organization's work has been directed toward the unauthorized practice of law. The rules of court expressly authorize the grievance committees to deal with this problem, to bring proceedings "to suppress, prohibit or prevent it, and to employ help therefor, "such persons to receive compensation as fixed by the Board."44 Hexter Title & Abstract Co., Inc. v. Grievance Committee45 involved this problem and was successfully prosecuted before the Supreme Court by the State Bar. No difficulty is indicated by the case from the fact that an organ of its own creation was appearing before the court. It suggests that both considered themselves independent of each other.

Since 1942, a public relations committee has been functioning, engaged primarily in promoting better public understanding of and feeling toward the bench and bar. The court has not shown a disposition to regard this, as did the Wisconsin court, as involving the improper use of moneys received from dues to benefit the bar only and hence not for a public purpose.

That the relationship between the integrated bar and the court has been excellent and unhampered is reflected throughout the materials found in the Texas Bar Journal and in the reported proceedings of the organization. In 1941, the president of the State Bar remarked:46

"Let me say to you that the lawyers of Texas should be proud of the fact that they have had a court during the last two years that was willing to work with the lawyers, and that is still willing

44. Rules Governing the State Bar of Texas, 1940, Art. XII, sec. 35.
45. (1944) 142 Tex. 506, 179 S. W. 2d 946.
46. (1941) 60 Proc. State Bar of Tex. 98. See also (1942) 61 Proc. State Bar of Tex. 5.
to work with the lawyers, and that will do anything in the world to advance the profession or do anything for the good of the judiciary. I think we ought to be proud of the fact that we at this time have a court that is willing to go straight down the line for the improvement of our business and the business of the public."

This feeling is substantiated by the fact that in 1941, the bar successfully urged the enactment of a statute conferring on the court full rule making power in the field of civil procedure and that these rules were prepared and promulgated by the court with the active participation of the bar.47

The experience in Texas does not bear out the critical estimate of the integrated bar by the Wisconsin court.

**Oklahoma**

Integration in Oklahoma has had a turbulent history. In 1929, a statute was enacted containing detailed provision for the organization of the bar and not necessitating court action.48 The act provided for a Board of Governors elected by members of the bar and vested with the executive powers of the organization. Included was the fixing of the qualifications and examination of applicants for admission to the bar and the formulation and enforcement of rules of professional conduct, both subject to the approval of the Supreme Court. The funds from dues were to be paid to the State Treasurer but disbursed at the direction of the Board.

The organization created was thus largely self-governing. The bar of Oklahoma functioned under it for a period of ten years and evidently gave satisfaction to the great majority of the lawyers of the state.49 However, the efforts of a persistent minority led to repeal of the act effective July 28, 1939,50 and the bar suddenly found itself presented with the loss of the organization through which it had acted, together with the $20,000 accumulated in the state treasury, and no means with which to carry on its organized activities.

The Nebraska decision51 suggested the solution, integration by rule of court. The Board of Governors immediately created a committee authorized to petition the court for rules of integration

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48. Okla. Stat., 1929, Ch. 264. The act was patterned on the California statute. See footnote 1.
49. In 1933, in resisting efforts to repeal the act, 90% of the lawyers of the state signed petitions opposing repeal. (1933) 19 A. B. A. Jr. 488.
50. Okla. Stat., 1931, Ch. 22.
51. In re Integration of Nebraska State Bar Ass'n, (1937) 133 Neb. 283, 275 N. W. 265.
and to prepare suggested rules for adoption.\textsuperscript{52} The rules submitted by this committee followed the characteristic pattern of integration rules including an elected governing board. One important change from the repealed statute left control over admission to the bar and professional discipline in the hands of the court.\textsuperscript{53}

On June 29th, 1939, the petition of the committee for integration not having been acted upon, the court issued a temporary order creating an Executive Council, appointed by the court itself, to be the successors of the Board of Governors and to perform such other duties as the court might direct.\textsuperscript{54} A referee was appointed to take over the assets and funds of the expiring organization.

On October 10th, 1939, the court rendered its decision on the petition.\textsuperscript{55} Instead of adhering to the plan of organization of the rules proposed to it, the court followed the plan of organization initiated by the temporary order. The rules adopted by the court created an Executive Council appointed by the court itself which in turn selected its own officers. They also provided for a Board of Bar Examiners appointed by the court. The rules are concerned primarily with disciplinary and admission procedures and powers. Only incidentally do they deal with the powers, activities and organizational details of the bar association itself. They permit payment of the expenses of the annual meetings and publication of the Bar Journal. Dues were reduced from those previously existing.\textsuperscript{56} The members named by the court to the new Council were those which it had appointed to the temporary Council. So far as could be discovered, none had held previous office or been a member of the Board of Governors of the repealed statutory organization.

These rules represented a radical departure from one of the basic tenets of an integrated bar, that it should be a self-governing body with powers and direction in the hands of a board and officers

\textsuperscript{52} (1939) 10 Okla. State Bar Jr. 235.
\textsuperscript{53} (1939) 10 Okla. State Bar Jr. 236.
\textsuperscript{54} (1939) 10 Okla. State Bar Jr. 303.
\textsuperscript{55} In re Integration of State Bar of Oklahoma, (1939) 185 Okla. 505, 95 P. 2d 113. The opinion of the court sets out the rules adopted.
\textsuperscript{56} They were reduced from $5.00 to $3.00 for active members, from $3.00 to $1.00 for inactive. These proved inadequate and the inherited $20,000 surplus soon was depleted. See Moore, Highlights on the Tulsa Convention, (1941) 12 Okla. State Bar Jr. 426. Through the persistence of the association, the court raised the dues later to the old rates, see (1941) 12 Okla. State Bar Jr. 433, and these proving insufficient, see (1941) 12 Okla. State Bar Jr. 1701; (1942) 13 Okla. State Bar Jr. 1572, 1602, they were raised to the present rates of $7.50 and $4.00 respectively for active and inactive members. (1943) 14 Okla. State Bar Jr., Part II, p. 336. Publication of the opinions of the Supreme Court in full in the Bar Journal consumes a large part of the funds of the organization.
selected by the lawyers. Instead, they provided for an organization in which the lawyers were governed by a board appointed by the court. It is in striking contrast to the action of every other court which has undertaken the integration of the bar.

What accounted for this usual action the writer cannot judge. He suspects it stemmed, to some extent, from resentment over the court's having been deprived under the repealed act of the primary responsibility and control over admission, discipline and standards of professional conduct, functions which the court theretofore had traditionally exercised. It was probably the result also of the precipitous action necessitated by the sudden repeal of the bar act which prevented discussion and criticism of the rules by members of the bar before they were adopted. Neither the court's opinion nor other available materials suggest that the court was actuated by reasons or considerations of the character stated by the Wisconsin court.

The lawyers of the state immediately took steps to off-set the consequences of these ill conceived rules. At their first annual meeting, they adopted by-laws creating an elected House of Delegates which should control and administer the affairs of the association "excepting only those powers and functions which are vested in the Executive Council and in the Board of Bar Examiners by the Rules of the Supreme Court."

Two governing bodies thus existed and, while their powers and duties technically were not conflicting, friction was bound to and did occur. A committee created by the House of Delegates on revision of the rules stated one of its purposes as:

"Consolidating said Association into a single, homogeneous body with the controlling authority vested in the House of Delegates in lieu of an organization with divided authority, most of the controlling powers being vested in the Executive Council whose members take no part in the Association activities and, under the existing rules, are specifically prohibited from holding any office therein; such divided authority necessarily resulting in more or less conflicts and friction."

It proposed amendment of the rules so as to provide for election of the Executive Council by the House of Delegates instead of by the Supreme Court and fusion of the Executive Committee with the

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57. (1940) 10 Okla. State Bar Jr. 847. The president and vice-president were to be elected at the annual meetings. An executive committee also was created to conduct the affairs of the association between meetings of the House of Delegates. The model followed was that of the American Bar Association.
The proposal was approved by the House of Delegates. The court, however, was "opposed to relinquishing their rights to appoint the nine members of the Executive Council," but after further negotiations the court agreed that "it would be willing to increase the membership of the Executive Council from nine to fifteen, the additional six members to consist of the President and Vice-President of the Oklahoma Bar Association, one member of the Board of Bar Examiners, and a member from each of the three Criminal Courts of Appeal judicial districts, to be elected by the House of Delegates." The bar committee agreed to this compromise "believing that this will be a material step in the direction of coordinating and harmonizing the two more or less non-cooperative branches of our Association." Rules carrying out this compromise were adopted by the court and these have continued to the present time.

The writer has been informed by responsible sources that the present arrangement is working out satisfactorily and that the court has appointed members to the Council not objectionable to the bar. But the fact that a modus operandi has been established cannot conceal the fact that the bar of Oklahoma has been deprived by an exceptional obstinacy on the part of its Supreme Court of the right to a free and self-governing organization.

This experience, however, hardly confirms the views concerning the integrated bar which have been expressed by the Wisconsin court. Despite their difficulties, there is no agitation evident among the lawyers of the state for abandonment of the integrated form of bar organization. The experience suggests rather that when the bar of a state requests its court to adopt rules of integration, it should ascertain with some assurance that the court understands what integration means and what its responsibilities to the bar are, and that before rules are adopted there be opportunity for free discussion and criticism by the lawyers of the state.

**Louisiana**

Integration was introduced to the lawyers of Louisiana under the worst possible circumstances. The Huey Long regime seized control of the state. The newly appointed Executive Council, at its first meeting, selected for its chairman the president of the association although the court had not adopted the recommendation of the House of Delegates that the president automatically be such chairman. See (1942) 13 Okla. State Bar Jr., Part II, p. 165.
upon the concept of an integrated bar and enacted a statute creating
an all-inclusive organization of lawyers, the governing body of
which was to be elected by the voters of the state at the polls.64 This
obviously permitted control of the organized bar by the dominant
political party. It was immediately and vigorously resisted by the
voluntary bar organization of the state.65 The latter continued in
existence and undertook to extend its membership notwithstanding
the membership in two organizations that this required. The oppo-
sition was not to the principle of integration but to the method and
control that had been incorporated. One of the clearest expressions
of principle was made by the president of the voluntary association
in 1937:66

“Our committee believed, and I understand this Association to
believe, that placing an association of lawyers in any wise under
the government of officials not elected by the lawyers themselves
in a free and untrammeled election is an effort to regiment the
profession, to lessen its independence and to deprive it not only of
rights which it has enjoyed from time immemorial, but which are
enjoyed by all other professions and even by the trades.”

The opposition of the bar took the form of advocating as an
alternative to the objectionable act a short form statute authorizing
the Supreme Court to issue rules of integration. Such a statute was
enacted in 1940 which created an integrated bar association “which
Association shall be self governing,” and the earlier act was re-
pealed.67

The court immediately arranged for the election by the lawyers
of the state of a committee to prepare the rules desired and submit
them to the court, following in this respect the Texas example.
Rules were drafted by the committee and these were adopted by
the court without change,68 opportunity for criticism and sugges-
tions for amendment being given at the first meeting of the new
organization. No opinion of the court was rendered at any stage.

The rules so adopted have remained to the present time. They
provide the typical form of integrated bar organization with a Board
of Governors and officers elected by the bar and given complete

65. See 34 Rept. La. State Bar Ass’n, (1935-1941) pp. 16, 47, 52, 83,
141, 177, 217, 244.
66. 34 Rept. La. State Bar Ass’n, (1935-1941) p. 89.
68. The acts, orders, rules and by-laws are set forth in (1941) 1
Rept. La. State Bar Ass’n 91, et seq. The voluntary association was
dissolved and the books and assets transferred to the new organization (1935-
1941) 34 Rept. La. State Bar Ass’n 250.
control over the administration and affairs of the association including the collection of dues and disbursement of its funds. The activities engaged in have been the usual ones. A committee on bar admission is appointed by the court on recommendation of the Board of Governors and through this committee the bar has played an important role in dealing with problems of admission.

So far as can be discovered the court has taken no part or concern in the internal affairs of the organization, although there has not always been agreement between its officers and the court on matters of admission to the bar.

After a bitter experience in resisting an attempt to gain political control over it, the Louisiana bar has thus gained, through its own efforts and choice, a self-governing all-inclusive organization, operating under rules of court. This bit of history emphasizes again the lack of substance in the arguments of the Wisconsin court.

Missouri

Integration of the bar came to Missouri in stages. Until 1934, there was the typical history of repeated failure to secure favorable legislation which the voluntary bar association of the state sponsored. Following the decision of *In re Richards* in which the court upheld its inherent power to control the professional conduct of members of the bar, the state bar association requested the court, in the exercise of its power, to appoint a commission "to investigate the means of regulating professional matters and . . . report to the court . . . its findings and recommendations with respect to the regulation of the practice of law." The request was granted and a commission appointed which in its report recommended the adoption of specific rules covering admission to the bar, the canons of ethics, disciplinary proceedings, unauthorized practice of law, and creation of a judicial council. Local bar committees and a general chairman acting on a state wide basis were to be appointed by the court to administer this program. The proposed rules also provided for the imposition of a fee by the court upon all members of the bar payable through local court clerks to the clerk of the Supreme Court and to be disbursed at the request of the local bar committees for the above purposes.

69. (1933) 333 Mo. 907, 63 S. W. 2d 672.
70. (1933) 5 Mo. Bar Jr. 67.
71. (1933) 5 Mo. Bar Jr. 67.
The court adopted these rules almost without change and they have continued with minor amendments to the present time.

It was not long before agitation within the bar was renewed for an integrated organization of the bar. In response to petitions from various bar associations, the court appointed a committee to study the question and report its recommendations to the court. The committee drafted a proposed plan of integration and held a hearing upon it. After further discussion and several revisions a final draft was submitted to the vote of the bar. The vote was 6 to 1 in favor of the plan, about 40% of the bar voting.

The court thereupon adopted the rules recommended without further hearing and without rendering an opinion.

These rules leave the local bar committees, existing under the previous rules as already discussed, unaffected. The method of collecting fees for these committees is utilized to collect the dues for the new organization. A Board of Governors elected by the bar is given control of the bar organization. "Its determination of questions of method and of policy relating to the accomplishment of the purposes of the Missouri Bar shall be controlling." Means are provided for a referendum of the bar in case substantial numbers of lawyers are in disagreement with the Board, "and a majority vote of the membership voting in said referendum shall be controlling." Expenses are paid from the bar fund created by the dues collected "as authorized and directed by the Board of Governors."

In the short time the new organization has been functioning, its activities have covered the range of those of the voluntary association which discontinued its existence. Some of these fall within the sphere which would be considered improper by the Wisconsin court. There is an unauthorized practice of law committee although its work need not be extensive since this problem is also within the jurisdiction of the local bar committees. The

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72. Rules for the Government of the Supreme Court of Missouri, (1934) Rules 35-9, 335 Mo.; Subsequent modifications need not be noted for this discussion.


74. Rules of the Supreme Court of Missouri, (1945) 352 Mo. xxxi.

75. Rules of the Supreme Court of Missouri, (1945) Rule 7.06, 352 Mo. xxxiii.


77. See Rules of the Supreme Court of Missouri, (1945) Rule 5.18, 352 Mo. xxviii.
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organization has conducted a vigorous legislative campaign, meeting with limited success, to secure salary increases for the judges of the state including those of the Supreme Court. It has studied and recommended a plan of group insurance for members of the bar. In none of these or in the other numerous activities is there any evidence of interference or limitation by the Supreme Court, but, on the contrary, esteem and respect for the court and its members is evidenced throughout the available materials. There has been free discussion and full publication including even criticism of the court's own regulations in the sphere of its appellate work. The Missouri Bar is further proof that an integrated bar association can be self-governing in every sense of the word.

These brief descriptions do not, of course, cover the full range of the activities of the various bar organizations discussed. They have been confined to those features considered significant to the question whether judicial control or supervision was in any degree exercised. No item of such interference which was discovered has been omitted. At best, these accounts cannot reveal the full measure of independent functioning of these organizations. As one goes through the recorded proceedings of their annual meetings, the committee reports, the addresses of officers and the journals published by the organizations, the complete freedom of discussion and action and the absence of any visible hand or influence on the part of the court is impressive. Only in Oklahoma was there anything to suggest the contrary and, even there, the bar did not hesitate to assert itself and arrive at what appears to be a workable understanding with the court. The charge by the Wisconsin court that an integrated bar organization cannot be self-governing and involves restrictions harmful to the bar and embarrassing to the court is negatived by the established facts.

There remains the question whether its arguments are not in principle inherently sound and have been overlooked or disregarded by the other courts. The position of the court is reducible to three contentions:

1. The moneys collected as dues from members of the bar must be used for a public purpose.

78. See President's Message, (1945) 1 Jr. of Mo. Bar 49; (1945) 1 Jr. of Mo. Bar 77 (Board of Governors adopted resolution favoring increase); President's Message, (1945) 1 Jr. of Mo. Bar 95; (1945) 1 Jr. of Mo. Bar 137 (resolution adopted at annual meeting supporting increase). 79. (1945) 1 Jr. of Mo. Bar 77 (approved by Board of Governors).

80. See discussion criticizing court's limitation on oral argument, (1946) 2 Jr. of Mo. Bar 142.
2. Some activities of such an organization do, or may, not serve a public purpose but serve the interests of the members of the organization only.

3. The court, therefore, is under a duty to police, censor and control the activities of the organization to assure that the funds are spent for the permissible purposes only.

That a public purpose must be served in using funds collected from dues is unquestionably sound. The difficulty with the court's position lies in its unwillingness to find such purpose being served by an integrated bar association. Evidently, it is more willing to find a public purpose in an American Legion convention than in the work of an all inclusive organization of Wisconsin lawyers. The original creation and subsequent development of bar associations sprung from the conviction that the legal profession was under an obligation to the public to render its public service at its highest level and that this duty could not be effectively met without an adequately organized bar. Integration of the bar means merely that every lawyer is under a duty, and therefore should be required, to support these organized efforts.

The functions which a bar association, integrated or voluntary, serves may be summarized as follows:

1. It enables the bar as a unit to formulate and promote measures for improvement in the substantive and procedural law, in the administration of the courts and in the securing of a more highly qualified bench and bar. The value to the public of this contribution is self-evident.

81. State ex rel. American Legion 1941 Convention Corporation of Milwaukee v. Smith, (1940) 235 Wis. 443, 293 N. W. 161. Involved was the validity of a statute appropriating $50,000 to relator to assist in holding and operating the American Legion national convention in Milwaukee, Wisconsin. The court found the objectives of the Legion to be patriotic in character and "are in the elevation of the spirit and ideals which make for good citizenship, and the welfare of all citizens, as well as its own members, if furthered thereby." The case is not wholly analogous to the one under discussion since there had been an express legislative declaration of public purpose and the expenditures would be audited by the state auditor. The statement of the text holds nevertheless.

82. Wickser, Bar Associations, (1930) 15 Corn. L. Quart. 390.

83. Court rules of integration commonly state in general terms the objectives to be achieved. Typical are those in Michigan: "The Association shall, under these rules aid in the promotion of improvements in the administration of justice and the advancement of the science of jurisprudence, in the improvement of the relations between the profession and the public, and in the promotion of the interests of the legal profession in this State." Supreme Court Rules Concerning the State Bar of Michigan, (1935) sec. 1, 273 Mich. xxxv. The Wisconsin court considered this inadequate since there was "no specified list of activities ... other than those relating to discipline."
2. It serves as a medium through which the legal profession can discuss, analyze and form a common judgment upon the important political, economic, social and international problems of the day. There is obvious public value of this function in a democracy.

3. Many of the activities of a bar association improve the technical competence and general welfare of the members of the bar. It has been said many times that the practice of law involves the rendition of a public service. The competence and fitness of the practitioner should be equal to the service required of him. The restriction of the practice of law to lawyers is based on the premise that practitioners of special qualifications are required. To the extent that bar associations aim to provide or improve these qualities it is rendering a public service.

4. It fosters the development of a common professional consciousness, an *esprit de corps*. The importance of this element is often overlooked. It plays a vital role in the maintenance of a high level of ethical and professional conduct that cannot be attained by the cruder devices of investigating committees and disciplinary proceedings, necessary as the latter may be. The typical bar banquet, with its food of debatable quality and worse speeches, may, nevertheless, contribute its part to this intangible but important element.

The Wisconsin court appears concerned over the fact that in some of these functions, particularly with respect to some aspects of the unauthorized practice of law, members of the bar are often actuated by motives of private professional gain. But reliance on individual interest to secure a public purpose is a common device in our law and society. The public interest still is being served. Nor is it important that lawyers, in their bar association deliberations do not, by any means, always arrive at the right answers. What is important is that they are dealing with problems of public concern and seeking solutions to them. Money used to support these efforts is serving a sound public purpose.

The court's third argument, that it must supervise the work of the organization to assure its restriction to proper purposes seems equally unsound. The court assumes there is no other method by which this question can be determined. But other courts have not found it so. If funds raised by compulsory membership dues are being used for an improper purpose, the individual members of the bar themselves may safely be entrusted to raise the question for the

court's determination. This leaves the organization free from judicial interference until called upon to pass on a specific question. It leaves the court free from any identification with the work of the organization. Such appears to be the position taken by all other courts which have integrated their bars, although to date no instance where a question of this kind was raised has been discovered, and it is in keeping with traditional judicial methods. It does not follow that, because no state audit of the bar's expenditures has been provided by statute, the court itself must assume a similar task. The court is acting *sui generis* in the exercise of its conceded inherent power over the bar and may provide methods and procedures appropriate to its special province without emulating the practices of other government departments.

In the opinion of the writer, the Wisconsin court was not influenced so much by the cogency of its reasons as by external factors not mentioned in the opinion. The 1943 Wisconsin integration act had been the subject of a great deal of controversy as well as of long and arduous advocacy by the Wisconsin bar. On its passage it had been vetoed by the late Governor Goodland, an extraordinary character then in his eighties who, by his vigor and the sincerity of his convictions captured the imagination of the Wisconsin electorate. His objection to integration was that it would encroach unduly on the freedom of action of the individual lawyer, the argument, basically, of the court in the case under discussion. The bill was passed over his veto by a bare margin over the necessary vote and by a procedure that brought in question the validity of the act. The governor immediately commenced an action against the secretary of state to enjoin the filing of the statute on the ground that it had not been properly enacted over his veto. This litigation came before the Supreme Court in *Goodland v. Zimmerman*. The validity of the act was sustained but further action by the court in integrating the bar was deferred until the return of the lawyers in the armed services, an argument which the governor also had used in vetoing the measure.

In the meantime, attempts were made to repeal the act and, on

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86. Rept. of Comm. on Integration, (1943) Proc. State Bar Ass'n of Wis. 145, 148. Governor Goodland himself was a lawyer.
87. (1943) 243 Wis. 459, 10 N. W. 2d 180. The injunction was held improper, but the court of its own motion proceeded to examine the validity of the act. Its decision as stated in the text appears in Integration of the Bar Case, (1943) 244 Wis. 8, 11 N. W. 2d 604, 12 N. W. 2d 699.
several occasions during the 1945 session, the bill to repeal came exceedingly close to passage.\textsuperscript{88}

More serious were the developments in the 1945 spring election. Justice Barlow of the Supreme Court, whose term was expiring, was running for re-election. Filing against him was the then secretary of state, Fred R. Zimmerman, who had theretofore been elected to his office by exceedingly large votes. The alarming feature of his candidacy was that he was not a member of the bar. This was not required under the constitution and laws of Wisconsin. A vigorous campaign by the bar and the press\textsuperscript{89} resulted in the re-election of Justice Barlow. This experience, however, must have left a profound impression upon all members of the court.

With the known and vigorously asserted opposition of the governor, whose popularity and vote getting ability confounded the politicians, with waning legislative enthusiasm for integration and with a probable political consciousness engendered in the court by the nightmare of the Zimmerman candidacy, it would require greater enthusiasm for integration of the bar than had yet been exhibited by the Wisconsin court before favorable action could be expected. The views of the octonarian lawyer in the executive chair probably fell on receptive ears.\textsuperscript{90} The combination of these events led to the decision rendered.

Until the personnel of the Wisconsin court has changed, integration in that state is probably dead. But the foregoing account should sufficiently demonstrate that the spectacle in Wisconsin is hardly an example to be followed in any other state.

\textsuperscript{88} Pending Legislation, (1945) 18 Bul. State Bar Ass'n Wis. 92, 95.
\textsuperscript{89} See items from various newspapers set forth in Echoes from the Press, (1945) 18 Bul. State Bar Ass'n Wis. 53.
\textsuperscript{90} Justice Fowler, who dissented in Integration of the Bar Case, supra, footnote 87, on the ground that the court's only concern should be with professional conduct that affects actions in court, is 85 years of age. Chief Justice Rosenberry, who wrote the majority opinion in the same case, is 79. Justice Fairchild is 75. The remaining justices range in age from 44 to 69. The information is from biographical and directory sources. The final opinion rejecting integration in Re Integration of the Bar, (1946) 249 Wis. 523, 25 N. W. 2d 500, was written per curiam.