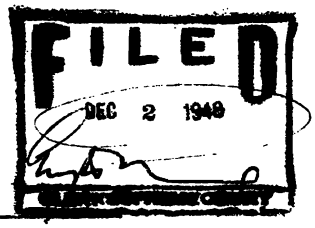
20,119

IN THE SUPREME COURT OF FLORIDA



RE: PETITION OF FLORIDA STATE BAR ASSOCIATION, et al NO.

Oral Argument
Tuesday, Jan. 18, 1949
En Banc

PETITION TO INTEGRATE THE BAR OF FLORIDA

TO THE HONORABLE JUSTICES OF THE ABOVE STYLED COURT:

The Florida State Bar Association, ~~a corporation~~, and the Florida State Bar Association Committee on the integration of the Bar of the State of Florida, by and under authority of the action of the Board of Governors of the Florida State Bar Association and by and under the authority of the action of the membership of the Florida State Bar Association, bring this Petition praying for a Rule by the Supreme Court of Florida integrating the Bar of Florida, and say:

I.

That for more than ten (10) years the Florida State Bar Association, hereinafter referred to as the Association, has sought the integration of the Bar of Florida by a Rule of the Supreme Court of Florida. In response to a Petition by the Association to the Supreme Court of Florida, which Petition included many other things, and which only mildly urged integration of the Bar, the Court did on January 8, 1938 render an opinion found in 186 Southern Reporter, page 280. Said Petition may have been prematurely filed with respect to integration. Now, however, more than twenty-seven (27) of the states of the United States have adopted the integrated bar system, either by Rule of Court or statute, or a combination of both, and to date no serious objection has been raised where the integrated bar is a fact.

II.

The issue of the Florida Law Journal of June, 1946, pages 181, et seq (Florida Law Journal Volume XX, No. 6, pages 181, et seq), carries a Resolution adopted by the Association which sets forth at length the desire of the Association with regard to integration, which Resolution by reference is made a part hereof in toto, except that the dates for the effectiveness of the Rule on Integration therein contained are to be changed since certain of those dates are now past. The Association on various occasions has had before it the matter of integrating the Bar of Florida and in the Florida Law Journal of June, 1946, Volume XX, No. 6, page 165, et seq, the matter was discussed by the then President of the Association, Honorable Julius F. Parker.

The matter was again before the Association as appears in the Florida Law Journal of June, 1947, Volume XXI, No. 6, page 184, et seq. In order that it might be known that the members of the Bar of Florida favored overwhelmingly integration by Rule of Court and to remove any doubt as to the wishes of the members of the Bar of Florida, the Association conducted a poll of the Bar as hereinafter shown.

III.

The Association is a non profit, unincorporated Association voluntary/and the present membership of the Association is 2407. On September 10, 1947 there were approximately 2700 members of the Bar of Florida, including those that were members and those that were not members of the Association. In order to have an accurate mailing list every available law list was consulted and the occupational license list in each of the 67 counties of Florida were examined. It was determined that there were only the above mentioned members of the Bar of Florida.

The Association then dispatched to each member of the Bar of Florida, whether a member of the Association or not, a letter dated September 10, 1947 from the then Chairman of the Bar Integration Committee, Julius F. Parker, a copy of which letter is hereto attached and made a part hereof. With each letter was sent a prepared postal card ballot with appropriate provision thereon for each member of the Bar to indicate by marking the ballot whether or not he was in favor of integration of the Bar of Florida, with annual dues of Five and no/100 Dollars ($5.00). The member of the Bar was permitted to sign or not sign the card ballot. A postage paid ballot postal card addressed to the Florida State Bar Association was sent to each member of the Bar of Florida and all ballots were delivered to the Honorable Guyte P. McCord, Clerk of the Supreme Court of Florida. No member of the Bar other than the Clerk participated in the counting of the ballots , unless certain members of the Supreme Court participated. The Clerk of said Court on December 9, 1947 issued his Certificate certifying that 1131 ballots were cast in favor of integration as presented and 500 ballots even were cast in opposition. Some 2700 of such ballots were mailed to the members of the Bar of Florida and the total ballots cast were 1631. It has been considered in all quarters that it was a fair method and a fairly conducted poll.

IV.

For the information of the Court, there is hereto attached and made a part hereof, an address on Bar Integration by Justice Edward F. Carter of the Supreme Court of Nebraska, which not only sets forth logical reasoning and the experience of bars that enjoy integration, but is also an expression of an eminent contemporary jurist, which address was published in the Florida Law Journal of April, 1947, Volume XXI, No. 4.

V.

The matter of integration of the Bar of Florida has been discussed widely throughout the State of Florida for some ten (10) years at various Bar Association meetings and at annual meetings of the Association and information generally has been disseminated to everyone as to the purpose and good to be accomplished by integrating the Bar of Florida by Rule of Court. There has been no public and open opposition to integration. There have been written no articles nor has there been cited any authority contrary to the Rule sought in this Petition. There are, as is to be expected because of the democratic right of differing in opinion, a very few isolated members of the Bar who do not favor integration, but of the more than twenty-seven (27) states that have integration no showing has been made that it is unsuccessful, and on the contrary, all of those states adopting the integrated bar have voiced publicly, and in the various publications that bar integration is satisfactory and lends itself to the improvement of the quality of the bar and is an important factor in building public respect for the bar. Integration removes those factors that bring the bar into disrepute. As recently as October 23, 1948 at a meeting of the Board of Governors of the Association, this Petition was unanimously approved.

WHEREFORE, petitioners pray that the court will enter the Rule of Integration with appropriate changes as to dates and figures, which Rule is found in the form of a Resolution by the Florida State Bar Association in the Florida Law Journal of June, 1946 (Volume XX, No. 6), pages 181, et seq, and that the court enter such other Rules in the premises as may be proper. And the

petitioners will ever pray, etc.

FLORIDA STATE BAR ASSOCIATION

BY: _____
Robert J. Kleus, President.

COMMITTEE ON INTEGRATION OF THE
BAR OF FLORIDA

BY: _____
Jas. D. Bruton, Jr., Chairman.

COMMITTEE ON BAR INTEGRATION
OF THE
FLORIDA STATE BAR ASSOCIATION

JULIUS F. PARKER, *Chairman*
Brock Building, Tallahassee, Fla.

JOHN DICKINSON, *Vice-Chairman*, 2555–3rd Avenue N.
St. Petersburg, Fla.

LEROY COLLINS,
Midyette-Moor Building,
Tallahassee, Fla.

G. L. REEVES,
Box 2111,
Tampa, Fla.

MANLEY P. CALDWELL,
Box 751,
West Palm Beach, Fla.

J. HENRY BLOUNT,
Barnett Nat'l Bank Bldg.,
Jacksonville, Fla.

September 10, 1947

TO THE LAWYERS OF FLORIDA:

For many years, the Florida State Bar Association has sponsored a move for the integration of the Bar of the State.

The Association is very much interested in learning the will of all of the lawyers in this State on this subject. For that purpose you will find enclosed a postcard ballot addressed to the Florida State Bar Association, P.O. Box 1226, Tallahassee, Florida, which is a ballot giving you the privilege of expressing your opinion. These cards will be kept segregated, and counted in the presence of Honorable Guyte P. McCord, Clerk of the Supreme Court. It is not necessary that you sign the ballot, although a place is provided for that purpose, and it is the belief of the Bar Committee that signed ballots will have more effect with the Supreme Court, but signing it is not compulsory, and you can vote without signing it if you care to do so. The postage is paid on the ballot, and your cooperation is sincerely solicited in order to have the fullest expression of the opinion of all of the lawyers of Florida.

The Committee plans in the event the vote is favorable, to file a petition with the Supreme Court asking it to integrate the Bar by court rule. The rule which the Supreme Court will be asked to adopt will require each lawyer to belong to the integrated bar, and to pay to the Treasurer of the integrated Bar $5.00 annually for dues.

The entire affairs of the integrated bar will then be run by a governing board, one member to be selected from each judicial circuit. Any disciplinary action taken by the Board will be subject to direct review by the Supreme Court. This general policy may be modified some to meet the demands of the Supreme Court if it approves integration.

For your further information, we are enclosing a copy of a speech delivered before the last meeting of the Bar Association on the subject by Judge Edwin Carter of the Supreme Court of Nebraska.

While the Bar Association has for a long time favored integration, this letter is sent to you seeking your honest opinion on the subject. When we present the petition to the Supreme Court, if it is presented, we want to be able to state that notices were mailed to all lawyers whose addresses were available, and that from the mailing we received and counted the votes so that we can demonstrate successfully whether or not the lawyers of this state actually want the bar integrated.

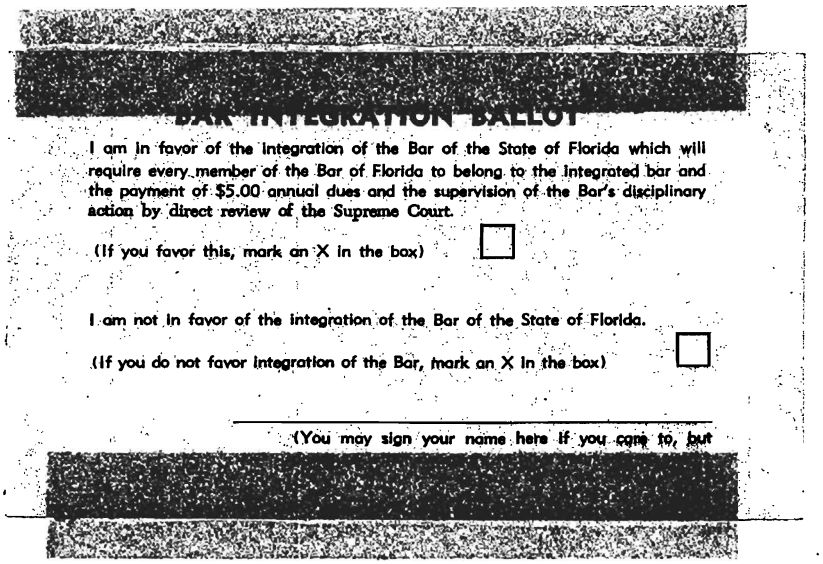
Regardless of which way you vote, please do vote, sign your name if you care to, and drop the enclosed ballot in the mail. Your cooperation in securing as big a vote as possible will be deeply appreciated.

Sincerely yours,

Julius F. Parker

Julius F. Parker, Chairman,
Bar Integration Committee

JFP:gd



BAR INTEGRATION BALLOT

I am in favor of the integration of the Bar of the State of Florida which will require every member of the Bar of Florida to belong to the integrated bar and the payment of $5.00 annual dues and the supervision of the Bar's disciplinary action by direct review of the Supreme Court.

(If you favor this, mark an X in the box) ☐

I am not in favor of the integration of the Bar of the State of Florida.

(If you do not favor integration of the Bar, mark an X in the box) ☐

_____

(You may sign your name here if you care to, but

BAR INTEGRATION

By

JUSTICE EDWARD F. CARTER

of the Supreme Court of Nebraska

Reprint from Florida Law Journal

April, 1946

BAR INTEGRATION

By JUSTICE EDWARD F. CARTER, *of the Supreme Court of Nebraska*

There is danger, in discussing a subject of such magnitude as bar integration of finding one's self tightly lodged upon one of the horns of an embarrassing dilemma,—of dealing with the subject in glittering generalities and thereby adding little to the general knowledge of the subject, or of localizing the subjects so closely to our experiences in Nebraska at the risk of becoming boresome. The avoidance of these pitfalls is a matter which will constantly be before me in this address.

At first blush an integrated bar may seem to be a mere novelty to most lawyers. I am frank to say that I believe the use of the word "integrated" was an unwise choice of words. There is a tendency to give an air of mystery to the use of the term. To integrate a bar of a state means the unification of the diverse and multiple elements of the bar into an organized whole. It carries within this definition the idea of all-inclusive membership. An integrated bar which did not require every lawyer to be a member simply would not be an integrated bar. It is the organization of the profession of law as distinguished from a voluntary organization of lawyers.

An integrated bar is no novelty. It is, as a matter of fact, the oldest and possibly the most common type of bar organization. In England and the British Dominions, which share with us a common language and a common law, all bar associations are and always have been self-governing bodies to which all practitioners belong. The Inns of Court, about which we have heard so much, are nothing more than integrated bars under a different name. France, Germany, and practically every other European nation, have had all-inclusive bar associations. The thought in the minds of so many lawyers that integrated bar associations are something new and untried is without any foundation in fact. The notion that they represent the thinking of those who merely want to lead a parade, or of those who have a tendency to advocate change as evidence of broadmindedness and proof of a liberalized viewpoint, is just as fallacious. The integrated bar is nothing more than a self-governing organization of the profession within a given area. By entering the profession, the lawyer simply steps into a self-governing bar, working for the good of all the profession, and consequently for each member in it.

Prior to 1860 there were few bar associations within the United States. The country was new and in a pioneer stage of development. The bar was not overcrowded. Little attention was paid to the requirements for admission. There was no serious threat of inroads by corporations and natural persons seeking to engage in the unlawful practice of the law. The promulgation of a code of ethics was not even contemplated. Discipline for professional misconduct was left pretty largely to public opinion.

But this situation could not long endure in the face of the rapid growth of the country and the growing complexity of our problems. Evils very detri-

mental to the profession began to appear. The lawyers began to realize that they themselves had an interest in keeping the profession an honorable one. And so it was that self-protection, the desire for professional association and the urge to better the legal profession, caused voluntary bar associations to spring up. The American Bar Association was not organized until 1879 and state bar associations were not general until about 1900. But the membership in these voluntary associations was small when compared with the total number of lawyers. The bar was not united and a fairly distributed financial support was not forthcoming. It was only natural that the lawyers should turn to the all-inclusive bar to provide the dignity, the manpower and the financial support to place the profession of the law on a high plane.

The integrated bar movement was commenced in 1914 by Mr. Herbert Harley, Secretary of the American Judicature Society, in an address delivered to the Lancaster County Bar Association at Lincoln, Nebraska. Nebraska, however, was the 18th state to adopt bar integration. At the present time 24 states have adopted it. Only three of these states have integrated bars by court rule, the balance have attained it by legislative action. It is not my purpose to discuss the relative merits of integration by legislative or judicial act. It is self-evident, I think, that integration by court rule permits a more serviceable method,—corrective changes can be more quickly made and its political aspects are not so prominent.

In Nebraska the attempt to integrate by court rule met with the usual objections. The legal objections, constitutional and otherwise, are set forth in the court's opinion sustaining the application for an integrated bar by court rule. This opinion is cited as In re Integration of the Nebraska State Bar Association, 133 Neb. 283, 275 N. W. 265, 114 A.L.R. 151. Other objections, then voiced, are seldom heard, after more than nine years of successful operation. There was fear that the supreme court would control the policies of the bar. This has been largely dissipated. The supreme court has taken no action except that it was initiated by the bar itself. The bar has truly been self-governing and free from judicial domination. Dues of five dollars per year are required under our rule. Objections were heard as to that, but the service rendered and the progress made have eliminated even that objection. We now hear talk of the bar raising the due to $7.50 in order to expand the operations of the organization. With these preliminary remarks I would like to point to the benefits which we have received from this form of organization.

In the first place, to organize a profession it is necessary that every member belong to it. We have about 2,200 lawyers in Nebraska, all of whom necessarily are members. Before integration, the number in the state bar association never exceeded 1,200 lawyers. Attendance at state bar meetings at the present time runs from 20 to 35 percent greater, although no statistics are available to prove this statement. Prior to integration the attendance never exceeded 250. Every member of the bar receives the Nebraska Law Review by virtue of his membership. This publication has become a valued asset to the Nebraska lawyer, made possible only by integration with its consequent added membership. Bar communications to all the bar resulting solely from integration have added tremendously to the interest and constructive activities of the profession.

The most noticeable improvement has occurred in the field of bar discipline. Under our bar integration rule the original handling of matters pertaining to bar discipline is left to the lawyers themselves, although the right to discipline a lawyer for unethical practice is reserved solely for the court. All complaints

must originate with a bar committee appointed by the court in each judicial district. The committee may hold hearings without public access, subpoena witnesses, make satisfactory adjustments, reprimand attorneys and make conditional requirements as to future conduct. If the offense is found to be of such magnitude as to require more severe discipline, it is so recommended and the record forwarded to the advisory committee of lawyers of state-wide jurisdiction. If the advisory committee agrees that disciplinary action is required, the matter is forwarded to the supreme court. The court thereupon directs the attorney general to file disciplinary proceedings in the supreme court. Disciplinary actions of the latter sort are few and far between.

Under our voluntary bar association set-up, lawyers had a general tendency to render whatever aid they could to the lawyer in distress. Under the present set-up they have accepted the responsibility lodged with them. They now know that they can in the first instance invoke corrective measures. The latent fear that a court too far removed and not too familiar with the individuals involved might "throw the book" at an offending practitioner, is no longer present. It is the committee on inquiry that can initiate the proceeding and, consequently, it is only those who deserve discipline in the estimation of the bar itself that are subjected to the procedure. The lawyers have done a magnificent job in this field. Matters of ethics have been disposed of without a word of adverse publicity. Public criticism of unethical practice is at the lowest ebb since my admission to the bar. It is the most satisfactory solution with which I have come in contact.

It is not only fair to the lawyer who has strayed from the ethical path, but it has proved a boon to the ethical lawyer wrongfully accused of professional misconduct. Too often charges against ethical practitioners have done tremendous harm before any opportunity arose for a discovery of the facts. It was easy under the old system for a disgruntled litigant, or one suffering from mental strain, to launch unfounded charges, which often reached the public press before any investigation could be made by any responsible person or group. This has been largely eliminated under our present system. It affords justice, tempered with leniency in proper cases, to the unethical practitioner, and it affords complete protection to the ethical practitioner from unwarranted attack. These factors alone have justified bar integration, both from the standpoint of the public and the bar.

Another outstanding contribution of the integrated bar to the profession has been the inauguration of legal institutes and law clinics for the benefit of practicing lawyers. Such subjects as the New Federal Court Rules, Bankruptcy & Corporate Reorganization, Current Nebraska Legislation, Federal Taxation, Post War Institutes (for the purpose of acquainting lawyers returning from military service with changes in practice and procedure occurring during their absence), and Federal Tax Clinics, constituted the topics discussed. While great interest was manifested by the attendance at all of these institutes and clinics, it seemed to me that those dealing with federal taxation produced the best results when measured by attendance records. In 1946 these tax clinics were held in three different cities of Nebraska.

The expense was borne by the bar association, the experts in the various fields procured by the bar and the preliminary work performed by the officers of the bar. Without the integrated bar, and its all-inclusive membership, this service could not have been provided for financial reasons. It has been a distinct service to the lawyer, particularly in those fields which have opened up to the lawyers in recent years.

The increased attendance at state bar meetings has made possible the inauguration of sectional meetings. Insurance, Real Estate, Municipal, Administrative and Labor law sections have been very helpful to practitioners in those fields, and in many instances they have rendered valuable aid to the legislature in those branches of the law. While I give little space to the work of the sections, their work is a distinct contribution to the profession.

The integrated bar, through the Judicial Council which is an integral part of our bar set-up, has made great strides in simplifying and expediting court procedures in Nebraska. Previously no resposible group of the bar was charged with the duty of making the research to the accomplishment of this important function of the bar. The public attitude is much better since it has become known that the questions concerning the law's delays, the expense of litigation and the correction of abuses, are being scientifically attacked in an intelligent and systematic manner. The old statement so often heard in public of "Why doesn't the bar do something about it?" is being heard less and less. The responsibility of the bar to the public has been stressed and promulgated with the result that a very favorable reaction is resulting from it. The relation of the bar with the public has certainly improved during bar integration and this is a matter of tremendous importance to lawyers.

As you have no doubt suspected by this time, I am wholeheartedly in favor of the integrated bar system. It has increased the professional consciousness of the lawyers of my state, it has made expert information available to our lawyers in a manner that they could attain in no other way, it has brought about changes in practice and procedure that have speeded up and expedited litigation, it has simplified court procedure and made it less expensive in many instances, and it has tended to reestablish the faith of the public in the inherent dignity and honesty of the time honored profession of the law. I submit that if these things can only be partly accomplished by the integration of the profession, it is ample justification for its existence. I cannot help but feel that Nebraska has profited greatly from it, and as misconceptions of its purposes gradually disappear, as they will, the opportunities for greater successes are bound to follow.

It is not my purpose to discuss in detail the reasons why bar integration by court rule has been rejected in many states where the bar has evidenced a desire for this form of organization. I do want to point out that there is a close relationship between the lawyers and the administration of justice. The lawyers as officers of the court are a part of the judicial branch of our government. The qualifications of applicants for admission to the bar and the regulation of the bar are inherently judicial functions which should not be abandoned to the control of other agencies. The almost complete abdication of the rule-making power by the bench and bar reflects no credit upon the bench and bar of this country. The courts, with the support of the bar, must not permit the usurpation of judicial functions, whether they be specifically granted powers, or whether they be implied or inherent powers. The admission, regulation and discipline of lawyers is the responsibility of the bench and bar and that responsibility should not be shirked. The dignity of the bench and bar before the public cannot be maintained if we fail in our duty and corrective measures are left to others. A courageous rather than a hesitant approach is required by bench and bar alike.

INDEX OF SUBJECT MATTER

ALPHABETICAL LIST OF CITED AUTHORITIES