



1959

## The Development of a Law Center for the State of North Dakota

O. H. Thormodsgard

Leo H. Whinery

Follow this and additional works at: <https://commons.und.edu/ndlr>



Part of the [Law Commons](#)

[How does access to this work benefit you? Let us know!](#)

---

### Recommended Citation

Thormodsgard, O. H. and Whinery, Leo H. (1959) "The Development of a Law Center for the State of North Dakota," *North Dakota Law Review*: Vol. 35: No. 2, Article 3.

Available at: <https://commons.und.edu/ndlr/vol35/iss2/3>

This Article is brought to you for free and open access by the School of Law at UND Scholarly Commons. It has been accepted for inclusion in North Dakota Law Review by an authorized editor of UND Scholarly Commons. For more information, please contact [und.common@library.und.edu](mailto:und.common@library.und.edu).

THE DEVELOPMENT OF A LAW CENTER  
FOR THE STATE OF NORTH DAKOTA

By  
O. H. THORMODSGARD\*  
and  
LEO H. WHINERY\*\*

A few years ago at the dedication of the University of South Carolina Law School, the late Judge Arthur T. Vanderbilt, in speaking of freedom and law, observed:

"What we have mistakenly fancied to be our birthright without obligation on our part is plainly not the universal way of life . . . . Whatever others may believe, we, who owe allegiance to the law, realize that without the law we could not have liberty as we have known it and that without our concept of liberty we could not have the law as we know it . . . . Obviously, we must, first of all, in lawyer-like fashion face the facts as to the actual operation of our system of law today in the light of both national and world conditions. Then, if defects appear as the result of our taking inventory, we must study how the great judges, lawyers and teachers of earlier times went about the work of safeguarding their law and liberty by improving the administration of justice. \* \* \*

"Obviously the leadership in the great task of adapting the law to the needs of the latter half of the twentieth century and of simplifying it in the process must center in our law schools. I am not suggesting that all of the work can or should be done by the law school faculties alone. They will have to call to their aid the wisest of our judges, the ablest of our lawyers, the outstanding administrators, business men and labor leaders. And every law school must be able to count on the cooperation of every other school. I see no other available or potential agencies to do the work that must be done if law and liberty are to be preserved."<sup>1</sup>

The demands that have been placed upon the legal system in the last fifty years through the discovery and dynamic development of vast horizons of knowledge in the natural and social sciences is staggering. With this, new areas of specialized fields of law, such as workmen's compensation, labor law, taxation, and administrative law, have been developed to add to the vastness and complexity of an already complex system. The contemporaneous, but continuing development of new frontiers of knowledge places

---

\* Dean of the School of Law, University of North Dakota.

\*\* Associate Professor of Law, University of North Dakota.

1. Vanderbilt, *The Responsibilities of Our Law Schools to the Public and the Profession*, 3 J. Legal Ed. 207, 213, 216 (1950).

new burdens upon American law. Dynamic development of society is expected and desired, but, concomitant with this growth, there is an increasing responsibility upon the legal profession for the wise and just application of existing law and to search for ways of improving existing law, either to insure a more just result in specific cases or to meet the demands of a changing society. In the history of American law, judges, lawyers, teachers, and even students, have been concerned with both of these aspects of the administration of justice. However, one might venture to say, with Judge Vanderbilt, that, more than at any other time in the history of our legal system it has become a matter of preeminent importance at all levels of government.<sup>2</sup>

How is this responsibility to be met? Of first, and foremost, importance is the filling of the professional ranks with competent, well-trained men who can assume their individual responsibilities for the administration of justice. It is frequently said that ours is "a government of laws and not of men."<sup>3</sup> While this is accurate in the sense that it tends to contrast the American system from despotism, it is also misleading in that, in the words of Judge Learned Hand, "a government of law without men is as visionary as a government of men without laws."<sup>4</sup> Neither the creation of law, nor its administration, are self-executing processes. Law is, and will be, only so effective an instrument of social control in securing the basic guarantees of government as are qualified the men who have the responsibility for its administration.

Education for the practice of the profession, either as judge, lawyer, legislator, or teacher, then emerges as the fundamental requisite for the administration of justice. A quantitatively and qualitatively sound legal education in both theory and practice to prepare students for the business of counselling, advocacy or adjudication is essential. But a legal education must include more than what the law is, or may be, and how it is to be applied. It should also involve the development of a sensitivity to and awareness of the inadequacies in the existing system and possible alternative courses of action for improvement. Second, education for the practice of the profession must not end with graduation from law school. A graduate or continuing legal education program

---

2. *Id.* at 212-213. See also, an editorial, "The Law Center", 32 A.B.A.J. 569 (1946).

3. These words first appeared in Article 30 of the Declaration of Rights of the Constitution of Massachusetts of 1780, written by John Adams. See Volume 1 of the Mass. Ann. Laws (1958); also 15 A.B.A.J. 747 (1929).

4. Hand, *The Deficiencies of Trials to Reach the Heart of the Matter*, 3 Lectures on Legal Topics 9, 101-102 (1926).

whereby practitioners can engage in a process of continuing self-improvement is essential.

Second, the continuing need for examining the effectiveness of law and its administration gives rise to the equally important requisite of legal research to the administration of justice. But it ought to involve more than just law-oriented research. Interdisciplinary studies in which the interaction of law and society can be evaluated should be undertaken with greater frequency.<sup>5</sup> The related legal and economic research of the Agricultural Law Center at the State University of Iowa, College of Law is a good example of these types of studies.<sup>6</sup>

Finally, if the efforts expended in the pursuit of the foregoing requisites of the administration of justice are to be effective, there must be an integration of professional effort, or, to put it another way, an application of Dean Pound's definition of the profession, namely, "a group of men pursuing a learned art as a common calling in the spirit of public service."<sup>7</sup>

These needs in the administration of justice, of course, have been, and are, manifest in the activities of various professional organizations. Law schools concern themselves with the education of men and women for the practice of law; they promote worthwhile research projects through faculty and student effort. Similarly, bar associations sponsor continuing legal education programs and, through various media, encourage research in troublesome areas of the law. However, law schools, with their faculties oriented in teaching students, frequently have neither the time nor facilities for developing really effective continuing legal education programs for lawyers; also, research unrelated to teaching activities is a luxury teachers cannot often afford. Also, since the members of the bar association must be concerned primarily with the practice of the profession, they often do not have the time nor facilities for either a coordinated effort in continuing legal education or in research.

As early as 1946, Dean Vanderbilt suggested that if the profession is to meet the challenge of society for an efficient and improved administration of justice, there must be an integration of the efforts of the various organizational components of the profession and that this integration might best be accomplished through the

---

5. In this connection, see Cavers, *Science, Research, and the Law: Beutel's "Experimental Jurisprudence"*, 10 J. Legal Ed. 162 (1957).

6. Harris, *Legal-Economic Interdisciplinary Research*, 10 J. Legal Ed. 452 (1958).

7. Pound, *The Lawyer from Antiquity to Modern Times* 5 (1953).

medium of a law center.<sup>8</sup> Essentially, a law center is an administrative framework for the integration of the educational, research and professional needs of the legal profession. Because of the central role of legal education, the full potential of a law center can only be realized by organizing it around an established law school which, as Judge Vanderbilt has suggested, must assume the leadership for the administration of justice. Not only is the law school responsible for legal education, it has the capacity and facilities for organizing graduate legal education, either in the form of degree work or short courses, seminars and institutes. Also, the usual University affiliation of a law school readily provides lawyers, faculty and students with the resources of other disciplines, both in subject matter and personnel—a vital element in both education for the practice of law and research for the improvement of law. Finally, with the law faculty and student body oriented in teaching and learning, a favorable climate is created for worthwhile research projects.

But to gain mutually reciprocal benefits, the law school should have other professional activities associated with it, such as the offices of a state bar association, special research programs, a continuing legal education program and a legal aid clinic. When these various professional activities are combined with the law school, a law center is created which can integrate and coordinate the efforts of all in the administration and improvement of law. The result is the conversion of "the modern law school from an institution which merely teaches what the law is and was, and perhaps may be, to a Law Center which is actively participating in the very complicated and highly technical but socially important task of wisely adapting our law, old and new, to the carefully considered needs of a democratic community in the Twentieth Century."<sup>9</sup>

As many as fifteen law schools have, during the past eight years, organized law centers. While there is no uniform organizational plan, all do have one characteristic in common. They are organized in connection with an established law school.<sup>10</sup> For example, the New York University Law Center, in addition to the Law School, encompasses special projects such as the Institute of Judicial Administration and the Inter-American Law Institute; also, there is a graduate division which is designed to provide continuing edu-

---

8. Vanderbilt, *The Law School in a Changing Society: A Law Center*, 32 A.B.A.J. 525 (1946).

9. *Id.* at 529.

10. See Storey, *The Modern Law Center*, 4 Sw.L.J. 375 (1950).

cation for practicing lawyers in cultural courses and such specialized fields as taxation, corporation law, estate law, labor law, and administrative law. At the Southwestern Legal Center, of which the Southern Methodist University Law School forms an integral part, a program of graduate study and continuing legal education is combined with research in law and government in which business men, lawyers and educators participate. Other schools involved in the law center movement are Chicago, Columbia, Harvard, Illinois, Louisiana and Michigan.

It now seems timely for the University of North Dakota School of Law to initiate plans for the creation of a law center on the University campus. This takes on added significance when one considers the special role and obligation of a state university law school. It is charged with the primary responsibility for educating men and women for the practice of law in the state. It has the related and equally important interest—and obligation—in the improvement of the substantive and procedural law of the state for the benefit of the profession and the citizens of the state. Indirectly, the benefits of a law center program in this state would extend beyond its boundaries through relationships with other professional organizations, such as the Association of American Law Schools, the National Conference of Commissioners on Uniform State Laws and the American Bar Association. Conversely, because of these relationships, a law center on the University campus would serve as a clearing house for the application in this state of educational and research programs conducted in other parts of the country.

Ultimately, of course, a law center on the University campus, in addition to the School of Law, should encompass a division of graduate study, special research programs and a continuing legal education division. The inauguration of such programs will involve planning, time, additions to faculty and staff, and the expenditure of substantial sums of money. It is not necessary to postpone, however, initial steps in the development of a law center.

As an extremely important starting point, the Dean of the School of Law has recently recommended to the North Dakota State Bar Association that it establish its offices at the University of North Dakota School of Law. This would contribute much to the integration of Law School and Bar Association activities and it is the belief that many reciprocal benefits would be derived from such an affiliation. For example, the employed executive director could be-

come a part-time member of the Law Faculty to teach the courses in Judicial Administration and Legal Ethics. The facilities of the School of Law and University would be available to him for the development of a continuing legal education program. Many other illustrations of such reciprocal advantages could be related; for example, in developing professional standards and in research.

Recently, the members of the Ohio State Bar Association have initiated plans to locate its quarters on the campus of the Ohio State University. One of the reasons given for the affiliation is that it "will afford accessibility not only to Ohio's largest law library but also to many non-legal libraries and a wealth of other research material. A close working relationship with the College of Law will make possible the rendering of many additional services to individual lawyers and facilitate post-graduate education and legal research programs."<sup>11</sup> This applies with equal force to the proposed establishment of the offices of the North Dakota Bar Association on the University of North Dakota campus. Perhaps no better first step could be taken toward the creation of a Law Center for North Dakota. For, as mentioned earlier, it is only through the integration of professional activity, both within and outside the professional ranks, that really significant steps can be taken to render the law a dynamic force in meeting the contemporary challenges of society. With this integration of professional activity, Dean Pound's definition of the profession will take on a more significant meaning for the state of North Dakota—"a group of men pursuing a learned art as a common calling in the spirit of public service."

---

11. 44 A.B.A.J. 1088 (1958).