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## The Catholic Lawyer - An Idea and a Program

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# THE CATHOLIC LAWYER

## *An Idea and a Program*

The Editors of THE CATHOLIC LAWYER have been encouraged to believe that there is need for a magazine for Catholic lawyers. This first issue is presented as a basis of discussion concerning the form and content of future issues. The format is, therefore, necessarily tentative. If it is to be truly useful it must be revised in the light of the suggestions and criticisms of interested readers.

As an invitation to such evaluation, the following statement of policy and program is presented.

The average attorney is a leader in his community. His opinion is respected, his advice valued, not only in purely professional problems but in a wide variety of subjects having some relation, however tenuous, to law. In consequence, no matter how sound his general and professional education may have been he still feels the need to widen and deepen his knowledge and experience. The success of the Practicing Law Institute, of graduate and post-admission courses in various law schools, and of institutes in taxation, insurance, labor law and other subjects under the auspices of bar associations, gives evidence of this wide-felt need.

The Catholic attorney has all the professional obligations of his non-Catholic colleagues. Indeed his conscience may be sharpened by the fact that his confessor will require him to make restitution for any harm which his culpable ignorance or lack of diligence may have caused a client.

But the Catholic attorney has an additional burden. Not only must he keep abreast of legal and secular matters but he must often submit to questioning by clients, friends or chance acquaintances on matters of canon law, theology, morals, philosophy or church history which he is ill-equipped to discuss. Although he may have little specialized knowledge of the things of his religion, his opinion on Catholic matters is often given a weight and importance which he would be the first to disclaim.

The religious education of the average Catholic attorney is not nearly so extensive as his legal training and hardly equips him with the knowledge and skill necessary for any independent research in matters with serious moral and religious implications. Yet an opinion will be expected of him which he cannot form unaided — and help in this field is difficult to obtain.

If the problem is a moral one he may turn to a Catholic priest for an explanation of the moral principles involved. But the difficulty may lie in the application of these principles to an intricate question of law. If the solution depends upon a knowledge of procedure, for instance, it may be extremely difficult for the attorney to explain the problem to a priest untrained in the common law. During recent years

a few priests have studied law with the intention of integrating that science with ethics, moral theology, and the other sacred sciences but the number of such priests is still small.

Should the lawyer look for help in manuals of canon law, theology or ethics he will encounter a number of serious difficulties:

1. Most textbooks in these subjects are written for priests or for the instruction of laymen generally. Only rarely do they address themselves to the problems of lawyers.

2. Many of the better treatises are written in Latin.

3. Books written in English generally discuss justice, contracts, property, sales and torts, from the point of view and in the terminology of Roman and Civil Law.

4. The jurisprudence of the Canon Law is widely variant from the common law and frequently requires explanation by a skilled canonist.

Many graduates of Catholic law schools have come to look to the faculties of those schools for help in individual cases. Such assistance is also available to non-graduates, Catholic and non-Catholic alike, but in practice the applications for help are relatively few. Moreover, a practice may have become so common that an attorney may even fail to question the morality of it, much less seek assistance.

Consequently THE CATHOLIC LAWYER proposes to serve as a forum in which lawyers may join with canon lawyers, theologians, moralists, historians, physicians, psychiatrists and other experts in matters of interest to Catholics or to the Catholic Church where the solution to a legal problem depends upon specialized knowledge in other fields.

THE CATHOLIC LAWYER will not limit itself entirely or even chiefly to moral problems. Much less will it devote its columns to preaching sermons.

Instead THE CATHOLIC LAWYER will attempt to provide reliable information in a wide variety of legal subjects of interest or importance to Catholics, to the Catholic Church or to Catholic lawyers. Some concrete instances are contained in this first issue:

¶ MORAL THEOLOGY: *Bingo, Morality and the Criminal Law* discusses the morality of bingo and the ways in which the criminal law may help to control the abuses to which it may be subjected.

¶ CANON LAW: The concept of the word *Church* in Canon Law is explained insofar as it is applicable to the Internal Revenue Code of 1954.

¶ BIOGRAPHY: The life of St. Thomas More is briefly outlined as an inspiration to lawyers whose material interests are sometimes in conflict with the dictates of conscience.

¶ LEGAL HISTORY: The trial of Sir Thomas More, knight, is reproduced so that lawyers may compare the proceedings in this trial with the elementary demands of "due process."

¶ LEGISLATION: The efforts of the New York State Legislature to comply with the standards for permissible motion picture censorship laid down by the

Supreme Court in *Commercial Pictures Corporation v. Regents of the University of the State of New York* by defining in the Education Law the terms “immoral,” “of such a character that its exhibition would tend to corrupt morals” and “incite to crime” are set forth for the benefit of attorneys and legislators in other states who are concerned with the same problem.

¶ RECENT DECISIONS: A number of cases of importance to Catholics have been included. Some will not be officially reported; others might escape the notice of attorneys in jurisdictions other than those in which the cases arose.

¶ NEWS NOTES: The professional, social and religious activities of groups of Catholic lawyers here and abroad have been chronicled to stimulate similar activities among other like groups. Notice has likewise been taken of events of particular interest or significance to Catholic lawyers.

¶ PERSONALITIES IN THE NEWS: *Time* says that “Names make news.” The editors of THE CATHOLIC LAWYER believe that Catholics generally will be interested in these personalities.

¶ JURISPRUDENCE: The article by Professor Katz has been included for two reasons: 1. To indicate that Natural Law is not merely a Catholic concept; 2. To show how Natural Law principles can be rescued from the generalities in which they are all too frequently mired and made useful in the solution of practical problems.

¶ QUESTION BOX: One of the questions is of interest to Catholics insofar as they are lawyers; the other is of interest to lawyers who are Catholics. The scope of future questions will be limited only by the dictates of general interest.

But as has already been indicated, THE CATHOLIC LAWYER will seek to conform to the expressed desires of its readers. Lawyers whose competence and interest in the subject matter of the magazine are unquestioned have already encouraged the project for various reasons. Some have urged a great deal of original research; others have advocated more extensive digests or reprints of material from modern law reviews and periodicals, from little known or long forgotten books, and from ancient documents and other material not generally or readily available.

Hence the conclusion of the Editors that from the criticisms and suggestions which this issue will evoke there should evolve the pattern of a magazine which can best serve the interests of Catholic attorneys.

The idea of a magazine for Catholic lawyers has been developing in the minds of the editors for many years. The law reviews of various Catholic law schools have from time to time published articles or notes of general interest to Catholic lawyers. Some of these have proved most useful and have been cited in briefs or opinions in the highest courts of the country. But in general their circulation has been limited to the student body and alumni of the respective schools.

A few Catholic law schools have undertaken more ambitious projects. The School of Law of the University of Notre Dame has conducted an annual Natural Law Institute since 1949. The attendance at the Institute is somewhat limited, how-

ever, and the published proceedings deserve much greater circulation than they receive. Much the same can be said of the Natural Law Institute sponsored annually by the Catholic Lawyers Guild of New York.

Mention should also be made of the many fine sermons preached on the occasion of the Red Mass which is celebrated in a large number of dioceses to mark the opening of the courts and to ask God's blessing upon the work of the judges and attorneys. But all too often, the time allotted to the speaker is exhausted in the task of enunciating the principles of the Natural Law and no opportunity remains to reduce the principles to practice. Many a conscientious judge has asked himself, "But what should I do if the law is plainly contrary to what I think are the dictates of the Natural Law?"

Consequently, there is need for a magazine to publicize the work that is already being done and to supplement it by the promotion and publication of legal research in subjects of interest or importance to Catholics.

But an idea without a program is futile. And, a practical program demands organization.

St. John's University School of Law is initially responsible for THE CATHOLIC LAWYER. The experience of the faculty in sponsoring a legal magazine has been developed in the publication of *St. John's Law Review* for nearly thirty years, in the training of student editors and staff members and in establishing procedures which insure technical accuracy and professional competency.

The establishment of a Graduate Division and the appointment of experienced faculty members to supervise graduate research should provide a steady source of material for the pages of THE CATHOLIC LAWYER.

There are occasions, however, when time does not permit a leisurely approach to the solution of a problem, particularly if the seminar to which the problem would normally be assigned will not meet for at least another semester. To counter this difficulty, and to provide a permanent working staff for THE CATHOLIC LAWYER there has been established the St. Thomas More Institute for Legal Research. The Director of the Institute is a member of the Faculty of Law and the Executive Secretary is an attorney with many years' experience as assistant to the Executive Secretary of the Judicial Council of the State of New York. Under their direction, several Graduate Fellows and a member of the Law Library staff survey current legal material, suggest topics, cases or legislation for coverage in THE CATHOLIC LAWYER and assist in the editorial duties.

In order to provide nation-wide coverage the assistance of lawyers in every state of the union has been sought. In addition to the board of legal advisors, a panel of specialists in fields other than law will be selected.

The St. Thomas More Institute will not practice law. It will not attempt to offer individuals or institutions a service which should be provided by their own counsel. But it will answer questions of a general nature and will provide attorneys with information or guide them in their research within the limits of its resources.

In some instances the Institute will merely direct attorneys to the Legal Department of the National Catholic Welfare Conference. The N.C.W.C. is the official agency of the Catholic hierarchy and, as such, the official spokesman concerning legal matters of national significance. THE CATHOLIC LAWYER has been assured of the cooperation of the Legal Department of N.C.W.C. and in return will endeavor to further its effectiveness.

The Institute has also been assured of the cooperation of the faculties of other Catholic law schools as well as the Catholic faculty members of non-Catholic law schools. In order to focus attention on the nature, extent, and quality of Catholic legal education, an early issue of THE CATHOLIC LAWYER will contain the first of a series of articles on the Catholic law schools in the United States.

Keenly aware of the complex nature and vast scope of the problem they face, the Editors approach the task with confidence born of a conviction of the imperative need to encourage and assist the Catholic lawyer in the continuance of his professional and religious education and to provide him with a permanent and easily accessible source of information, comment and other pertinent material.

The Editors are further encouraged by the quality and extent of talent that is available. In fact, the problem may be reduced in part to the task of stimulating, marshaling and coordinating the abundant resources of Catholic scholarship.

Writing, editing, and publishing THE CATHOLIC LAWYER is only part of the task. Its indispensable complement is the critical response of sympathetic and interested readers whose ideas, suggestions, criticisms, questions, articles, letters or comment are essential if the magazine is to correspond to the needs of the Catholic lawyer.

Above all, the Editors ask for prayers that through the intercession of its patron, St. Thomas More, THE CATHOLIC LAWYER may be guided by the Holy Spirit towards a fruitful and effective accomplishment of its mission.

*Joseph J. Tinnelly, c.m.*