

February 1927

Conference of Bar Association Delegates: Reports of Committee on Legal Education and Admission to the Bar

Follow this and additional works at: <https://researchrepository.wvu.edu/wvlr>



Part of the [Legal Education Commons](#), and the [Legal Profession Commons](#)

Recommended Citation

Conference of Bar Association Delegates: Reports of Committee on Legal Education and Admission to the Bar, 33 W. Va. L. Rev. (1927).

Available at: <https://researchrepository.wvu.edu/wvlr/vol33/iss2/4>

This Article is brought to you for free and open access by the WVU College of Law at The Research Repository @ WVU. It has been accepted for inclusion in West Virginia Law Review by an authorized editor of The Research Repository @ WVU. For more information, please contact researchrepository@mail.wvu.edu.

CONFERENCE OF BAR ASSOCIATION DELEGATES:
REPORTS OF COMMITTEE ON LEGAL EDUCATION
AND ADMISSION TO THE BAR.*

At the Conference of Bar Association Delegates, held at Denver, Colorado, Tuesday, July 13, 1926, the following report on Legal Education and Requirements for Admission was submitted by Mr. Walter F. Dodd, Chairman of the Committee. This report is given below, together with the discussion which followed the reading of the report.

This committee was created primarily for the purpose of promoting the adoption of higher standards for admission to the bar, in line with the resolutions of the American Bar Association in 1921, and with the resolutions of this Conference at its special meeting in Washington on February 24, 1922. These resolutions relate to (1) general education; (2) legal training; and (3) law school standards. The standards of law schools are interwoven with the general educational requirements and methods of legal study. Standards of the better law schools set the upper limits as to general education and legal training. But the law school problem is sufficiently distinct to be handled separately. The Section of Legal Education and Admission to the Bar has devoted itself to the work of inspecting and classifying law schools and to the presentation of recommendations to prospective law students. The present committee will therefore devote its attention to standards for admission to the bar, and will regard law school standards as an incident to its task. This committee therefore recommends that its name be changed from "Committee on Legal Education" to "Committee on Admission to the Bar."

With respect to higher standards for admission to the bar, the greatest advance in recent years has been made in Kansas, Illinois, West Virginia, and Ohio. These four states have made substantial progress toward the standards of bar admission set up by this Conference. Progress has also been made in other states. The advancement in law

*Reprinted from 6 American Law School Review 21. Reprinted by permission of West Publishing Company, St. Paul, Minn.

school standards has been largely due to the Section of Legal Education. Higher standards in other respects may in part have been due to the establishment of standards by the American Bar Association and by this Conference. Their achievement is, however, to be credited to the states, rather than to any direct activity of this Conference. Kansas, in fact, by action in 1921 as to higher standards of general education, led rather than followed the action of this Association and of this Conference.

We present below a brief analysis of the problems to be dealt with by this committee, and of the steps taken toward their solution in the several states.

GENERAL EDUCATION.—The American Bar Association resolution contemplates that candidates for admission to the bar shall be graduates of a law school requiring as a condition of admission at least two years of study in a college. This was explained in the resolution of this Conference as permitting the acceptance of educational experience other than that acquired in an American college as satisfying the requirements, if equivalent to two years of college work. Kansas, Illinois, West Virginia, and Ohio have imposed the two-year requirement and permitted it to be met by the equivalent of such study. The general education so required is to be completed before the beginning of legal study. Montana also requires two years of college work or its equivalent, to be completed at any time before the applicant takes the bar examination, and Colorado requires one year of college work or its equivalent, to be completed within six months after the beginning of legal study. In adopting higher standards of general education, these states have properly followed the plan of gradual adjustment to such standards. The word "equivalent" is naturally a word of danger in these rules. It is necessary at present to recognize an equivalent of two years of college study, but the enforcement of a real equivalent depends upon day-by-day administration. The rules of the Illinois State Board of Law Examiners wisely provide for a university test of equivalence, though academic standards should not be too strictly applied to a nonacademic equivalent. The higher standards of general education should not be avoided by two years of college work or its equivalent.

LEGAL TRAINING.—The American Bar Association resolution, indorsed by the Conference, requires that every candidate for admission to the bar shall be a graduate of a law school meeting certain standards, and having a three-year course if the students devote their entire time to their studies, or a longer course (equivalent in working time) if they devote only part time to their studies. The resolution sets up certain standards for law schools, and this Conference disapproves of schools operated as commercial enterprises. While approving the requirement of law school graduation, the American Bar Association and this Conference are on record as opposed to conferring admission as a result of graduation, and as favoring an examination of the applicant by public authority other than the authority of the law school of which he is a graduate.

No state has adopted the recommendation that all applicants for admission to the bar shall be graduates of a law school. West Virginia has gone farthest by requiring "three years of diligent study as a resident student in a law school" certified by the Association of American Law Schools as complying with the American Bar Association standards. The West Virginia rule determines the method of evidencing graduation from such a school, and it may be that "diligent study" implies graduation. In other states office study and study in law schools not meeting the American Bar Association standards are still recognized. The standards of legal training approved by this Conference cannot be immediately applied throughout the country. They raise the following problems:

(1) Standards of law schools, and particularly the standards of so-called "part-time" law schools.

(2) Office study as a means of qualifying for admission to the bar.

(3) Methods of official examination for admission to the bar.

(1) **STANDARDS OF LAW SCHOOLS.**—The fulltime endowed or publicly supported law school now presents little difficulty. Its standards have steadily advanced. The Section of Legal Education is adequately dealing with this subject. The correspondence law school stands at the other extreme, and is perhaps an aid in some cases when its course is com-

bined with office study, but in a number of states recognition is properly denied correspondence courses.

The so-called "part-time" or evening law school presents the most serious problem, in large part because of its commercial character. Many such schools are making an honest endeavor to operate on a high plane, but in every large community schools will develop and will get "business" by setting standards of admission and of legal training as low as the requirement of the state in which they operate will permit. In the field of finance, bad money drives out good money. In the night law school field, bad law schools weaken or drive out the good ones. For this reason official action must establish standards of general education and legal training.

In West Virginia a law school must be certified by the Association of American Law Schools as complying with certain standards, identical, except in one respect, with those indorsed by the American Bar Association and by this Conference. The country is not yet ready for the West Virginia rule. A rule of the Kansas State Board of Law Examiners requires that legal training in a law school be evidenced by graduation from the law department of the University of Kansas, or some other law school of equal requirements or reputation; but compliance through office study is still permitted in Kansas, though not in West Virginia. The rules of the Illinois Supreme Court provide that law school studies, to be recognized, shall "have been pursued in an established law school accredited by the Board of Law Examiners," and the rules of the Law Examiners require teaching in all branches of the law specified by the rules of the Supreme Court and at least twelve hours a week of recitations. The best that can be said for these standards is that they are capable of mechanical application. In Ohio and some other states the standing of a school must be approved by the Supreme Court.

The evening or "part-time" law school is with us, and will remain so long as it fills a need. It can be improved. Its problem is largely financial. A "part-time" law school, with a substantial endowment, may conceivably develop points of strength not found in the full-time school. At present the line of progress is toward more general adoption of higher standards for admission to the study of the

law. In part-time courses a longer period should also be devoted to study. For evening or part-time study a four-year course is required in California, Idaho, Maine, Massachusetts, and Ohio.

(2) OFFICE STUDY.—Study in a law office is the older method of qualifying for admission to the bar. In the earlier days law schools had to fight for a recognition of their right to train for the bar. Rhode Island and Vermont still require at least six months' study in a law office in those states. New Jersey requires a year of such study. New York requires an office clerkship of at least one year of applicants not having two years of college work. These requirements are in addition to law school work that may have been taken.

But with the development of the law school, and with the change in the character of legal practice, office study has ceased to be an effective method of qualifying for admission to the bar, though something may be said in favor of an office apprenticeship before admission. For formal legal training, the law school has demonstrated its superiority under present conditions, and for this reason the American Bar Association and this Conference have taken the position that graduation from a law school should now be required as a condition for admission to the bar. West Virginia has gone furthest in this respect by requiring three years of study in a law school.

But office study as a means of qualifying for admission cannot at once be discontinued, and in some states may still serve a real need. It is essential, however, that it be *office study*, and not a mere lip service. A number of states now require registration of students when they begin office study. Illinois, Michigan, Washington, Ohio, and Minnesota require a four-year period of office study. New York requires four years of any person not a graduate of a college or university. Kansas requires only three years, but specifies that the student shall devote his undivided time and attention to such study.

Requirements mean little unless they are enforced. Washington, Kansas, and Illinois prescribe courses of study for office students. Kansas requires a report twice each year by the student and his preceptor to the Board of Law

Examiners. Illinois requires that the attorney acting as tutor devote a certain number of hours each year to actual instruction, that the applicant submit to weekly examinations, and that the attorney make affidavit as to the facts regarding such study. Such students are in Illinois given an annual examination by the State Board of Law Examiners.

The problem of office study as a means of qualifying for admission to the bar is not a serious one, though it is of distinct importance in some states. The chief task is that of making office study a real preparation. This may perhaps best be done by requiring registration of office students, by prescribing a longer time for preparation through office study, and by providing, not only courses of study, but also an adequate check, in order to see that the study is actually done.

(3) METHOD OF OFFICIAL EXAMINATION.—The American Bar Association and this Conference have taken the view that graduation from a law school should not of itself confer a right of admission to the bar, but that every candidate should be subjected to examination by public authority, other than the authority of the law school of which he is a graduate. In a number of states graduation from a particular law school now confers the right of admission to the bar. The right of admission through such graduation has tended to diminish, and should disappear in a few years.

The more serious problem is that as to the type of examination to be given by official authority before admission to the bar. State Boards of Bar Examiners are to a large extent voluntary bodies, serving without compensation or with small compensation. The preparation of proper tests for admission to the bar and the reading of examination papers are burdensome tasks. In addition, the establishment of higher standards of preliminary education and of legal training necessarily imposes heavier duties upon Bar Examiners, as does the closer supervision of office study. Further inquiry should be made with respect to the whole problem of bar examinations. The examination for admission to the bar largely determines the character of legal training for such admission. No law school can afford to disregard the standing of its graduates in bar examinations. The question of

bar examinations therefore, bears a close relationship to that of training for admission to the bar.

CHARACTER AND FITNESS.—Any committee dealing with the problem of admission to the bar must definitely face the issue of determining in some manner the character and fitness of those seeking admission. Most of the applicants are too young to have a definite record upon which a finding of fitness can be definitely based. However, much can be done in this respect, and much has been done by character and fitness committees in Boston, New York, and Chicago.

DISCIPLINE.—The conduct of persons after admission to the bar is closely related to their admission. A general study of methods of discipline of the bar is not within the jurisdiction of any committee of this Conference, nor within the jurisdiction of the Committee of the American Bar Association on Professional Ethics and Grievances. State and local bar associations have committees on grievances. These committees act without much knowledge of the procedure of committees of other states. They recommend disbarment proceedings, and in some cases employ public or private censure as means of discipline. Proceedings for disbarment or discipline vary in the several states, and there is a lack of complete co-ordination between such proceedings in the state courts and the federal courts.