

A HISTORY AND ESTIMATE OF THE ASSOCIATION OF AMERICAN LAW SCHOOL¹

The report of the American Bar Association for 1900 (at p. 569), records the following:

"Pursuant to the invitation extended by a committee of the section of legal education of the American Bar Association, representatives from American law schools met at Saratoga on Tuesday, August 28, 1900, and held three sessions during that day.

"Charles Noble Gregory, of the University of Wisconsin, was chosen chairman, and Ernest W. Huffcut, of Cornell University, was chosen secretary."

Thirty-five law schools were represented at the conference, but eleven others, "which had notified the committee of the appointment of delegates, were not represented at the conference."

Judge George M. Sharp, of Baltimore, to whom more than any other the meeting was due, for the committee of the section, submitted a draft of articles of association. These were discussed section by section, it may be said, with some acrimony and personal conflict. The weather was very warm, and views and interests diverse, and the chairman fears that the vote of thanks to him passed at the close of the session "for his uniform courtesy and patience in presiding over the deliberations of the association," illustrated the patience and courtesy of his colleagues rather than his own.

The articles as approved, were referred to a Committee on Style, consisting of Judge Sharp, the late Judge William Wirt Howe, and Dean James Barr Ames, and, as reported back by that committee at the evening session with some verbal changes, "they were adopted as read and ordered printed and sent to all law schools."

So our association came into being. The simple and orderly procedure reminds us of that of the convention which framed our Federal Constitution. The declared object of the association was: "The improvement of legal education in America, especially in the law schools."

At the end of nine years, the member at that time called to preside finds himself, by the great kindness of his associates for

¹ Delivered as the President's address before the annual meeting of the Association of American Law Schools at Detroit, August 25, 1909.

which he is most grateful, chosen to the presidency of the association, and, by custom, required to deliver a president's address. Under these circumstances it has seemed not inappropriate to briefly review the history of those nine years' existence and to seek to ascertain in what measure the association has fulfilled its avowed object.

The articles of association sought to fix a moderate standard to which schools must within a limited time conform as a requisite for membership. They provided:

1st. That each school require of its students in preliminary education "the completion of a high school course of study or its equivalent."

2nd. That the course of study leading to its degree should cover at least two years of thirty weeks, and after 1905 three years.

3rd. That the conferring of degrees "shall be conditioned upon the attainment of a grade of scholarship ascertained by examination."

4th. Certain very limited library facilities.

It will be recalled that thirty-five schools were represented at the first meeting. At the present time the association has thirty-six members. Of these only eighteen, or exactly one-half, were represented at the initial meeting. Since the number represented at that meeting was thirty-five, substantially one-half of those there assembled are not now members.

The great endowed foundations of both the East and West, as Harvard, Yale, Columbia, Cornell, Pennsylvania, George Washington, Leland Stanford, Chicago, Northwestern are members, and the State universities which occupy a like position, west of the tide water States, are also members.

The schools which failed to become members, or to maintain membership, did so in almost every case, if not always, because of inability or unwillingness to comply with the standard set.

The first subsequent meeting was held at Denver, Colorado, in 1901. Twenty-seven schools had become members, but eighteen only were represented. Five new schools were elected to membership.

The next meeting was held at Saratoga in 1902, and of the thirty-two schools having membership, twenty-one were represented, and five new schools were elected to membership. At the third annual meeting at Hot Springs, Virginia, in 1903, twenty-

six of the thirty-seven schools enjoying membership were present. At the fourth annual meeting at St. Louis, in 1904, of the thirty-five members, twenty-five were represented. At the fifth meeting held at Narragansett Pier, in 1905, twenty-six schools in a membership of thirty-seven, were represented. Three schools were elected to membership at that meeting, raising the membership to forty. A resolution was adopted at this meeting requiring all candidates for its degree, in any school belonging to the association, at the time of their admission to the school, to have completed a four years' high school course or certain equivalents, such resolution to take effect September, 1907.

This raised the standard doubly, in requiring a four years' course instead of the two or three years' courses which had sufficed, and in that it required the completion of the preparatory studies before the law studies were begun, whereas, theretofore, they could be finished at any time before the law degree was conferred.

At the meeting at St. Paul, in 1906, twenty-seven schools out of forty were represented.

At this meeting the resignation of the Baltimore, Buffalo and Illinois law schools were reported, (*American Bar Association Report for 1906*, Part II, pp. 125-127), and no resignation having been received from another two year school (Tennessee) it was "*Resolved*, That all law schools, members of this association, which maintain less than a three years' course in law shall be, and hereby are, dropped from the association."

Another school reported as failing to maintain the requirements of the association in that it had "received and graduated students who have not had a high school preliminary education or the equivalent thereof" was, after hearing and protracted debate, dropped from membership in the association on a vote taken by schools of sixteen in favor to six against. This was our first and last case of capital punishment. One new school (Texas) was admitted and we were left with thirty-six members.

At the seventh meeting held at Portland, Maine, in 1907, twenty-five schools out of thirty-six were represented. The resignation of one school was accepted (Georgetown), and three schools were elected to membership (South Dakota, South California and Creighton), leaving us with thirty-eight members.

The eighth annual meeting was held in 1908 at Seattle, and only sixteen schools were represented out of thirty-eight, the

smallest meeting ever held, due doubtless, to the remoteness of the place of meeting from the schools.

The resignation of two schools of importance, Boston University Law School and New York University Law School, were accepted. The resignations were understood to be on account of the unwillingness of the schools to accept the interpretation of the rule by which three years of law study was required, and the doing of the three years' work in two years' time, was held not allowable. This left us with thirty-six members for the meeting of 1909.

I do not fail to appreciate that the number of schools which, in the nine years our association has existed, have advanced from very elementary standards to that moderate one prescribed for membership, is considerable, and that some have been able to advance still further. It has been easier to advance in platoons than singly. Though not merely that, ours is largely a bureau of standards.

Our honored guest, Sir Frederick Pollock, in 1903 told us, speaking of law teaching in his country: "In fact every teacher who has taken up the matter seriously in England has not only gone his own way, but had to go his own way because there was no established system he could follow."

The public teachers of law in England and Wales have now, however, within the year effected an organization, and a representative of the drafting committee to shape and report on rules has requested from your president copies of our articles, and he has been glad to furnish them. The objects of that society are substantially the same as of ours, and are declared to be "the furtherance of the cause of legal education in England and Wales, and of the work and interests of public teachers of law therein by holding discussions and enquiries, by publishing documents and by taking such other steps as may, from time to time, be deemed desirable." This society, however, only admits to membership teachers representing institutions "not established or existing for the purpose of making pecuniary profit divisible among their members." This organization of our brethren in Great Britain has, I am sure, the best wishes of every one of us, and the cordial good will of all who enjoy the benefits of that system of law which is perhaps England's greatest gift to the world.

It is deemed worth while to analyze the statistics of our association during the past nine years and at the present time.

The report of the United States Bureau of Education for 1899 and 1900, shows ninety-six law schools in the country. Of these thirty-five were represented at our initial meeting, little more than one-third in number.

The ninety-six schools had 12,516 students. The schools present at our meeting had 8,084, substantially two-thirds in number of the whole body of students, though the schools were in number only about one-third.

The like report for 1908, which is the last in print, shows one hundred and eight law schools with 18,069 students, an increase in number of schools of only one-eighth, but of students of nearly one-half.

The rain has fallen upon the just and the unjust, but not alike. The increase in students in the schools represented at our first meeting is 1,429, and in the other schools, 4,124. In other words, the thirty-five schools having two-thirds of the students which founded this association, have since then had about one-fourth only of the growth, and the other schools, which had one-third of the students, have had three-fourths. I by no means regret our standards, but I think it right that we should understand the sacrifice made.

The number of students in attendance is significant, but such numbers are only one of the indications to be considered. The number of graduates is also significant as showing the effect of our exactions for a degree.

In the year 1900, with 12,512 students, our law schools had 3,241 graduates, substantially twenty-six per cent of those in attendance. In 1908, with 18,069 students, they had 3,999 graduates, a trifle over twenty-two per cent of those in attendance, showing a diminution of only four per cent in the annual proportion of all students in attendance who graduated.

These figures are disappointing in view of the radical increase of requirements of our association as to the time of legal study. We do not seem to be affecting the body of students in our law schools as we had hoped.

Of our thirty-five schools at our first meeting, twenty-one have increased their attendance, one has remained stationary, and thirteen have diminished their attendance in the past nine years; and in the thirteen are included some of the largest, oldest and most favorably situated schools, as well as those of another type. The greatest number of law schools and law students is not

found, as might be thought, in the North Atlantic division of States, consisting of New England and the Middle States, where there are eighteen schools with 3,483 students, but in the North Central division, beginning with Ohio, including Michigan and extending through the Dakotas, in which division there are forty-three schools with 4,120 students. These divisions to which I refer are reported by the Federal Commissioner for Education.

Of the schools which are now members of our association, seven have come into existence since our meeting nine years ago, and these seven have 1,006 students; thirteen schools show a smaller attendance than at that time, and sixteen show an increase in attendance. The schools now belonging to our association had in 1898, 6,264 students. They now have 8,239 students. The seven members which were not in existence at the earlier date have 1,006 students. Deducting these, the schools which maintained their membership have 7,236 students, an increase in nine years of 972 students in all.

These schools nine years ago had substantially fifty per cent of the total number of law students in the country. They now have a trifle over forty per cent. The increase in these schools has been about fifteen per cent, in the whole body of law schools substantially fifty per cent. In other words, we have had a little less than one-third of our proportionate share in the growth of law students shown in the whole country.

I submit these facts with no suggestion of turning backward. *Nulla vestigia retrorsum.*

If our standards are desirable, it is lamentable that they apply to only about four-ninths of the law students of the country, and to a diminishing proportion. The progress that we have made, from no requirements as to preliminary education to a high school course, with no specification as to length, and later to a four years' high school course, to be accomplished before law studies are begun; from no requirement as to law studies, first to two years and then to three years, is very great. It is suggested that all feasible efforts to induce other schools to come to the desired standards be made and that they be cordially welcomed to membership in the association, that the bonds of friendly alliance between schools of the association be strengthened in every way. It is believed that some practices followed have a tendency to impair these good relations and might therefore well be abandoned by mutual agreement. Such

are the customs of advertising in the student publications of other universities having law departments, and still more the custom of requesting from a law school a copy of its catalogue and then mailing to all students there listed the circulars and advertising literature of the rival school. There is no law against this and no rule of our association, but the courteous traditions of the bar which have resulted in England in making it a serious professional misconduct for any lawyer to interfere between lawyer and client indicate, it is believed, a safe rule for law schools, and would prevent them from soliciting the students in attendance upon another school. The American Bar Association at its last session approved a code of ethics. Perhaps a useful activity for this association would be to appoint a committee to draft and report a code of ethics for law schools, dealing with such questions and with the receipt of students from other schools and all matters of intercollegiate relation. The association need not fear too many activities. The danger is that it will have too few.

In submitting this review of our nine years of existence, it is interesting to observe that, although the statistics are not wholly exhilarating, yet there were in the past year, as shown by the report of the Commissioner of Education, 1,515 fewer students in regular medicine, 575 fewer in homeopathic medicine, and 1,408 fewer in dentistry than nine years ago, whereas, as we have seen, there are 5,553 more law students than nine years ago. In fact, the growth in law schools in that period has vastly exceeded that in any professional schools, except those in veterinary medicine, a comparatively new branch of instruction in which there has been a marked and sudden development.

Professor Goudy of Oxford holds with high distinction the Regius Professorship founded by Henry VIII, with an original endowment of forty pounds per annum. As president of the association of public teachers of law in England and Wales, in his introductory address he lately said, that in Rome "most of the great jurisconsults were also teachers of law," and that the law teachers of to-day "are entitled to arrogate to" themselves "the language of one of the greatest of these (himself apparently in his younger days a teacher) and style ourselves the priests (sacerdotes) of justice and law."

He says with truth and cogency: "We must honestly endeavor to do what we can for our students, both by word and writing, but especially by word; because upon us undoubtedly rests, in

considerable measure, responsibility for the future competency of our judges and barristers and solicitors, and to some extent also of our legislators, statesmen and administrators. We must, too, remember that the future reform of the laws, and consequent amelioration of the social and political conditions in this country, may largely depend upon the knowledge we impart to, and the ideas we instill into, the minds of our pupils."

The duty, responsibility and influence of the law teachers in this country are certainly not less, and I think we can maintain are far greater, than in England; if on no other basis, on that of the vastly larger number of both law teachers and law students. Moreover, lawyers are an important minority in Parliament, but a dominant majority in Congress. The present prime minister is the first lawyer to attain that great place in a hundred years, but all our presidents have been lawyers save for a few military leaders elected at the close of a war.

We have certainly never fallen into the condition shown in the testimony before the first university commission in England, which Professor Goudy quotes, where young law students "coming up from the university to London" after paying one hundred guineas a year to eminent conveyancers, found themselves "walking blindfolded into a sort of legal jungle;" and after repeating the fee the next year to an equity draftsman or special pleader, with equally disappointing results, frequently gave up the attempt as hopeless, and became clergymen. That is seldom the fate of our students.

The rewards of the teacher are very limited, either in money or in honor, and those lawyers who turn away from the shining lures of the practitioner to the sober paths of the law professor, must hope for their recompense in a sense of usefulness rather than in wordly recognition, yet it is not without satisfaction that at the present moment we see one of our profession advanced to be chief executive of the Nation and another to be the governor of our greatest state. There has been within the past decade a marked advance in the compensation and recognition of men in our profession, and it is believed that the acquaintance, consultation and unity springing from our organization has tended to promote this consummation. The great hold which the bar has so long maintained on English public life is always felt to be largely due to the ancient, potent and inscrutable organization of the inns of court. Lawyers standing together have accom-

plished much. It is hoped that the associated law schools of America and the faculties, even though they proceed slowly, may prove potent not merely for their own welfare and that of the cause of legal education, but for the wider and higher service of justice according to law :

“The hope of all who suffer
The dread of all who wrong,”

that enlightened justice which the late Lord Chief Justice Russell called a prime necessity of mankind to which all lawyers, whether on the bench, at the bar, or in the faculties, have pledged the labors of their useful lives.

Charles Noble Gregory.