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Standards of Legal Education and the League of Ohio Law Schools

Erratum

Page 243, line 23. After the word 'Springfield,' add "and Murray Seasongood of Cincinnati."

Standards of Legal Education and The League of Ohio Law Schools¹

Stanley A. Samad

WHEN THE Supreme Court of Ohio belatedly abolished the system of law office study in 1935, it not only brought to an end an institution of more than one hundred fifty years' duration in Ohio, but also made the law school the exclusive route to the profession of law.² At the same time the Supreme Court recognized the League of Ohio Law Schools as the accrediting agency of the Court. The League had been organized only a year earlier, as a confederation of eleven of the then twelve Ohio Law Schools.³ Dean Merton L. Ferson of the University of Cincinnati

College of Law was the author of the League, although the undertaking would not have been possible without the support of the Ohio State Bar Association's Legal Education Committee, and its Chairman, Grauman Marks of the Cincinnati Bar.

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The League had as its objectives the "improvement of legal education in the State of Ohio" and "cooperation with its (Ohio's) duly constituted authorities in the selection of a morally and intellectually qualified bar."⁴ The first objective was to be accomplished

1. The substance of this paper was submitted by the author in partial fulfillment of the requirements for the L.L.M. degree awarded by the Western Reserve University.

2. Ohio Supreme Court Rule XIV, "Rules for Admission to the Bar," as amended June 14, 1935; 130 Ohio St. 1xxx (1936).

3. The charter members of the League were: Akron Law School, Cincinnati Y.M.C.A. Evening Law School (Salmon P. Chase School of Law), Cleveland Law School, Columbus College of Law (Franklin University Law School), Ohio Northern University College of Law, Ohio State University College of Law, University of Cincinnati College of Law, University of Toledo College of Law, Western Reserve University School of Law, William McKinley School of Law, Youngstown College School of Law. The John Marshall School of Law of Cleveland, Ohio, subsequently became a member.

4. League Articles of Association, Art. First, as adopted March 18, 1934.

by establishing acceptable minimum standards of legal education for Ohio Law Schools, and by accrediting both Ohio law schools and those out-of-state law schools that were not approved by the American Bar Association. As an accrediting agency, the League's position is unique in legal education. It has no counterpart at the state level. The organization most analagous to the League is the Association of American Law Schools, after which the League was patterned. The Association, however, is a national rather than a local accrediting agency.

The League's second objective was to be effectuated by cooperating with the Board of Bar Examiners and the Legal Education Committee of the Ohio State Bar Association. In fulfillment of this objective the League was instrumental in establishing the "Joint Conference" of law schools, Bar Examiners, and members of the Legal Education Committee of the Ohio State Bar Association. Meeting semi-annually since 1937, the Joint Conference has discussed, and offered solutions to, a wide range of problems of mutual concern to the three participating groups. Quantity and quality of pre-legal education, educational standards for Ohio law schools, scope and quality of bar examination testing, time and manner of administering bar examinations, sponsorship of law students by members of the bar, and internship as a condition for admission to the bar are among the items of business that have come before the Joint Conference.

It is surprising that the League, as a unique undertaking in the field of legal education, has not been the subject heretofore of extensive written commentary. The purpose of this article is to provide that commentary by relating the activities of the League to the formulation and application of standards of legal education and admission to the bar in Ohio, during the period of 1934 to 1957. The century and a half of experience in formulating standards of legal education, prior to the founding of the League, will be summarized in order to understand better the responsibility for establishing standards of legal education in Ohio, and the status of those standards in 1934. Having discussed why the League was founded, the twenty-three years of the League's operations will be analyzed in terms of the problems that were foremost before the League, and how they were solved. Finally, this article will endeavor to suggest the future role of the League in legal education and admission to the bar of Ohio.

STANDARDS OF LEGAL EDUCATION AND ADMISSION TO THE BAR, 1792-1934

In 1792, the Territorial General Court of the Northwest territory passed an act whereby "persons of good moral character, well affected to

the Government of the United States and of the territory" were admitted to the bar upon examination by a judge of that court.⁵ That act, however, failed to spell out any period of legal training. In 1799, the Territorial Legislature passed an Act (said to be a reform measure) which both established the period of legal study at four years, under the supervision of a licensed attorney, and also made a distinction between "attorneys at law" and "counsellors at law."⁶ Attorneys were forbidden to plead in a general court until they had been admitted to the rolls as counsellor at law by court examination. The reform measure was quickly amended to exempt from its operation all those who had been admitted to the bar prior to its passage, and to reduce the period of legal study to three years. The education of this pioneer bar was gained largely through law office apprenticeship, although a few attended the famous Litchfield School of Law in Connecticut, and some, migrating from the eastern seaboard, may have attended the Inns of Court of Great Britain.

During the nearly one hundred years that intervened between the admission of Ohio to statehood in 1803, and the turn of the century, standards of legal education and admission to the bar were established by the legislature, rather than the courts, and the stress of the standards was upon quantitative factors (the length of the period of legal study) rather than upon the quality of legal education. The first enactment of the General Assembly following statehood was the rejection of the three year period of legal study established earlier for the Northwest Territory, and the substitution therefor of a requirement of "sufficient legal knowledge and ability to discharge the duties of an attorney and counsellor of law" without stipulating any particular length of study.⁷ In 1819 the General Assembly, by amendment, established the period of legal study at two years.⁸ In 1894, the General Assembly lengthened the period of study to three years.⁹ The standard remained at that level until the Supreme Court, in 1923, by rule extended the temporal requirements to four years for evening law students and for those who studied under law office tutorage, although the period of study for those in the day law schools remained at three years.¹⁰

Prior to 1880 provisions as to pre-legal education were not expressly mentioned in the standards of admission to the bar. However, in that

5. 2 Laws N.W. Ter. 40 (1792).

6. 1 Pease, Laws N.W. Ter. 1788-1800, 340. See *The Bar and Courts of the Northwest Territory*, 16 W.L. BUL. 276 (1886).

7. 2 Ohio L. 124 (Feb. 4, 1804).

8. 17 Ohio L. 92 (Jan. 28, 1819).

9. 91 Ohio L. 125 (Apr. 5, 1894).

10. Ohio Sup. Ct. Rule XIV, as amended May 22, 1923.

year both in court rule¹¹ and in the Revised Statutes¹² there appeared a requirement that candidates for the bar examination have not only a "competent knowledge of the law" but also "sufficient general learning" to discharge the duties of an attorney at law. The subsequent attempts to give meaning to the phrase "general learning" came through the Supreme Court, rather than the legislature. In fact, the legislature sought to weaken, rather than strengthen, the court rule in this respect. In the struggle, the Supreme Court was victorious, and following the Court's assertion of its power to regulate admissions to the bar, the influence of the legislature waned.

By way of illustration, the Court rules were amended in 1897 to require at least a "common school" education for those seeking admission to the bar.¹³ But the rule, literally interpreted, made no provision saving from its operation those who had already begun their legal education. The legislature thereafter attempted to provide a savings clause by stating that all persons who had begun their legal education within three years prior to the legislative enactment were exempt from the amended court rule.¹⁴ In 1900, the Supreme Court required at least a high school education for admission to the bar.¹⁵ The Court, unfortunately, did not define what was meant by a high school education. The legislature sought to supply the definition in its amendments to the school laws of 1902, by providing that the holder of a diploma from any of the three grades of high schools were eligible to take the bar, and to enter a public law school.¹⁶ In 1905, the court amended its rules to indicate that at least a four year high school course (or its equivalent) was intended, and made its rule effective to those who applied after December 31, 1900.¹⁷

No further significant legislation concerning bar admissions was passed by the General Assembly after 1902, other than a post-war measure in 1919. In that act, the legislature provided that the Supreme Court should give up to one year of credit, toward the requirement of three years of legal education, to honorably discharged veterans whose

11. Ohio Sup. Ct. Rules for Admission to the Bar, 35 Ohio St. (ix) (1880).

12. 1 Ohio Rev. Stat. 299 § 559 (Daugherty, Brassee and Okey Ed., 1880).

13. Ohio Sup. Ct. Rule XIV, as amended December 17, 1897; 56 Ohio St. (v) (1898).

14. 93 Ohio L. 308 (Apr. 25, 1898).

15. 44 W.L. BUL. 336 (1900).

16. 95 Ohio L. 115, 116 (Apr. 9, 1902). A first grade high school was one of four years' duration, a second grade high school was one of three years' duration, and a third grade high school was one of two years' duration.

17. Ohio Sup. Ct. Rule XIV, as amended March 10, 1905; 73 Ohio St. xiv at xvi (1906).

legal education had been interrupted by military service.¹⁸ The Court acquiesced to this statute.

The route to the profession of law during the 19th century in Ohio was through the law office. The closing two decades, however, saw the development of a number of law schools which were to move the pendulum in the direction of admission through formal legal education. The Cincinnati College of Law had been founded in 1833, but for fifty years it remained the sole law school in the state. In the 1880's two additional law schools were begun: the now defunct National Normal University Law School at Lebanon, Ohio, and the Ohio Normal Law School (now Ohio Northern Law School) at Ada, Ohio. In the 1890's two day law schools were begun at the Ohio State University, and at Western Reserve University, and the first part-time programs were begun at the McDonald Institute of the Cincinnati Young Men's Christian Association (now the Salmon P. Chase College of Law) and at the Cleveland College of Law (now the Cleveland-Marshall Law School).¹⁹

Another significant development was the foundation of the American Bar Association in 1878, and the beginning of the Ohio State Bar Association in 1880. The raising of the standards of legal education and admission to the bar was of primordial concern to both professional associations. To strengthen legal education in the United States, the American Bar Association created its Section of Legal Education in 1893, called for a conference of the members of the state boards of bar examiners in 1898 (the forerunner of the National Conference of Bar Examiners) and fostered the creation of the Association of American Law Schools in 1900.

Although the Association of American Law Schools from the outset established minimum educational standards as a condition of eligibility for its member schools, the American Bar Association did not undertake

18. 108 Ohio L. 67, Part I (Apr. 9, 1919).

19. To complete the sketch of the foundation of Ohio Law Schools, no further day schools were undertaken after 1900. The following evening schools were undertaken between 1900 and the beginning of World War I (in order of their founding): Columbus College of Law (Franklin University Law School); Y.M.C.A. Law School at Toledo (now the University of Toledo College of Law); St. John's University Law School of Toledo (now defunct); Youngstown Y.M.C.A. School of Law (now the Youngstown University School of Law). The following part-time law schools were founded at the end of World War I and thereafter (in order of their founding): John Marshall Law School of Cleveland (merged into the Cleveland-Marshall Law School in 1947); the St. Xavier University Law School at Cincinnati (now defunct); the Dayton University Law School (now defunct); the Akron Law School; the Dayton Y.M.C.A. Law School (now defunct); and the William McKinley Law School (now defunct). It is believed that two additional part-time law schools, about which there is little information, were undertaken following World War I: the Lake Erie Law School and the Rufus P. Raney Law School, both of Cleveland. Both schools are now defunct.

the accreditation of law schools until 1924. The events leading up to such accreditation were these. In 1921, the American Bar Association formulated a definition of a "qualified" law school. The resolution of the Section of Legal Education,²⁰ adopted by the House of Delegates,²¹ contained this significant statement of policy: "(1) admission to the bar should be on the basis of graduation from a qualified school; (2) a qualified law school was one whose standards required at least two years of pre-legal education at a college or university, whose course of study was at least three years for day students, and a longer period for evening students, which had adequate library facilities, and a sufficient number of full-time teachers to insure personal acquaintance with, and influence upon, the whole student body; (3) that the Council of Legal Education should publish the names of those law schools that were found to be qualified."

The resolution also sought adoption of those requirements by the duly constituted authorities of the various states, and made provision for a Conference on Legal Education, composed of delegates of state and local bar associations. The Conference, held in Washington, D. C., during February, 1952 approved, but not without opposition, the resolution of the American Bar Association that called for the accreditation of American law schools.

The Supreme Court of Ohio did not adopt the requirements of accreditation by the American Bar Association's Section of Legal Education as a condition for admission to the bar of Ohio. Nonetheless, the influence of the American Bar Association's efforts to raise standards of the legal education was apparent in the proceedings of the Ohio State Bar Association, and in the Court's amendments to Rule XIV (Admission to the Bar) in 1923 and 1925. The Legal Education Committee recommended in 1922 the adoption of a standard of two years of college education as a condition for admission to law school, and a period of study of three years in a day law school, and four years in an evening law school.²² In 1923 the Court increased the temporal requirements to four years for those attending evening law schools, and for those studying under the tutorage of a lawyer.²³ In 1925, the Court amended its rules to require two years of education at an approved college or university as a condition for admission to the bar, for those who filed their certificates as law students after October 15, 1927.²⁴ For those who filed be-

20. 46 Rep. Am. Bar Ass'n. 47 (1921).

21. *Id.*, at 687.

22. 43 Ohio St. Bar Ass'n. 42 (1922).

23. See note 10, *supra*.

24. Ohio Sup. Ct. Rule XIV, as amended Dec., 1925, 113 Ohio St. 1xxxvii (1926).

tween October 15, 1926, and October 15, 1927, one year of college or university education was required.

The Supreme Court of Ohio apparently was not yet prepared to abolish law office study, nor to require American Bar Association approval of Ohio law schools. In 1929, the Legal Education Committee of the Ohio State Bar Association recommended abolition of law office study, and the adoption of a requirement of certification of a law school that the student had satisfactorily completed the required work.²⁵ Presumably, the Committee intended that future admissions to the bar be limited to those who had received the first degree in law. The Court took no action on the recommendation. At the 1930 annual meeting, the Legal Education Committee recommended "legislation" to abolish the system of law office training.²⁶ Again in 1933 the Committee reiterated its recommendation that law office study be abolished.²⁷

Thus, by 1934, responsibility for the establishment of standards for legal education and admission to the bar seemed to be well established as a function of the Supreme Court of Ohio rather than that of the General Assembly. The Court had made some progress toward improvement of standards by requiring two years of college or university education as a condition for admission to the bar and a period of legal study of four years for evening law students and those under law office tutorage. However, these standards were purely quantitative. The Court did not require the satisfactory completion of the required work of a law school nor the award of the first degree in law. Further, the Court failed to act on the vigorous and repeated recommendations of the professional associations to abolish law office training.

Why the League was Founded

The League was founded by conscientious legal educators, with the support of the Legal Education Committee of the State Bar Association, to correct serious deficiencies in legal education and admission to the bar in Ohio. These deficiencies resulted from a combination of three factors: *first*, a virtual absence of quantitative and qualitative standards for law schools imposed either by Supreme Court rule, or legislative enactment, whereby an individual or corporation could call himself, or itself, a law school and certify students for examination; *secondly*, the existence of the superannuated system of law office tutorage; *thirdly*, a bar examination that was geared to law office study, rather than to law school curriculum.

The League's application to the Court for amendment of Rule XIV,

25. 2 Ohio Bar 159 (1929-1930).

26. 3 Ohio Bar 202 (1930-1931).

27. 6 Ohio Bar 228 (1933-1934).

"Admission to the Bar," contained a particularization of certain of the deficiencies in legal education:²⁸

"The League submits that the following loopholes exist in the requirements for admission to the bar examination as now stated:

1. A student is not required to graduate or even to pass a subject in law school. He is merely required to put in the specified time.
2. There is no definition as to which law schools should be recognized by the Court. This is a complicated question and a Court already under great pressure of work can ill-afford time to investigate the claims of an alleged law school.
3. The student who is dropped for poor scholarship at one law school can go to an easier one and come to the bar examination as well as the students who satisfy their school's requirements.
4. The maintenance of standards in any law school is difficult and even futile while other law schools offer students an easier approach to the bar.
5. Office study may be substituted for law school work."

An accrediting agency with reasonably high standards, it was contemplated, could standardize Ohio law schools at an acceptable level. Further, such a confederation could provide the Supreme Court with a criterion as to which organizations should be recognized by the Court as law schools, distinguish the worthy from the unworthy by adopting standards prevailing in better law schools, provide an organization with which the Court and the Bar Association could deal on questions of legal education, and provide a group which could assist in revising the type of questions asked on the bar examination. The League of Ohio Law Schools was organized to accomplish these ends.

THE OPERATION OF THE LEAGUE OF OHIO LAW SCHOOLS FROM 1934-1957

The twenty-three years' history of League activity may be roughly divided into periods, suggested by the problem or problems foremost before the League at the time.

Organization of The League and Adoption of Standards

On January 26, 1934, the Deans of nine of the twelve Ohio law schools responded to a call for a meeting of all Deans of Ohio law

28. *League of Ohio Law School's Hearing before the Supreme Court*, 7 Ohio Bar 646 (1935).

schools. Dean Merton L. Ferson of the University of Cincinnati Law School and Dean Charles W. Racine of the University of Toledo Law School were elected Temporary Chairman and Temporary Secretary, respectively. Grauman Marks, Chairman of the Legal Education Committee of the Ohio State Bar Association, was present at this, and subsequent, organizational meetings. The views of those in attendance at this meeting are well summarized in the minutes of the first meeting: "It was advisable to give consideration to the formation of a permanent organization of Ohio law schools; that much good can be accomplished by the interchange of ideas; that with the likely change in the Supreme Court Rule so as to eliminate law office study, the responsibility for certifying students would be that of the law schools; and that standards of legal education should be agreed upon." It was accordingly moved that a committee be appointed to draft a proposed constitution and to report back to the group.

The most important aspects of the proposed constitution were the standards of legal education. Those agreed upon by the drafting committee were designed to rectify certain evils that existed in legal education at the time, without being so burdensome as to be unattainable by the night law schools. Although the League standards were predicated upon those of the Association of American Law Schools, the following modifications were made to the Association's standards: Ohio law schools were spared the requirement of four full-time teachers as required of members of the Association of American Law Schools; the library requirements of the Association of American Law Schools were not adopted.

The standards that were adopted were designed to effectuate the following ends: to eliminate the proprietary aspects of legal education in Ohio; to require a curriculum in evening schools equivalent to that of the day schools, with a minimum of 1080 hours of classroom instruction in law, and with the elimination of courses designed to coach students for the bar examination; to insure satisfactory academic standards; to limit the admission of "special students," that is, those with less than the two years of formal college education; to provide an adequate law library, the implementation of which was left to the Executive Committee; to require complete individual records for each student showing period of attendance, grades, credentials for admission, and administrative action affecting the student; to prevent students dismissed at one school from continuing at a second school; to require adequate plant facilities and reasonable education practices.

The standards that were agreed upon reflected the following policies: that men preparing for the bar should receive thorough instruction and

be held to reasonably high standards; that persons not financially able to devote their entire time to the study of law should, nonetheless, have an opportunity to prepare for the bar; that education in evening schools should not be inferior to that in the day schools; that arbitrary restriction on the numbers admitted to the bar was undesirable. The enforcement of higher academic standards and the reduction of the poorly prepared applicants would reduce the number seeking admission to the bar.

These standards were adopted by the schools with virtually no opposition. The task that now remained was that of persuading the Supreme Court of Ohio to amend its rules. The minutes of the League of July 12, 1934, indicate the particulars in which the rules were to be amended:

It was the consensus that the Supreme Court should be asked to adopt the necessary rules, so as to eliminate law office study and to limit the taking of the bar examination to graduates from law schools in Ohio who are members of the League; or if the law school is outside of the state of Ohio, to graduates from law schools which are members of the Association of American Law Schools or are on the approved list of the American Bar Association.

the League to amend Rule XIV, Admission to the Bar. In addition to the Deans of six member schools who appeared to argue on behalf of the change in the Rule, there appeared also Grauman Marks on behalf of the Legal Education Committee of the Ohio State Bar Association, and Newton D. Baker of Cleveland, and Paul C. Martin of Springfield. The Court took the Application under advisement, and on June 14, 1935, announced the amendments to Rule XIV had been made as requested by the League.²⁹ Effective as of July 1, 1939 (subsequently amended to September 1, 1939) all persons taking the bar examination were required to show satisfactory completion of a course of study in a recognized law school as a requisite to the taking of the bar examination. The system of law office study was thus abolished, and the law degree from a recognized school became a prerequisite for admission to the bar. A "recognized" school was an Ohio law school that was a member of the League, or an out-of-state school which was approved by the American Bar Association. In the event an out-of-state school was not approved by the American Bar Association, the Secretary of the League was delegated the responsibility of inspecting the school and advising the Court as to whether or not that school was found to be observing standards equivalent to those of the League. If the out-of-state school was found to be observing equivalent standards, the Court, on the Secretary's recommendation, permitted its graduates to take the Ohio bar examination.

29. Ohio Sup. Ct. Rule XIV, as amended July 14, 1935, 130 Ohio St. 1xxx (1936).

INSPECTION OF MEMBER SCHOOLS AND ENFORCEMENT OF
STANDARDS, 1935-1941

Although eleven Ohio law schools had signed the League Articles, their membership had not been made contingent upon a prior inspection. The inspections were to follow. It was therefore agreed at the second League meeting that the Executive Committee, assisted by Grauman Marks, was to inspect all member schools and to report back in a year. The inspection reports that were subsequently submitted revealed the following defects in legal education in Ohio: four of the schools were organized as corporations for profit and were commercial in their operations; eight schools were "gate receipts" operations (*i.e.*, their income was derived almost exclusively from students' fees); four schools were hardly more than trade school operations; two schools did not award a law degree, but enabled their graduates to purchase a degree — at a cost from \$25.00 to \$35.00 per capita — at other institutions; at five schools the library numbered less than 3000 volumes, and one school had no library whatsoever, but encouraged its students to use the county law library; incomplete records and failure to maintain a file of students' credentials were noted at five law schools; in spite of the incompleteness of the records at some law schools, the inspectors noted that several schools continued to admit students dismissed from other law schools; at seven schools, the inspectors noted a virtual absence of scholastic standards.

The League took no action on the basis of the initial inspection reports. The pointed recommendations of the inspectors to the schools were a clear mandate as to the schools' shortcomings. However, all schools were reinspected during 1938. These inspections were conducted by the League Secretary, Dean Herschel Arant of the Ohio State University College of Law (with the exception that his school was inspected by Professor Harold Shepherd of the University of Cincinnati College of Law). Legal education in Ohio owes much to the thoroughness of Dean Arant's inspection, and his relentless efforts to raise the standards of the non-complying schools at least to the minimum acceptable standards of the League.

The results of the 1938 inspections may be summarized as follows: three schools were fully complying with League standards and no criticism of their operations was noted; four schools were fully complying with minimum standards, but areas of improvement in their operations were noted; two schools were violating League standards with respect to admission of transfer students who had been dismissed elsewhere, and those schools were threatened with suspension unless they desisted from that practice; three schools were found not to be in compliance with

League standards, in that they continued to be commercial in their operations. The latter three schools were placed on probation for one year, and were ordered to be reinspected.

As a result of this action, it was reported at the annual meeting in 1939 that two of the three schools placed on probation had reorganized as non-profit corporations and that the third school was in the process of reorganization. It was not until the fall meeting of 1941 that this last probationary status was removed. All Ohio schools were now in full compliance with League standards, and the period of accreditation was complete. The League, however, continued to conduct biennial inspections, except for a period during the war years.

THE PROBLEMS OF THE WAR YEARS, 1942-1946

The period of 1942-1946 was necessarily marked by relative inactivity on the part of the League. Although enrollments in Ohio law schools had declined from 1323 students during the 1940-41 academic year to 372 students during the autumn of 1943, the League reaffirmed its position that the first standard of legal education be observed, that the compensation of no officer or teacher shall depend on the number of students enrolled or the fees received.

With regard to the problem of conscription of those who were in law school, the League recommended to the Supreme Court of Ohio in 1942 that the Court adopt the accelerated curriculum that had been recommended by the American Bar Association, whereby a law student could complete a full-time (day) study in two calendar years, and part-time (evening) study in three calendar years. The League also recommended that students be permitted to take the bar prior to their last term in law school, but that in no instance should the bar examination be waived. The Court adopted these recommendations.

During 1944, when it became apparent that enrollments were beginning to rise because of the return of veterans, the League recommended the relaxation of pre-legal education requirements, pursuant to a resolution that had been adopted by the American Bar Association and the Association of American Law Schools. This resolution recommended that the requirement of two years of pre-legal education be continued, but that credit be given both for military training and for study undertaken in the armed services, under conditions set out in the resolution.³⁰ Further, the League appointed a committee to study the problem of refresher courses for lawyers returning from the service. The committee drafted outlines of programs suitable for presentation to the lawyer-veteran by law schools and bar associations.

30. See *Handbook Ass'n. Am. Law Schools*, 17 (1944).

THE LEAGUE AND THE JOINT CONFERENCE, 1946-1952

Following World War II, the League was chiefly occupied with problems presented to the Joint Conference composed of the League, the Board of Bar Examiners, and the members of the Legal Education Committee of the Ohio State Bar Association. The Joint Conference had been founded in 1937 as the result of the report and recommendations of League member, Professor Harold Shepherd. In his report, Professor Shepherd noted that the scope of the bar examinations had not changed to adapt itself to changes in law school curricula. He urged that the scope of the Ohio bar examinations be reviewed, and suggested a need for some means of bringing about cooperation and understanding between the law schools, the agencies for the education of lawyers, and the Board of Bar Examiners. The League appointed a Committee to effectuate a Joint Conference, and the Conference was founded and has met semi-annually since 1937. The discussions at the Joint Conference have centered around two main themes: *first*, improvement of the bar examination in terms of content, and of the procedure of their administration; and *secondly*, matters concerning content of a pre-legal and legal education, including skills and professional responsibility — concerns of special interest to the Legal Education Committee of the Ohio State Bar Association.

IMPROVEMENT OF OHIO BAR EXAMINATIONS

The Ohio bar examination had been subject to criticism by the Legal Education Committee in the early 1930's. At the 1930 meeting, the Committee recommended that the bar examinations be modernized "to remove them as far as possible from the pre-guidance of the quizmasters."³¹ In 1931, the Committee recommended that bar examination questions be based on "general legal principle" and "they should stay within the general principle on the subject in which they were asked."³² Inequality in grading was noted at the 1932 meeting of the Committee, and it suggested that an advisory committee from the Ohio State Bar Association be appointed to work in conjunction with the Bar Examiners on that problem.³³ In the 1937 report of Professor Shepherd, the following inadequacies in bar examination testing were catalogued: (1) archaic subject content; (2) over-emphasis on local law; (3) insufficient use of optional questions; (4) inconvenient dates of examinations; (5) insufficient time allotted for answering questions; (6) unskillful drafting of

31. 4 Ohio Bar 214 (1931-1932).

32. *Id.*, at 559.

33. 5 Ohio Bar 190 (1932-1933).

questions; (7) inadequacy of staff and technical equipment; (8) lack of staff and technical equipment.

The Shepherd report contained constructive suggestions for improvement of the bar examinations. They may be summarized as follows: *first*, that the date of the summer bar examinations be changed from June to September; *second*, that bar examinations should be correlated with law school curricula; *third*, that law schools should be provided with statistical data, in order that they might correlate standing in law school with standing on the bar examinations. These suggestions provided the agenda for subsequent meetings of the Joint Conference.

With regard to a change in bar examination dates, the League attempted for twenty years, with singular lack of success, to effectuate a postponement of the dates, in order to provide the applicant with adequate time for review between the time of graduation from law school and the time of taking of the bar examination.³⁴ The League recommended postponing the winter bar examination from February until April, and the summer bar examination from June to the end of August, or the first week in September. However, various reasons were cited in opposition to the League's proposals. It was felt that the granting of this additional time would provide a clear field for the commercial cram courses, and that approval of the change might be construed as a tacit admission that the quizmasters were beneficial. Of course, if the law schools provided the review courses, then the objection would be removed. The League, however, was unwilling to require its members to provide bar review courses. Further, a change in the summer bar examination would cause administrative difficulty to the Clerk of the Supreme Court who has the responsibility of gathering all certificates pertaining to the applicants' privilege of taking the bar, notifying the candidates of the time and place of the bar examination, duplicating the bar examinations, assisting the bar examiners in the administration of the bar examination, and auditing the bar examiners' grading of each applicant. A late summer date would cause the burden of much of this work to fall on his office during the normal vacation periods. Further, a June date was convenient to the Bar Examiners, since the summer term of court is typically the least active. A late August or early September date would throw the burden of grading bar examinations upon the Examiners at the time when the busy fall term of the courts was underway. Thus, a major difficulty in postponing the bar examination was a product of the inherent weakness in the Ohio system of bar examination — that the burden of administering and grading bar examinations is thrown upon

34. However the Supreme Court did change the date of the winter bar examination from January to February, by amendment to Rule XIV, dated January 17, 1946.

busy practitioners, who are not provided with executive assistance, and who receive only the most modest honorarium for their services.

Recent amendments to Rule XIV (discussed hereinafter) changed the bar examination dates from February to March, and from the end of June to the end of July. This action doubtless forecloses any further attempt on the part of the League to modify further the bar examinations date, at least until the Bar Examiners' problem of grading a great mass of papers is solved. The recent amendment has offered the League a palliative though not a cure.

The second proposal of the Shepherd report — inadequate correlation of the content of the bar examination with law school curricula — has been satisfactorily solved at the Joint Conference by: (1) preparation of a topical outline for each bar examination subject that corresponds to the topical outlines of a standard law school course; (2) a standing invitation from the Bar Examiners to the League to constructively criticize bar questions in terms of their scope, clarity of expression, complexity of issues raised, and answerability in terms of general principles of law, rather than in terms of particular local law; (3) mutual exchange of ideas in terms of preparation and grading of questions.

The topical outlines provide definition to the areas which are subject to bar examination testing, and when taken as a whole, establish the "four corners" of the potential area of testing. The Bar Examiners have faithfully limited their questioning to the outline which is made available to the law schools and their students. The revision of the outline has been a continuing project of the Joint Conference, and as a result reflects changes in the trends of law school curricula.

The third proposal of the Shepherd report — providing of statistical data to the schools concerning the results of their students for the purpose of correlating class standing with relative standing on the bar — was said by a statistician to be unsound. Therefore, that specific proposal was dropped. For the period of 1938 to 1943, S. L. W. Henny and Russel G. Saxbee of the Ohio State Bar Association provided a detailed tabulation of bar results by schools. After 1943, the Ohio State Bar Association was unable to provide this service. At present, the schools receive only the following data from the office of the Clerk of the Supreme Court: whether a given student has passed or failed (but not his grade); and the number of applicants passing and failing at each school represented at the bar examination (sometimes shown according to first, second, third, or fourth attempt on the part of the students). Admittedly such data is inadequate. The fault, however, is not the result of indifference of the Clerk's office, but arises from the failure of responsible

authority to provide an administrative assistant to the Bar Examiners, who, among other services, would prepare full statistical analyses.

Several other changes in bar examination procedures have resulted from the Joint Conference, including the development of a set of instructions to be issued to each applicant prior to the bar examination, explaining the bar examination process, and the basis of answering the questions; the removal of subject labels from the bar examination, so that the questions are unclassified; reducing the number of questions to be answered from one hundred to fifty,³⁵ and increasing the length of time for answering the questions; providing optional questions; abolishing appeals from the grading of the Examiners, and providing for an automatic review of all failures close to the minimum score of 75 percent; advocating a full-time executive assistant to the Bar Examiners, for assistance in the preparation and grading of questions, preparation of statistical analyses, and other services. Although the employing an executive assistant has been urged upon several occasions, no such action has been taken, apparently because of the unavailability of appropriations.

COLLABORATION WITH THE LEGAL EDUCATION COMMITTEE

The League has collaborated with the Legal Education Committee on the following matters of particular concern to that Committee: pre-legal educational standards, sponsorship of law students by members of the bar, and internship of applicants for admission to the bar. With regard to the pre-legal educational standard, the Conference sought in 1942 to give content to the Court rule that required two years of college education as a pre-requisite for admission to law school. Dean Arthur C. Martin of the Ohio State University College of Law headed a Joint Conference Committee on Pre-Legal Educational Standards which proposed that the requirement of two years of college education be clarified, as follows:

The college credits which are submitted in fulfillment of the requirements of this Rule shall consist of cultural subjects which afford the basis of a broad general education. The subjects shall be such as would be accepted by an approved college for the following degrees or their equivalent: Bachelor of Arts, Bachelor of Philosophy, Bachelor of Science in Education, Bachelor of Science in Business Administration, Bachelor of Science in Social Administration, or Bachelor of Science in Journalism. Furthermore, no credit will be accepted for non-theory courses in physical education, military science, vocal or instrumental music, or other non-theory courses, or courses without substantial value.

Dean Martin's comments indicated that the intentment of the Rule was

35. As a result of the recommendations of the Special Committee appointed by the Supreme Court, the number of questions to be answered has recently been reduced from fifty to forty; see Ohio Supreme Court Rule XIV, Section 3, as amended April 26, 1957.

to exclude engineering and agriculture as suitable pre-legal subjects. The Joint Conference approved the report, but the Court, upon consideration, indicated that the proposed change was not considered wise at the time.

No further change in the pre-legal educational requirement was made until 1952. On the recommendation of the Legal Education Committee of the Ohio State Bar Association, the Supreme Court raised the pre-legal educational standard from two years of college education to three years, effective January 1, 1954. In 1957, as a result of the recommendations of the Supreme Court's Special Committee, the Court raised the requirement to that of a baccalaureate degree, effective January 1, 1960. Both changes were quantitative in nature, and neither was undertaken under the auspices of the Joint Conference. The Joint Conference, nonetheless, has commended these changes in the pre-legal educational standard.

The League has opposed the Legal Education Committee's related proposals for sponsorship of law students by practicing attorneys, and compulsory internship as a condition for admission to the bar. The principal grounds of the League's opposition to these proposals has been the administrative difficulties inherent in both programs, and the attendant danger that each requirement, without appropriate control, would in a significant number of instances degenerate into mere ritual. Flagrant abuses in the Pennsylvania system of internship have been cited in support of the League's opposition to internship. The vigorous opposition of the League to these proposals was a substantial factor in preventing their adoption, at the expense of loss of rapport for a time with the Legal Education Committee.

Thus, the League, in fulfillment of its second objective, has sought to cooperate fully with the duly constituted authorities of the Supreme Court of Ohio and the Ohio State Bar Association toward the improvement of the process of selecting a morally and intellectually qualified bar. The most fruitful result has been a greatly improved bar examination, both in terms of content and of procedure. The projects undertaken, in cooperation with the Legal Education Committee, have been more difficult of solution, and subject to greater differences in point of view. The reward, however, has been in the fact that both groups have recognized the problems as extant, and have approached them jointly. The Joint Conference has made a number of recommendations to the Court, and the Court has, in the main, acted favorably upon these recommendations. The most recent recommendation suggested the need of a Special Committee to survey the administration of bar examinations in light of existing problems and future problems created by the anticipated increase in

law school enrollment. A Special Committee was appointed, and its recommendations are reflected in recent amendments to Rule XIV.

REAPPRAISING LEAGUE STANDARDS, 1952-1956

In 1950 the League's Committee on Bar Examinations and Admission, raised the question of the advisability of reappraising the educational standards of the League. The question was timely, for no material change has been made in the standards of legal education since 1934. In the interim between 1934 and 1950, three Ohio law schools — Toledo University, Ohio Northern University, and Franklin University — had been approved (either fully or provisionally) by the American Bar Association. These three schools, in addition to the three day schools that had been accredited prior to the formation of the League, represented a majority of the then eleven Ohio law schools. It was not surprising, then, that a movement to raise League standards was underway.

The League took no action on the suggestion until 1952, when the Executive Committee suggested that the educational standards be reappraised. Dean Fletcher R. Andrews of Western Reserve was appointed chairman of a Committee on Standards. Each school was represented on this Committee. Whereas the first drafting committee in 1934 had based League standards upon those of the Association of American Law Schools, Dean Andrews' Committee drafted their standards with reference to American Bar Association requirements. The crucial problem before the Committee was whether to adopt the American Bar Association's requirement of three full-time faculty members, or to propose a requirement of fewer full-time faculty members. The Committee decided to recommend a minimum of two full-time faculty members, effective by the Fall of 1955, and at least one full-time teacher (in addition to the Dean) for each 100 students, or major fraction thereof.

The proposed requirement of a minimum of only two full-time faculty members was a compromise between the accredited schools that sought standards at least equal to American Bar Association minimum, and the unaccredited schools that vigorously objected to the employment of a full-time faculty. The opponents of the American Bar Association requirement relied upon the argument that part-time teachers were, on the whole, at least as competent as the professional full-time teacher, if not more so. Although the majority of the League did not accept that argument as valid they nonetheless accepted the lesser standard, for several reasons. *First*, the League had never adopted the policy of forcing changes upon a substantial number of schools, feeling that the continuation of harmonious cooperation between the member schools outweighed the demand for a standard requiring an additional faculty member. *Sec-*

only, since the change in standards required the amendment of the League's Articles, a two-thirds majority of the schools (eight votes) was required. *Thirdly*, the requirement of two full-time faculty members represented a distinct gain and it was felt that in time, the minority would be persuaded, not forced, into concurrence with the higher standard. Thus, in 1954, the League adopted standards which, for the first time, required full-time faculty members. In addition, the League adopted, without opposition, a library requirement in terms of American Bar Association minimum.

Subsequent events indicated that the League temporarily lost the initiative in establishing educational standards for its schools. The Legal Education Committee of the Ohio State Bar Association, in its 1955 report, indicated dissatisfaction with the fact that the League had not required American Bar Association approval of all its members.³⁶ They supported their criticism with these arguments: (1) the bar examination success of the unaccredited schools was generally lower than the success of the accredited schools; (2) Ohio was out of step with nearly two-thirds of the states that required American Bar Association approval of their schools, or equivalent standards; (3) that all Ohio schools were financially able to meet the requirements of the American Bar Association. Accordingly, they passed the following resolution:³⁷

RESOLVED, that the Ohio State Bar Association respectfully petition the Supreme Court of Ohio to amend Rule XIV, Section 10, paragraph (g) of Court's rules so as to require that all applicants for the Ohio Bar Examination be graduates of schools which have complied with the standards fixed by the American Bar Association and which have been approved by its examining body, such requirement to become effective on and after an appropriate date to be fixed by the court.

If this resolution were passed, and if the Court acted upon it favorably, "it might well have destroyed the *raison d'être* of the League and might have brought about its demise."³⁸ Therefore, to strengthen the bar's confidence in the League as an accrediting agency the League at its May, 1955 meeting agreed to amend its standards, so that by September, 1957 each school would be required to have three full-time faculty members and, by 1960, a minimum of three full-time teachers with not less than one full-time teacher for each one hundred students, or major fraction thereof. In addition, by 1957, the schools were required to meet library standards equivalent to those of the American Bar Association. Thus, by 1957, the standards of the League would equal those of the American

36. 28 Ohio Bar 486 (1955).

37. *Id.*, at 495:

38. From the Report of the President (Dean Roscoe L. Barrow, University of Cincinnati College of Law) to the League, May, 1956.

Bar Association, with the exception that one large evening law school had until 1960 to meet the minimum faculty ratio of one teacher per one hundred students, or major fraction thereof. In deference to the League's voluntarily raising its standards, the Legal Education Committee withdrew its resolution.

In his report to the League in 1956, President Roscoe L. Barrow noted that the action of the League taken at its 1955 meeting setting standards equivalent to those of the American Bar Association had been well received by the bar, and had increased confidence in the League as an accrediting agency. However, President Barrow felt that an impression had been created that the League had been forced to put American Bar Association standards in effect. He concluded that the most effective way to remove this impression was to raise the standards of legal education in Ohio beyond those which were sought by the Legal Education Committee of the Ohio State Bar Association. Accordingly, a Special Committee on Advancement of League Standards, under the chairmanship of Dean Frank R. Strong of the Ohio State University College of Law, was appointed in November, 1955.

The Special Committee on the Advancement of Standards recommended the following changes in League standards: (1) that by the fall term, 1960, each school should have not less than five full-time faculty members, including the Dean and a qualified law librarian, and not less than one full-time faculty member for each seventy-five students or major fraction thereof; (2) that by 1960, each school should have a library of at least 15,000 well selected, usable volumes, and should expend annually at least two thousand dollars (\$2,000.00) for new books, over and above the cost of continuations.

The amendments were adopted with little opposition at the League's October, 1956 meeting. Thus, the League's standards now exceeded the American Bar Association minima, and were only a little short of the minima of the Association of American Law Schools.³⁹ At the time of the adoption of these standards, only the Akron, Cleveland-Marshall, and Youngstown College Law Schools were not then approved by the American Bar Association. Subsequently, the Youngstown College Law School notified the League of its intention to discontinue its operation. In 1957, the Cleveland-Marshall Law School was placed on the approved list of

39. The principal difference between the League standards that will become effective in the fall of 1960, and those of the Association of American Law Schools, are requirements concerning size of the full-time faculty and size of the library. Whereas League standards will require at least four full-time faculty members (including the Dean) and a qualified law librarian, the Association of American Law Schools requires at least five full-time faculty members (including the Dean) and a qualified law librarian. The League requires a law library of at least 15,000 volumes, whereas the Association requires at least 20,000 volumes.

the American Bar Association. On August 15, 1957, the Akron Law School petitioned the American Bar Association for approval and its petition is pending. The fact that all Ohio schools, will, in time, be approved by the American Bar Association is due, in part, to the efforts of the League and, in part, to the prodding of the Legal Education Committee of the Ohio State Bar Association.

THE BIENNIAL INSPECTIONS OF 1956

Since 1935, the inspection of member schools had been conducted biennially by persons appointed from member schools. On two occasions, the 1935 and 1954 inspections, representatives from the Legal Education Committee accompanied the League inspectors. The League decided that the 1956 inspection, and each third biennial inspection thereafter, should be conducted by an expert not connected with a member school. Accordingly, Dr. John Hervey, Adviser to the American Bar Association's Section of Legal Education and Admission to the Bar, was invited to conduct the 1956 inspection of each League school. He submitted detailed findings, together with recommendations for improvements.

Contrasted with the results of the inspection reports of 1935 and 1938, the results of the Hervey inspection indicated a marked improvement in legal education in Ohio. All schools fully complied with minimum League standards. No school had less than three full-time faculty members; most schools had four or more full-time teachers. The smallest library was about 10,000 volumes; the largest, 120,000 volumes. The percentage of students admitted with a baccalaureate degree ranged from a low of 65% at one school to a high of better than 90% at the school with the greatest percentage. Four schools required the taking of a recognized law aptitude test as a condition of admission for all applicants, and one school administered a test to all students shortly after their admission.

The practice of admitting students ineligible to return to their former schools, so prevalent in 1935, had virtually disappeared from the Ohio scene. Satisfactory standards were spelled out at each school. No school required less than 74 semester hours of creditable work for graduation; several schools required as many as 86 semester hours for a degree.

The Hervey reports were not without criticism of some of the schools. However, the criticism was not in terms of failure to meet minimum acceptable standards, but was in terms of certain limitations that precluded some schools from reaching an optimum standard of performance. The most serious problems were found to be financial. No school was over-financed. Three schools were "gates receipt operations," *i.e.*, they depended solely on student fees for their existence. Faculty salaries were,

generally speaking, unsatisfactorily low. Several schools had serious problems in terms of lack of space. Dr. Hervey, in addition, found that not all schools were as selective as they might be in the admission of students, though these schools were applying the minimum standards of the League, and Rule XIV of the Supreme Court of Ohio, and that some schools were not enforcing their scholastic standards as rigidly as they might.⁴⁰

The League and the 1957 Amendments to Rule XIV

On May 1, 1957, the Supreme Court of Ohio amended Rule XIV, as follows:⁴¹ the number of questions on the bar examination were reduced from sixty to fifty, of which the applicant must answer forty; the length of the answers were to be limited; all questions were to be returned to the Bar Examiners before the applicant left the examination hall; the dates of the semi-annual examinations were changed from February to March, and from June to July; those repeating the bar examination were permitted to do so only in March; the number of permitted examinations was reduced from four attempts to three attempts; effective January 1, 1960, a baccalaureate degree was required before the beginning of the study of law; the applicant must furnish fingerprints as a part of his registration process.

These rule changes were based upon the recommendations of a Special Committee of five men who, at the time of their appointment, were or had been, members of the Board of Bar Examiners.⁴² The appointment

40. Two additional criticisms of legal education in Ohio may be noted. First, Dr. Hervey's observation about legal education in the United States that "there is a sameness about the schools which is shocking" is equally applicable to Ohio; See John G. Hervey, *There's Still Room for Improvement*, 9 J. LEGAL ED. 149, 150 (1957). The sameness in the curriculum of Ohio Law Schools is due in a large measure to the regimentation of curriculum by the requirements of Section 3a., Rule XIV, which spell out the course that a law student must complete in order to take the Ohio bar examination. Accordingly, the law schools must offer the "bar" subjects, usually in terms of courses required for a degree. The "bar courses" occupy about two-thirds of the hours required for a degree. A second criticism is that there is a virtual absence of opportunity for graduate study in Ohio. Two day schools, the University of Cincinnati College of Law and the Western Reserve University Law School, offer a graduate program on a modest scale. The Ohio State University offers no graduate program in law. The tabulation of law school registration for 1957 shows only one graduate student registered in a day graduate program, 9 J. LEGAL ED. 237, 247 (1957).

A strength in Ohio legal education is the availability of exceptional programs in post-admission or "continuing legal education" available at seven of the ten Ohio law schools.

41. 30 Ohio Bar 397 (1957).

42. They were John C. Durfee, J. Paul McNamara, Thomas H. Monger, Charles L. Moore, and Fred C. Wickam. Elliot E. Welch, Clerk, Supreme Court of Ohio, was a member of the Committee, *ex officio*.

of the Special Committee had been recommended to the Court by a resolution of the Joint Conference, at its October, 1955 meeting, although the resolution was silent as to qualifications for membership on the Special Committee.

The reaction of the League to these rule changes was both commendatory and critical. The League was critical of the fact that it had not been represented on the Special Committee concerning the recommendations. Yet the Court, in amending Rule XIV, doubtless acted upon the assumption that the recommendations of this committee had been fully coordinated with the League, and the Joint Conference which sponsored the Special Committee. The League, furthermore, was critical of certain changes in the substance of the rules. Section 3 of amended Rule XIV states that "all applicants are required to return the (bar examination) questions before leaving the examination hall on completion of a session and are prohibited from taking a copy of any question from the hall." The ostensible rationale of this provision is that the Bar Examiners may wish to repeat questions in subsequent examinations. The real reason appears to be the desire to keep old bar examinations from the quizmasters, who devote a large part of their courses to answering such questions. The unfortunate effect, however, is that the law schools no longer have access to former bar examinations without which the League lacks a common subject matter for discussion with the Board of Bar Examiners at the Joint Conference (unless the subject of the Ohio Bar Examination is to be discussed in the abstract). Thus, the Special Committee in its attempt to impede the quizmasters, has inadvertently impeded the work of the Joint Conference. The Joint Conference has recognized the seriousness of the problem, and at its November, 1957 meeting recommended that the problem of secrecy surrounding former bar examinations be reviewed, with the view of affording the Ohio law schools copies of former bar questions.

The amended rule further provides that answers to bar questions must be submitted in numerical order "in the space provided in the answer book."⁴³ The length of the student's answer has been limited to two pages for each question. Undoubtedly the bar examiners have a serious problem in grading a great number of papers, but the solution in terms of limiting the length of answers is unduly mechanical, if not unimaginative.

The League reserved comment on the fingerprinting requirement, since it lacked information concerning the use to which the fingerprints were to be put. It subsequently appeared that the applicants' fingerprints were not to be sent routinely to the Federal Bureau of Investigation,

43. Ohio Sup. Ct. Rule XIV, Section 3, as amended April 26, 1957.

or other agency (such as the London Prison Farm in Ohio) for a check against master files, but that the Court is relying upon the fingerprinting as a deterrent to any prospective applicant who may have an unsavory record. The rationale of the Court in terms of a deterrent to registration is most questionable when the fingerprints are merely filed and forgotten.

The League commended the reduction of the number of questions to be answered on the bar examination, and the postponement of the bar examination dates from February to March and from June to July. The League had attempted since 1937 to effectuate more favorable bar examination dates. The requirement of a bachelor's degree as a condition of admission to law school met with favorable comment, for it not only held promise of a more apt student body, but was consistent with the fact that the great majority of students now being admitted to law school have a bachelor's degree.

The Minutes of the Supreme Court indicate that the Special Committee will be continued indefinitely, and that it will be composed entirely of former Bar Examiners. The Supreme Court of Ohio may well consider broadening the base of the Committee by the inclusion of representatives from the League, the Legal Education Committee of the Ohio State Bar Association, and the present Board of Bar Examiners. Thus, the membership of the Special Committee would represent the three groups that compose the Joint Conference, and coordination of the work of the Special Committee with the law schools, the organized bar, and the Bar Examiners would be insured. The Joint Conference, at its November, 1957 meeting, has made such a recommendation to the Court.

THE ROLE OF THE LEAGUE IN THE FUTURE OF LEGAL EDUCATION AND ADMISSION TO THE BAR

1. *The Future of the League in Establishing Education Standards*

By 1960, each Ohio Law School will have a full-time Dean, a qualified law librarian, and at least three additional full-time faculty members. Each school's library will contain at least 15,000 volumes, and each member school will expand at least \$6,000.00 per year for new books and continuations. Pursuant to Court rule, only those applicants who have earned a bachelor's degree will be admitted to law school. Probably all Ohio law schools will be approved by the American Bar Association by 1960. Thus, Ohio will be in the foremost rank of the states with respect to standards of legal education.

Only one step will remain for the League to undertake, namely, to bring its standards in line with those of the Association of American

Law Schools.⁴⁴ When every Ohio law school has the approval of the Association of American Law Schools it will no longer be necessary for the League to function as an accrediting agency. The League, however, will continue to have a mission as an organization through which the Court, the Bar Examiners, and the Ohio Bar Association may deal with problems of legal education.

Until all Ohio schools are approved by the Association of American Law Schools, the League will continue serving as a local accrediting agency. Since the League's standards are in excess of those of the American Bar Association, the League will need to continue its biennial inspections to insure that its member schools are complying with its standards.

2. *The League and the Problem of the Commercial Cram Courses*

That the commercial "cram" or bar review courses are a serious evil in legal education in Ohio is a view shared by the League, the Joint Conference, and, it is believed, by the Supreme Court of Ohio. The first commercial cram course, founded in 1901,⁴⁵ was a product of the system of bar examinations as they were once administered. The former bar examination tested one's encyclopedic knowledge of the law, particularly local law. They were likewise geared to the system of law office training. When the bar examination posed such questions as "Define a bilateral and unilateral contract,"⁴⁶ "Name the grounds for demurrer to petition under the Code,"⁴⁷ and "Give twelve maxims of equity,"⁴⁸ the quizmaster was able to serve with great effectiveness as a bar examination coach.

The bar examination has long since foregone the encyclopedic approach, yet the quizmasters grew in number. The system of bar examination testing could no longer be blamed. The fault lay in a combination of factors: the techniques of some of the quizmasters in selling their product, the prevalence of the unsound notion on the part of the applicants that Bar Examiners continue to test knowledge of local law, the pressure on the applicants' time by virtue of the closeness of the bar dates to the graduation dates in law school, the desire of most examinees for professional assistance in organization of a review and the desire for advice on how to answer bar examination questions; the ineptitude of some students in organizing a review, and the absence of controls over the quizmasters.

44. See note 39, *supra*.

45. Judge Frank S. Gusweiler's bar review course, at Cincinnati, Ohio.

46. From the December 1900 Bar Examination, 45 W.L. BUL. 10 (1901).

47. *Ibid.*

48. From the June 1903 Bar Examination, 48 W.L. BUL. 549 (1903).

From the point of view of the League, the objections to the quizmasters are several in number. The conducting of the quiz courses concurrently with the last semester in law school tended to divide the student's time between law school and quiz school. As a result, the quality of the student's work often declined. The educational technique of the quizmaster — the memorization of fact pattern and result, rather than a critical analysis and evaluation of the case — is unsound. Further, the quizmasters continued to stress local law. The student was dissuaded from organizing his own review by the promise of the easy solution to his bar examination needs.

Although critical of the quizmasters, the League was slow to take any action concerning them. At the April, 1949 meeting of the Executive Committee of the League, the question arose as to whether the League should adopt a rule forbidding students in any member school from attending a commercial cram course while still in resident study. The Committee decided against such a rule, on the ground that attendance in cram courses was beginning to drop, and a trend in that direction was expected to develop. Unfortunately, that trend never materialized.

Several solutions to this problem were suggested: abolish quiz courses by Court rule; require League accreditation of bar review schools since the quizmasters hold themselves out as "schools," and have been recognized as "schools" for benefits under the "G.I. Bill"; drive them out of existence by competition of superior courses conducted by the League, or by individual law schools; prevent seniors from attending these courses while in residence at a League school, either by amending League standards to that effect, or by persuading the quizmasters to schedule their reviews after the final examinations of the law schools; remove the high pressure techniques of selling these courses by voluntary action on the part of the quizmasters, or by threat of prosecution, should it be found that the ethical standards of the profession have been violated.

The League, at its November, 1957 meeting, amended its standards to proscribe a law student in any League school from attending a quiz school until after he has completed all course requirements for the first degree in law. Thus, the serious problem of the overlapping of the quiz schools with the work of the final term in law school appears to be solved.

3. *The League and the Joint Conference*

Having raised the standards of the law schools to an acceptable level, the League's future activities will be directed toward the solution of the problems that have, or will, come before the Joint Conference. The recent action of the Supreme Court's Special Committee for the Con-

tinuing Study of Admission Problems threatens the usefulness of the Joint Conference. *First*, the Special Committee, which had been sponsored by the Joint Conference, by-passed the Joint Conference by failing to coordinate the recommendations for changes in the Court rules with the Conference. *Secondly*, the veil of secrecy thrown around old bar questions, by reason of Section 3 of the recent rule change, has made former bar questions unavailable to the League.⁴⁹ Without these questions in the hands of the League there will be little purpose in the League's meeting with the Bar Examiners concerning the continued problem of improving bar examinations and revising topical outlines. The Joint Conference, sensitive to these problems, at its November, 1957 meeting made a recommendation to the Supreme Court that it broaden the base of the Special Committee for the continued study of bar admission problems by including representatives from the League, the Legal Education Committee of the Ohio State Bar Association, and the present Board of Bar Examiners. It further recommended that the problem of secrecy of former bar questions be studied with the view of making old bar questions available to the Ohio law schools. If these recommendations are adopted, the Joint Conference will be restored to its former position of usefulness.

4. *The League and the Legal Education Committee of the Ohio State Bar Association*

The League should be prepared to cooperate fully with the Legal Education Committee on projects of mutual concern to both groups. Recent reports of that Committee⁵⁰ indicate that the following important areas in legal education and admission to the bar are, or recently have been, under consideration: (1) a more selective process for admission of law students in terms of the possible use of law aptitude tests, and a more definitive statement of pre-legal education requirements (2) investigation of possible standards for legal specialization (3) a study of advanced degree requirements (4) a system of apprenticeship in connection with admission to the bar (5) a more effective screening of applicants for bar examinations (6) revision of the various forms presently being used in connection with the applications of law students to be registered for the bar examination (7) investigation of the limited use of objective-type questions on bar examinations (8) study of the proposed American Bar Association's standards for bar examiners (9) studying and developing a set of qualitative standards for law schools, along the line of current efforts in this direction by the Association of American law schools.

49. See note 43, *supra*.

50. 27 Ohio Bar 362 (1954); 28 Ohio Bar 486 (1955); 29 Ohio Bar 383 (1956); 30 Ohio Bar 938 (1957).

The scope and nature of the work of the Legal Education Committee suggests that it is an imaginative, vital force in legal education in Ohio. Unless the League is equally vital and imaginative in developing an agenda for future action — much of it along the lines of that suggested by the reports of the Legal Education Committee — the League may again find itself outstripped by that Committee in setting the tone of future legal education in the state. Hence, the League should investigate each of the proposals made by the Committee, should offer full cooperation in those areas that concern both groups, and in addition, should develop an agenda of its own.

5. *A Future Agenda for the League*

The League itself may well develop an agenda on its own initiative concerning the long range needs of legal education in Ohio. The proposed Law Center at the Ohio State University deserves League support, and the League should view it as a significant experiment in legal education in Ohio. It may well provide a blueprint of the Ohio law school of the future. The League has noted the problem of the expected tidal wave of law school enrollments during the next twenty years, but has not undertaken a statistical survey of the problem.⁵¹ The problems of "how many?," "when?," "where?," and "do the law schools have the wherewithal?" remain unanswered.

The League may profitably consider a recent proposal by Dr. John Hervey:⁵²

My first conviction is that there are too many law schools in some areas, and that there are too few superior law schools in other areas. . . . Many of the schools have been established without consultation with the authorities charged with the admission to practice and without adequate appraisal by the founders of the professional need for the schools. Still others have been established by the authorities with enthusiasm and have been left to drift hopelessly in the sea of competition. They might now well be extinguished without a ripple. Frankly, it appears that the time is at hand when the bench and bar in each state might profitably examine what legal educational facilities which they have that they do not need, and what they need that they do not have. . . . [T]he time is overdue when the accrediting agencies must take into account the need for the applicant school. . . .

Probably nine Ohio law schools are not too many. But are the law schools so distributed throughout the state of Ohio as to provide the optimum distribution of opportunity for law study? Will additional

51. See Charles W. Joiner, *The Coming Deluge: How Gives Our Ark?* 9 J. LEGAL ED. 446 (1957).

52. *There's Still Room for Improvement*, 9 J. LEGAL ED. 149, 150 (1957).

law schools in Ohio be permitted to open,⁵³ or will existing law schools in Ohio be permitted to continue, without a thorough investigation of the need for the law school? These are problems which the League may profitably investigate. If the League does not, it is likely that the State and local bar associations will.

The League has served the profession well in the past. Its greatest contribution has been the elevation of legal education in Ohio, in the short span of a generation, from a position close to disrepute to a position of prominence. This contribution is not the League's alone, for credit must be given to the Supreme Court of Ohio which was willing to accept a unique experiment in legal education, and to the Legal Education Committee of the Ohio State Bar Association for its cooperation, and at times its prodding. The second great achievement of the League was its co-sponsorship of the Joint Conference in order to solve through cooperation the many problems involved in admission to the bar. Among the most significant results of the Joint Conference has been a greatly improved bar examination. In the second generation of its existence, the League faces unsolved problems of the past, and novel problems of the future. If the past is indeed the prologue to the future, then the League should continue to serve the profession well.

53. The Dayton, Ohio area, with a population of about 500,000, does not have a law school, although at one time there were two evening law schools in that city. See note 19, *supra*.