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Legal Education and Admission to the Bar in Kentucky

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LEGAL EDUCATION AND ADMISSION TO THE BAR IN KENTUCKY*

It is of the utmost importance, not only to the profession but to the public, that a high standard at the bar be strictly maintained because reforms in procedure and in the administration of justice can not be carried on except to the lawyer's level of the profession. The lawyers at the bottom will drag down the standard of excellence in procedure. The Court of Appeals is now suffering from overwork. Its labors could be immensely lightened, and it could probably get all the relief needed, if we could institute some of the reforms prevalent in a large number of states, and even obtaining in such a state as Arizona, by legislation, since 1898. In Illinois, for example, the Supreme Court has no typewritten or pen written records nor briefs. It does not have dumped upon it undigested records and documents as we have; it requires the lawyers to make an abstract of the record. The Supreme Court's labors are thereby lightened manifold. A pleading of twenty pages can sometimes be condensed into two pages, the prolixity being eliminated. We tried the reform over a quarter of a century ago but our court balked. It would not have balked had the profession been behind the court as the reason given was that there were too many lawyers who would never be able to make a proper abstract of the record. The element at the bottom, therefore, controlled and probably will always control legal reforms. We must, therefore, get rid of the element at the bottom.

We probably cannot eliminate it. So we must educate it. Ours has always been called a "learned profession." How then can we complain of being compelled to obtain at least a high school education before entering the profession?

DeTocqueville, I believe, declared that the lawyers were the aristocracy of the United States. They are not so now. One reason is that collegiate education is so much more extensive than formerly. This, then, is a reason for advancing the stand-

*This article constituted the report of the committee of the Kentucky Bar Association on Legal Education and Admission to the Bar and the following action was taken thereon by the Association: "Upon motion, duly made, seconded and carried, the report was received and filed, and the committee instructed to take up the matter contained therein with the Court of Appeals and to urge the court to adopt values in accordance with the report."—Ed.

ard of education in the bar. If the profession cannot maintain its former superiority it must at least maintain equality and not accept inferiority.

Again, if we do not require at least a high school education we can not keep pace with the lawyers in other countries and in our most forward states. France, Germany, Great Britain and Canada require a sufficient course of academic education before permitting the study of the law, and Germany requires even four years of legal study, the other countries three years. Our best law schools have requisites equal to those of the countries just mentioned, and a number of our states have similar requirements. Mr. Bryce gives us precedence in legal education, I believe, over all other countries—but he refers to our most forward states.

Canada has certainly set us an example which we ought to imitate. If we are willing to trail Great Britain, France and Germany, we certainly ought not to be willing to trail Canada, a country much smaller than our republic and much younger. The bar of Canada is controlled by two corporations, and all barristers must be members of these corporations. The corporations have committees on legal education and on discipline. A member of the bar is thus started right and kept right. We have nothing comparable to it. The Canadian corporation is the legitimate successor of the English Inns Court. They educate and they discipline their barristers, and the rivalry between the different Inns begets excellence in the barristers.

The French Order of Barristers is possibly the most high-toned of all the institutions of legal learning and discipline, but it is doubtful if the English and Canadian can be excelled, and Germany, too, seems to have reached a high degree of excellence.

Twenty-eight states now have the requirement of a high school education and twenty-nine require three year study of the law; Kentucky ought to be among these states. Most of the applicants for the bar have a high school education, few a collegiate academic education; some have a three year course in a law school, but the majority have only a two year course and some only one.

Until the rules promulgated by the court require these

standards there will be some unfit men who will manage to prepare definitely for the bar examinations and succeed in passing them, difficult though they be. These standards will not eliminate the unfit but it will reduce the numbers and will also correct the impression which is created by the absence of definite rules upon this matter that anybody, regardless of his educational qualifications, may "try the bar." The bar examiners have done the best they could under the existing conditions by giving thorough and difficult examinations, but their efforts are in part neutralized by lack, on the part of some of the applicants, of a sound academic education.

The admission to the bar, as well as legal education, in Kentucky, has undergone a considerable change in the last fifty years. Formerly persons desiring to become lawyers studied law for a time in the office of an attorney, and when they considered themselves sufficiently proficient and able to stand an examination applied to a circuit judge who, after satisfying himself as to the qualification of the applicant, granted him a license which was signed by another circuit judge, usually as a matter of courtesy. This system produced many eminent and able lawyers. The legislature in 1892 provided another system of granting license to attorneys. This provided that, after obtaining from the judge of the county court a certificate of honesty, probity and good moral character, the applicant could file a petition in the office of the circuit court clerk in a district in which the applicant did not reside, and the judge of said district was required to have at least two members of the bar present who were required to be appointed by the court and sworn to faithfully perform the duties assigned them, and the judge and these two attorneys were then required to strictly examine the applicant on the eleven subjects prescribed by the statute, and if the applicant received a general average of seventy-five per cent on the subjects, a license was granted if the judge and the two attorneys concurred.

In 1918 the legislature passed another act at the suggestion of the bar association that provided an entirely different method of obtaining a law license. By this method the Court of Appeals is given complete control of the admission to the bar and is given authority to make and adopt such rules and regulations, from time to time, as the said court may see proper,

fixing the moral qualifications of applicants and a standard of requirements, both academic and legal, to entitle them to admission to practice law in the courts of this Commonwealth.

The three members of the board of examiners provided for by this act are required to possess the qualifications of a circuit judge.

No better tribunal than the Court of Appeals could be selected to control the admission to the bar, as has been demonstrated by the operation of this law during the seven years it has been in force. The Court of Appeals in prescribing rules for applicants did not fix any academic qualifications, and the experience of the board has made the impression upon it that the academic qualification should at least require the applicant to file, with his petition, a certificate showing his graduation from a first class high school; nothing else should be permissible, and a two year college course, in addition, would be most desirable. The rules prescribe that applicants who have not been admitted to practice in another state must have studied law for a period of not less than two years; such course must have been pursued wholly by studying law in the office of a practicing attorney, or wholly attending a law school, or partially by studying law in the office of an attorney and partially by attending law school, and it is respectfully suggested by this committee that the rules as prescribed by the Court of Appeals for legal requirements are inadequate to the fitness of a modern lawyer. Fifty years ago lawyers were trained partly by study in the office of a practicing attorney, but mainly by the work done in court as, at that time, lawyers did very little outside of the court house, and were largely court house made lawyers. Now modern business methods are such that the greater part of the labor of the lawyer is done in his office, and there is no method by which he can qualify himself for the active duties of an office practice other than that acquired in a liberal course in a first class law school, and, in addition to this, studying law in a law office is a thing of the past, as there is no room in an up-to-date law office for any one except the lawyers and their clerks and stenographers.

It is respectfully suggested that the rules for legal education of applicants should be revised so as to prescribe at least a two year course (three would be better), in a first class,

chartered law school. The tendency all over the country—in-
augurated by the American Bar Association—is for a higher
standard of legal education and Kentucky ought not lag behind
her sister states in this respect.

The chairman of the committee on bar examinations has
a hobby on another subject of the practice of law, which is
personal, and that is a rule requiring all whom may hereafter
be granted licenses to practice law in Kentucky to become mem-
bers of the bar association when their license is granted to them.
Some of the states, Alabama and others, have such a law re-
quiring all lawyers to become members of the State Bar As-
sociation, but perhaps we are hardly ready for that in Ken-
tucky yet, though there can be no reason why those who may
hereafter be granted licenses should not become members of
the bar association.

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tion and Admission to the Bar, the Kentucky
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