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# Legal Education

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# Kentucky Law Journal

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## LEGAL EDUCATION.

By Judge W. T. Lafferty, Dean of College of Law.

In this progressive age when every line of endeavor is broadening its foundations for the purpose of gaining greater achievements, the question with the legal profession in Kentucky is, what should be done to enable it to meet the growing problems it encounters, and to keep pace with all other vocations and professions.

The School Teacher of a few years ago is without employment unless he has advanced with the times, by strengthening his educational equipment to meet the standards demanded of our acceptable teacher. The Agriculturist is no longer able to get the best results in the tilling of his soil, and the handling of his live stock, unless he is familiar with the advanced ideas now taught in our Agricultural Schools and Colleges. Engineers of every kind who are ambitious to reach high places in their professions or vocations, find that, without the scientific education obtained in a well equipped up-to-date engineering school they are unable to master the problems between their starting point and the goal of their ambitions.

The same is true of the author, lecturer, journalist, banker, insurance man, politician, and persons in all other professional and industrial activities.

The exalted calling of the ministry, is not without the necessity of a broader and more substantial educational foundation, in order to properly fulfill its mission of leading the average congregation in religious thought and christian duty. Only a few years ago, the persons composing the average congregation, especially those remote from our educational centers, were content to hear the Scriptures expounded by a man whose only qualification was that of being the possessor of a good earnest Christian Spirit; but now they feel that such a man owes it to himself and the religion he represents, to add to that necessary Christian qualification a good education. These same congregations have been uplifted by the establishment of better schools and school laws, and by the introduction of the rural free delivery mail service, which brings to their doors, the daily papers, magazines and all other kinds of good reading matter, transforming them from a condition of dependence in matters educational, to a reading, thinking people demanding better things.

Especially necessary is such preparation in the more distinctive professions. Medicine and surgery have pressed forward until the quack of former years has no place in the profession, and has been

been forced to seek other fields for a means of livelihood, or has again become a student in some good medical school. The same has been true of the dentist and pharmacist. These professions have been actively at work in every progressive state in the union, and have received the passage of the necessary laws putting them on a much higher plain educationally. While Kentucky is said to be exceedingly slow in her educational advancement, she has already passed the necessary laws to put her on the progressive list, and by the united effort of the leading physicians and surgeons in the state, great progress is being made, toward meeting the national requirements. Only a few years ago, any young man with but a common school education could enter our State Medical Schools and soon become a full fledged doctor of medicine and surgery. Now it is necessary for those who expect to become students in our medical schools, to first possess at least a high school education and then diligently pursue a course of four years in a standard school of medicine, before they are permitted to graduate and practice their profession.

With such object lessons before us, the question might be asked why has not something permanent been done in Kentucky to raise the standards of the legal profession? For the privilege of practicing law in this state, as the conditions now exist, no preparatory education is required. To be able to read and write understandingly is sufficient preparation for the study of the law, and no particular length of time for the study of law is required. All that is necessary is for the applicant to file his petition in the Circuit Court of any county other than the county in which he resides. It then becomes the duty of the Circuit Judge to appoint two lawyers of the bar, who in his presence will examine the applicant, touching his knowledge of the law and his capacity to practice the same. The examination can be conducted in any way and can be as limited as they desire; and after this performance a license is issued. In justice to the applicants, who thus apply, it is proper to say that they invariably pass a satisfactory examination and are given first class standing in the legal profession of the State. The business handled by the lawyer is important, and is growing more so every day. Thus is seen the great lack of proper legislation to safeguard the affairs of clients who seek the service of lawyers. Since all others are progressing so rapidly, as above shown, it is now imperative upon the legal profession to see to it, that this honored and dignified profession does not continue to be the lowest and least progressive in the State.

In 1897 the American Bar Association composed of representatives from practically every state in the Union (many of whom were Kentuckians) fixed a national standard of qualifications for all those who make application for admission to the bar. And ever since that time in each annual meeting it has been urged upon each state to enact such laws as will put into force and effect the recommendations which are as follows:

"That the State should have a State board of Law Examiners, appointed by the Court of last resort in the State, and

examiners should serve for the period of three years, and conduct examinations twice each year. Each applicant for license to practice law should register with the examiners, and prove that he has received at least the equivalent of a four year high school education in preparation, and in addition should show that he has pursued the study of law in the office of a competent attorney, or in a law school, or partly in an office and partly in a law school for the period of three years."

Recognizing the necessity of complying with these recommendations in order to keep abreast of the times, nearly every State in the Union (including several of the Southern States) has enacted laws in one form or another to carry into substantial effect the recommendation of the American Bar Association. Kentucky has not yet made a start in putting into legal effect any part of the recommendation. Our State Bar Association has on several occasions expressed a wish that a law be passed raising the standard of the profession in the state, and has appointed committees entrusted with the important work. Bills have been introduced by the committees but not one has been enacted into law. In 1908 the bill passed both houses of the Kentucky Legislature, but was vetoed by the Governor. During the past session the bill was again introduced, passed the lower house practically without opposition, but failed of passage in the Senate on account of the press of business which was considered ahead of it at the close of the session. Every member of the bar in the State of Kentucky and indeed every good citizen of the State, should be interested in having the above recommendation enacted into law at the next meeting of the General Assembly.

It is the privilege of any one to qualify and begin the practice of law today with no better qualification than the requirements of forty years ago. Although all others are laying broader foundations for the beginning of work, the legal profession stands still. Within the past five years education in our Common Schools has been made compulsory. The establishment of High Schools in each county in the State has also been made compulsory, and all but ten counties have complied with the law. Each of these High Schools is uniformly maintaining advanced standards, which are approved throughout the nation. Normal schools, colleges and universities in the State have kept pace with other progressive states by the adoption of recognized national standards. Our medical profession as above shown, has, within the same period of five years put into effect, laws and recommendations which command recognition for the profession beyond the State, justifying the belief that Kentucky will soon be numbered among the most progressive, in medical education.

The bench and bar of the State of Kentucky should begin action. The recommendation of the American Bar Association is not unreasonable. Since the majority of the states have adopted it, and since the legal profession has profited by its provision, it should appeal to the pride of the Kentuckian to emulate the example set by such states.

This state should rank with the best. No where are the conditions more favorable than here. No people more entitled to the best. As stated above, we have our High Schools all over the State

where the prospective law student may receive his preparatory work before beginning the study of law. We have strong Law Schools within our State where the proper training in law can be had, and for those who may not attend a Law School, there can be found in most every county, well trained lawyers who are willing to give of their time and learning, to properly teach such students, to enable them to meet the requirements for admission to the bar.

When Kentucky builds up this branch of learning the whole educational scheme will take on the appearance of modern progress. This branch of learning is the last to start. It should have been the first. It should be advanced from the rear ranks to the foremost position which is the proper place for the lawyer.

A bill will be introduced during the first week of the next session of the Kentucky General Assembly, setting forth in substance the above recommendations, and all the members of the profession as well as those who feel an interest in the profession or an interest in the general advancement of the State, should lend a helping hand in order to secure the enactment of the bill into law.

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## DEED OF CONVEYANCE OF LAND IN KENTUCKY.

By JUDGE LYMAN CHALKLEY

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Professor of Law, State University of Kentucky, College of Law.

The statute of Kentucky has recognized and affirmed the operation of the Statute of Uses in three conveyances, viz; the deed of bargain and sale, the deed of release, the deed of covenant to stand seised. The statute, enacted in 1873, (Carroll's Statutes, Sec. 491, provides:

"All deeds of bargain and sale, deeds to stand seised to use, deeds of release and deeds of trust, shall be held to vest the possession of the grantor in the grantee to the extent of the estate intended to be conveyed."

This statute supersedes the statute of 1843, which enacted as follows: (Stanton's Revised Statutes, 182, Vol. 1, P. 270):

"Conveyances by deed of bargain and sale, or deed of release, or by covenant to stand seised to use, or deed operating by way of covenant to stand seised to use, or by grant, shall be held to transfer the possession of the bargainor, releasor, covenantor, or grantor, to the bargainee, releasee, grantee, or person entitled to the use for the estate or interest which he has or shall have in the use and intends to convey."

The statute of 1843 superseded that of 1796, which was as follows: (Littell's Laws of Kentucky, Vol. 1, P. 572):

"By deed of bargain and sale, or by deeds of lease and release, or by covenant to stand seised to use, or deed operating by way of covenant to stand seised to use, the possession of the bargainor, releasor, or covenantor, shall be deemed heretofore to have been and hereafter to be transferred to the bargainee, releasee, or person entitled to the use of the estate or interest which such person hath or shall have in the use as perfectly as if such bargainee,