1936

Future Works of the Association of American Law Schools

George Gleason Bogert

Follow this and additional works at: http://chicagounbound.uchicago.edu/journal_articles

Part of the Law Commons

Recommended Citation

This Article is brought to you for free and open access by the Faculty Scholarship at Chicago Unbound. It has been accepted for inclusion in Journal Articles by an authorized administrator of Chicago Unbound. For more information, please contact unbound@law.uchicago.edu.
Beside carrying on pending projects during the current year we have sought to take an inventory of Association affairs and to make an estimate of the opportunities of the future. Some new, temporary committees have been appointed to aid in this process. The program of the general Association meetings has been given over entirely to internal affairs. It contains no addresses by lawyers, judges or others on problems of law or administration. The three sessions of the Association are occupied wholly with our committee work. The committees are given more than the usual time for their reports. Instead of leave to print and to present merely formal statements, we have tried to provide time at least for brief oral summaries of the reports by the chairman, and for discussion by the delegates. More extensive comment on some reports has been arranged. We hope that this procedure will give you a panorama of the positions to which our committees have advanced and of their next objectives.

In this address I shall discuss the possibilities for the future, in the light of our articles of association, our traditions, and the needs of the public and the profession.

The object of the Association is officially stated in the articles to be "the improvement of legal education in America, especially in the law schools." The most obvious and direct method of accomplishing this result is to work upon the schools which are members of the Association, their faculties, students, libraries, and other facilities. This has been attempted in two ways, namely, by fixing standards for admission to and continuance in the Association, and by encouraging members to go beyond the formal standards and to increase their efficiency in respects not mentioned in the articles of association.

Starting in 1900 with standards requiring a high school education before admission, three years of law study, examinations as a basis for
the conferring of degrees, and a library owned by or accessible to the
school and containing the United States Supreme Court and local state
reports, we have, bit by bit, tightened the rules until we now demand,
along with the three-year course, two years of college before entrance, a
library of ten thousand volumes with stated annual additions, four full
time instructors, a non-commercial purpose, detailed student records
preserved, and other attainments.

Has the time come for demanding from our members higher educa-
tional standards?

At present seven schools, or eight and one-half per cent of our mem-
bership require a college degree for admission; seven schools, or eight
and one-half per cent, require a degree, unless a combined six year college
and law course is pursued; twenty-four schools, or twenty-nine and two
tenths per cent, require three years of college; while 44 schools, or 53.6%,
require only two years of college education. Thus, about half of our
members have advanced beyond our minimum for pre-law work.

In 1921 the Association advanced from a pre-law requirement of a
high school education to a requirement of one year of college to take
effect in 1923, and a requirement of two years in college to take effect in
1925. At the time of this change there were 55 members, of which 51
had already provided for a one year college requirement by 1923, and 45
had taken action to require two years by 1925. Thus, the advance in
standards in 1921 was in large part merely a recognition of an accom-
plished fact. It put pressure on only 10 schools, or about 18% of the
then membership. A change to a standard of three years of college
work now would effect 53% of our members.

But perhaps our students do more than comply with our minimum
pre-law requirements. Perhaps if the actual educational attainments of
students in Association schools were known, it would be found that a
large part of them now take three or more years at college, voluntarily
or under compulsion, and that a change to a three year standard would
not have so sweeping an effect as at first suggested. Thus, at the
University of North Carolina, although only three years of college are
required for admission, the average amount of college work per student
at entrance is 3¾ years. Collection of statistics of this sort would be
valuable.

Our rules as to pre-legal and legal education should state the mini-
imum which will qualify a lawyer for satisfactory service to the public,
not the maximum which it is expected that a law student can meet.
The American Bar Association has, in substance, approved two years
of college and three years of law as qualifying for practice. This amount
of education means that after high school the prospective lawyer must
invest $2500 to $5000 in his education and postpone entrance into his
profession until he is about twenty-two years of age. After admission
to the bar he will customarily be an apprentice for about three years more, so that he will become a lawyer of full stature at approximately twenty-five.

In my opinion a lengthening of the required period of pre-law study for students in member schools would not be desirable. It would tend to drive out thirty or forty per cent of our members who could not comply. We would lose an opportunity to benefit these withdrawing schools without any corresponding advantage to the schools which remained. We should encourage members to go on to a three or four year requirement when they can, but not attempt to force them to do so.

Recent inspections of member schools and answers to a salary questionnaire show noteworthy deficiencies in two regards with respect to member schools. First, the teaching load in a few cases runs from nine to ten hours a week, and secondly, the salaries are in some cases very low, going down to $1200 for instructors, $2000 for assistant or associate professors, and $2500 for full professors. So many hours in the class room and in the accompanying class preparation are bound to exhaust the teacher's time and strength and leave little opportunity for development of courses, or for research or writing. These very low salaries may mean the employment of inferior men, or injustice to competent teachers; and certainly imply discouragement and stifling of ambition. Conceivably we may care to add a clause to our articles preventing members from maintaining a teaching load of more than nine hours a week on the average.

We cannot, by formal rules, attack the low salary problem. Living costs vary greatly in cities and small towns and from section to section. We could not agree on a universally applicable minimum wage for an instructor in law. But we surely should, by inspectors' reports and by official conference and correspondence, bring pressure to bear on the presidents and boards of trustees of the institutions which pay inadequate salaries. This pressure has been applied by the officers during the present year and should be increased in the future, if relief is not given. In an aggravated case of this type we ought to drop a member from the Association under Article 6, paragraph 9, for conduct unbecoming a high-grade law school. The Executive Committee should make a systematic effort to aid the faculties which are suffering from low salary scales.

No requirement has ever been set for member schools as to the amount of education or training which their instructors must possess. A well-equipped faculty is more important than a numerous faculty. Conceivably, a standard might be fixed in terms of age, a college degree, graduation from a member law school, a graduate degree, or a short period of practice. If we fix formal standards for our students, why not for our instructors? But we all know many able teachers who lack one or the other of these elements of training. By self-education, business
experience, teaching in another field, or otherwise, they have obtained the equivalent of the normal training of the average good law teacher. The need to leave room for special cases, and the probable impossibility of agreeing on the features of a minimum training for a law teacher, make it unlikely that we could ever do more than stipulate that all instructors in member schools shall have adequate general and legal education. This is in substance now required by Article 6, paragraph 9, which demands respect for the practices customary in well-regulated law schools.

It may be that a prohibition of certain types of advertising for, and solicitation of, students should be incorporated in the articles. A special committee report later in our session will develop this subject.

Our Committee on Cooperation with the American Association of Law Libraries recommends submission of an amendment requiring member schools to employ a full time librarian. The Committee on Advanced and Professional Degrees has recommendations for uniformity of practice which may ultimately lead to a need for changes in the Association standards. From other sources have come suggestions that the rules should require permanent tenure for faculty members and classes of limited numbers of students.

These suggestions and queries about our official standards make it desirable that the Executive or a special committee during the next year undertake a study of existing and proposed requirements for membership, and determine whether amendments are needed and whether resolutions should be passed interpreting Article 6, paragraph 9, with regard to teaching load, salaries, teacher training, methods of obtaining students, and other matters.

Turning from improvement through Association standards to other self-improvement, we find a record of great accomplishment. In addresses and papers, committee reports and the discussion thereof, round table conferences, and personal talks, we have for years threshed over problems of law, its development and administration, and methods of inducting students into its learning. Our Curriculum Committee in particular has brought to us the latest thought regarding courses and methods of teaching. Herein would lie complete justification for our existence, even if we did no other work. A great improvement in thinking, teaching, and writing in member schools is no doubt due to the direct and indirect results of our meetings. This work will continue to develop and to constitute the backbone of the Association's part in improving legal education.

Last winter a request was made for suggestions by member schools and their faculties for improvement in the work of the Association. About two-thirds of the schools responded. A special committee on Organization and Program has considered these answers, outlined recommendations, and made a report which you will find in the program. The Executive
Committee has studied these suggestions and commented on them in its report. It is hoped that the Association will give thought to the recommendations in the report and to the comment of the Executive Committee. The proposal for reducing the number of Round Tables at each meeting by consolidating and alternating, is especially worthy of study.

Our meetings have acted as clearing houses for information about teaching law, but there are other means of approaching somewhat more closely to the ideal where every law teacher will be familiar with all the educational methods in use in legal education.

We have talked and written a great deal about how we teach this or that subject, but we have never given each other much real evidence of our methods. Visiting the classes of a fellow teacher seems to be somewhat taboo. Very little of it actually occurs, either within a single school or between faculties. Many Deans have employed teachers and retained them for years without ever having seen them conduct a class. This has always seemed peculiar to me. Perhaps in no other profession do workers know from direct observation so little about the actual primary performance of their colleagues.

Could not this Association do something to make the visitation of classes good form and customary? Probably not a man of us but what, at least once a year, finds himself away from home and in a city where there is a law school. In the course of a year each of us could without inconvenience pay one call on the classroom of each of his colleagues at home. Without making it a burden or taking ourselves too seriously, why not establish the habit of occasional inspections of the work of our co-teachers? The beneficial effect on the one visited would not be negligible. The visitor might get a horrible example or a glorious model for emulation. Possibly a committee of experienced teachers within the Association, appointed by the President, each member of which was held out by the Association as ready to visit and criticize new teachers near at hand on request, would find that it performed a service to our junior associates. Let us make classroom performance something which is actually seen and heard by other teachers, as well as talked about from a distance. The exchange of teachers between member schools should be encouraged by the Association for similar reasons.

It does not seem within the scope of our work to try to solve problems which affect education as a whole. We have drifted into a small amount of activity which might better be left to general educational associations or the American Association of University Professors. For two years we have had a committee on tenure. In connection therewith we have heard talk of expressing our views on appointment practices and on academic freedom. These two important subjects concern all education. There is no special problem of academic freedom or stability of tenure for the law
professor, as distinguished from the college teacher. It is my belief that we should leave these and similar problems to other organizations which devote themselves to the welfare of higher education as a whole. Individual law teachers can make themselves felt in general educational associations. The American Association of University Professors has as one of its principal purposes the establishment and maintenance of sound rules regarding the treatment of teachers by administrators and trustees.

The second major function open to the Association, after improvement of our own members, should perhaps logically be influence on non-member schools. They are the institutions most directly affecting the educational attainments of lawyers, aside from our own member schools. There were 113 of these schools with 22,629 students in the fall of 1935, as contrasted with our 82 schools and 19,219 students. In other words, these non-member schools were educating about 54% of the law school students of the United States in 1935.

The average entrance requirement of these 113 non-member schools is slightly more than one year of college work. Sixty require two years of college, one requires three years of college, two require college degrees with some qualifications, and the remaining fifty-four require no college work for admission. The normal law course in these non-member schools is three years for day study and four years for evening study, but forty schools have shorter courses. Most of these latter are schools which have a three year evening course.

The work which these 113 schools do, or neglect to do, is having a great effect on the bar of America. The performance of these schools is, according to our ideas, below the level of thorough and comprehensive training. Can we do anything about it, or does the fact that these schools do not belong to our Association put them beyond our reach?

In the past it seems to have been felt that we could influence these non-member schools principally by inviting their teachers to our meetings, holding out to them the opportunity of membership when they cared to meet our standards, and working for advanced standards for admission to the bar which would compel them to increase their requirements.

Last year there were seven non-member schools represented at our annual meeting by a total of nine delegates. This year, again, all non-member schools were invited and doubtless many teachers from these schools are present today. We welcome them and urge them to feel at home and to take part in our proceedings. We do not regard them as strangers or enemies, but as friends and co-workers. Personally, I hope that many of these schools will soon meet our standards and join the Association and that before long we shall have within our fold all the schools which have a sincere desire to work for a broadly educated, public spirited, honorable bar. Every new member is strengthened by the adop-
tion of our standards and by contact with the older and better equipped schools. The weaker association members do not bring the stronger schools down to their level. A combination of the newer and weaker members to bring about lower Association standards seems to me unthinkable.

A certain number of non-member schools are run primarily for the profit of their owners, have very poor facilities and standards, and are perpetrating frauds on the students from whom they take money. These schools should be given the choice between reformation and withdrawal.

It should be our aim first to get into more intimate and friendly contact with the non-member schools which are honestly conducted and have promise, and secondly, to throw the light of day on the hopelessly inferior schools. There are two ways of reaching these results which have been tried and found helpful. Their further use should be developed by official action of the Association. I refer to the state councils on legal education which have been organized in New York and Ohio and to the state survey of law schools conducted in California in 1933.

The state conference or council on legal education can be used to bring together informally once or twice a year representatives of all law schools within the state, the bar examiners, the authority controlling admission requirements, bar Association Committees on Legal Education, and the character committees. This is the New York plan. The Ohio league of law schools, which will be discussed by Dean Arant this afternoon, includes law schools only and not bar or bar examiner representatives. An open discussion of local problems in a conference or league of this sort will, to some extent, remove jealousy and suspicion, clear up misunderstandings, and, from time to time, bring sentiment to a state of ripeness for advance. It is much easier to influence friends in informal discussion than it is to affect strangers by the printed page. It is far easier to persuade than it is to force. Resolutions of such a conference may not compel action by the state authorities or the schools, but they are persuasive. Here is a plan worth trying in all states, but especially in those states having one or more non-member schools of fair or good quality. It is a program for influencing the non-member schools and other legal educational authorities state by state in a perfectly honorable and open manner. A report of a committee of the Association, describing the plan fully and suggesting means for putting it into force and improving it, would be a worth-while project.

In states where one or more very inferior schools are operating, the California plan for a law school survey, sponsored by the state bar, but conducted by an outside, impartial man or group seems promising. The equipment and methods of the worst schools may, in this way, be fully discovered and publicized in the press, bar meetings and bar publications, and action originated. Mr. Shafroth, Dean Horack, and Mr. Wickser
performed this service in California in 1933. Professor Brenner will outline their experiences this afternoon. If the Association feels that such an investigation and report offers a practical method of either converting or extinguishing the low grade law school, should it not take some definite steps to start such surveys in other states? A report on the best methods of getting the necessary men and money and persuading the local bar associations would make the matter concrete. Perhaps the council on legal education and Mr. Shafroth would join us in such a work. Surveys of this type would seem to offer possibilities of value, especially in the District of Columbia, Georgia, Indiana, Massachusetts, Missouri, Tennessee, and Texas.

For the purpose of collecting and consolidating information regarding non-member schools in readily accessible form, a special committee under the chairmanship of Dean Howell was appointed this year. Its report is before you. Especially noteworthy is the information regarding state restrictions on the formation or operation of law schools. It appears that in only six states are there specific restrictions on the organization of a law school by means of laying down conditions precedent to the obtaining of a charter. It is common to place limitations on organizers of schools to train barbers or beauticians, but rare that the legislature sets forth the minimum equipment of a school to train lawyers. However, in fifteen states law schools may not confer degrees except when approved by a state authority, and in thirty-nine states attendance at a law school approved by local authorities is a condition precedent to taking the bar examination. These restrictions on degree conferring and on preparation for the bar undoubtedly indirectly materially limit the number of low grade schools. But it is believed to be desirable to control the organization of new law schools by direct statutory or court rule provisions.

A possible outlet for Association energy may be found in committee work aimed at establishing a model statute or court rule on this subject. The supply of law schools is abundant and yet, now and then, new schools are being started. At least fifteen have come into existence since 1930. It should not be possible for any group to bring a new school into the field at its mere whim. The organizers should be obliged to make a real case of convenience and necessity and a real showing of adequacy of the equipment and standards of the proposed new school.

The Association may also be able to raise standards in non-member schools by exerting influence on college and university accrediting agencies, which have jurisdiction over the colleges or universities to which some of the non-member schools are attached.

A third major division of our work is cooperation with and influence upon organizations other than schools which are concerned with legal education. These organizations are primarily the legislatures, the state supreme courts, the American Bar Association, state and local bar associa-
tions, and the bar examiners. They seem to be interested in two major problems connected with legal education, namely, the setting of formal educational and ethical standards for admission to the bar and, secondly, means for discovering and testing the ethical qualities and educational attainments of applicants. How can this Association help these national and state officials and bar associations?

The American Bar Association standard of two years of college or its equivalent, as pre-law training, has been accepted fully or approximately by thirty-two states. The following fifteen jurisdictions still require a high school education only: Arizona, California, District of Columbia, Florida, Iowa, Kentucky, Louisiana, Maine, Maryland, Mississippi, Nebraska, Oklahoma, South Carolina, South Dakota, and Tennessee. In Arkansas and Georgia\(^1\) there are no pre-legal educational requirements.

The American bar standard of three years of law school training has been put into effect substantially in forty states, but only eight of these specify that the study of law must be in a law school approved by the American Bar Association. In the following nine states the required period of legal training is less than three years: Arkansas, Florida, Georgia\(^1\), Kentucky, Mississippi, Montana, South Carolina, Tennessee, and Virginia.

Thus, there are serious deficiencies in pre-legal standards in approximately a third of the states. The requirements as to law study may be described as satisfactory in eight states, fairly good in thirty-two states, and markedly defective in nine states.

Can we law teachers do anything to hasten the adoption of higher bar admission standards in these states with low requirements? The power to make the changes in any given state lies in the court or legislature. It will act only when the local bar is educated to the need for a change and firmly demands it. Directly this Association can do little. The local authorities will not be greatly moved by the views of a national organization of teachers. But the law teachers in these states can do much to enlighten the local bar and stimulate its committees to act. Would it not be useful if our Association undertook an investigation to learn whether the maximum possible effort is being made for higher standards in these backward states? Is the lack of progress due to inactivity or to the low ideals of the public and the profession?

In the last two years Indiana, Kansas, New Hampshire, Nevada, North Carolina, Texas and Vermont have advanced their pre-legal or legal requirements. What forces were operating in these seven states which do not exist in the remaining backward states? Are there committees of state and local bar associations considering this subject? Are

\(^1\)In December, 1936, Georgia adopted a standard of a high school education and a law course of ninety weeks.
law school men serving on these committees and keeping the topic before the bar? Would a pamphlet giving condensed arguments for an advance and showing the experience and trend in other states be helpful, if distributed to lawyers, judges, and legislators? Cannot the alumni of the progressive schools be organized to back the change? Why are these states lagging behind? Law teachers could prepare an interesting report in answer to these questions. Our Association would seem to be an appropriate organization to initiate a movement to procure such a report. Bringing to light the reasons for backwardness, state by state, might well show us how the bar and the law schools could do more for the movement and might lead us to organize our forces.

In 1934 a special committee on bar admissions was appointed. This year it presents to us a comprehensive study of the methods of selecting bar examiners and the way in which the boards prepare and grade examinations. The Association is, I am sure, very grateful to Professor Shepherd and his associates for the large amount of discriminating work they have done in collecting, classifying, and commenting on these data. The survey is the first of its kind. Careful consideration should be given to it when it is brought up for discussion Thursday afternoon.

Until very recently the Association seems to have regarded the conduct of bar examinations as of slight concern to it. The articles of association forbid member schools to conduct classes specially designed to train for the bar examinations. Many of us have never met our local bar examiners or given any careful consideration to their questions or methods. We have often assumed that their examinations are inferior to our own, but have done nothing to improve the situation. This attitude should be changed. The bar examiners do not instruct, but the way in which they carry on examinations obviously sets a minimum standard for instruction in the law schools. Stiff bar examinations of a modern type will render it impossible for inferior local law schools to exist.

Our Association should help bar examiners to improve their examinations. The bar examiners should be given an opportunity to criticize law school instruction and to suggest changes.

We ought to have a permanent association committee on cooperation with bar examiners. This committee could urge some of our teachers to serve on the examining boards. One law teacher on the board of each state would be a beneficial influence. Yet in some states the statute or rule prohibits the appointment of law teachers to the board. The committee could also persuade the examiners and representatives of the schools in the several states to form conferences or committees on cooperation and to meet once or twice a year for discussion. The Committee could prepare a booklet of suggestions on the preparation and framing of questions, giving examples of both good and bad methods, and criticizing questions which have actually been used. It could study and report upon the scope of bar examinations, the source of questions, methods of grad-
ing, and the correlation of bar examination results with law school results. This Association has at its disposal the laboriously and slowly acquired experience of hundreds of teachers in testing the abilities of law students. The boards of bar examiners are composed generally of lawyers to whom the bar examinations are a secondary interest. Not many of them have had experience in legal education. If the bar examiners are willing to use our examination experience and take our cooperation, this Association has a duty to organize an effort to see that they get that experience and cooperation.

Concerning the American Bar Association and its section and council on legal education, there is little to be said. We know that they constitute a great influence and we know further that we are in harmonious cooperation with them.

A special committee was appointed this year with relation to State and Local Bar Associations. It has reported with regard to the existence of committees on Legal education in the several state and local bar associations and with reference to their activities. Its report will be presented to the Association by Dean Murray this afternoon. It is hoped that this report will be useful in pointing to an avenue of cooperation to which the Association has previously paid little heed.

Few law schools have given direct aid to the character committees which inquire into the history and attitudes of applicants for admission to the bar. The Association might well urge schools to help these committees by making a regular and systematic attempt to get information about character at entrance and during the course. Some proof of good character should be a prerequisite to admission to law schools. To a certain extent the character committees probably regard graduation from a first class law school as a certificate that the graduate's character is known to the school and is approved. Some deans certify to the bar examiners that the moral character of their graduates is good, to the best of their knowledge and belief. If we graduate students without trying to get real information about character, and without actually having such information, we are unconsciously misleading the character committees. Letters from former employers or teachers of the applicant and from neighbors, if sent direct and not through the applicant, would give some information, although admittedly not ideal sources. A searching interview with a school officer would sometimes be illuminating. In the larger schools the administrators and teachers may not learn much about the ethical or moral qualities of the students after entrance, but if a practice of watching for these qualities is established there will be occasional notes to make, arising out of personal contacts, class work, reports, law review notes, and examinations. At the present time, in general, law teachers regard it as no part of their responsibility to seek to get information about the characters of their students. Their opportunities are not great but they are
in many cases more extensive than the means of investigation open to the character committees. Three years of association in study ought to prove something to an intelligent observer. A study of the history of disbarred lawyers to see whether traits of dishonesty appeared during pre-law or law training would be useful. The character committees are entitled to have us make an effort to procure information for them. The Association should try to bring about this cooperation.

There has been much discussion regarding "bar surveys" or the collection of information concerning the present status of the legal profession. The argument has been effectively advanced that our Association and others similarly situated cannot act intelligently about legal education without knowing more about demand for and supply of legal service in the United States. A small amount of progress has been made through the bar surveys conducted in Wisconsin, Missouri, New York City, California and Connecticut. It is my belief that it is our duty to work for the collection of more information of this type, especially with regard to alleged crowding in the profession, and with reference to the alleged inability of large classes of our society to procure legal assistance when they need such service.

Personally, I have no doubt that the legal profession is overcrowded, at least in the cities. Nine lawyers out of ten will assert that the bar is over-crowded and give facts to back their opinions. The impressions one gets from the recent graduates looking for work are of the same type. Many meet disappointment and are forced into other occupations. The number of lawyers receiving federal aid is not inconsiderable. Some offices are working below their capacities due to lack of business. The New York County survey showed that of the 3210 lawyers who stated their incomes for 1933, half earned less than $3000 and more than a third earned less than $2000. Of these incomes reported about half were gross incomes.

And yet other items of evidence give one pause in drawing conclusions. The census shows that in 1900 the number of lawyers was 104,000; in 1910, 114,000; in 1920, 122,000; and in 1930, 160,000. The present number has been estimated at 180,000. The average annual addition to the American Bar since 1933 has been about 9,000. The mortality in this group of 180,000 lawyers is probably about 3% or 5,400. Thus, the net additions to the bar are about 3,600 annually, or 2%. The number of lawyers has increased 73% since 1900; the population, 68%. The net annual increase in lawyers stands now at about 2%. The population has been increasing at the rate of less than 1% annually since 1930.

If the problem is studied state by state, instead of nationally, the mere census figures seem to show great proportionate increases in the bar in the more populous states where there are large cities but a relatively stationary condition in the other states.
There would seem to be little doubt that many persons of modest means or in poverty do not now receive legal services which would be very valuable to them in the protection of their rights. Facts and impressions could be obtained regarding the need of more legal aid for the poor by consultation with the various legal aid societies and bureaus and their national organization. The data regarding service to those of small or modest means would have to be obtained from other sources.

The truth is we have little real knowledge about over-crowding or defective service. We have merely fragments of information and a variety of opinions and beliefs. Is it not our duty to go as far as possible in turning impressions and surmises into knowledge? Even partial insight into the truth would have great influence on our future action as an Association and on the action of our member schools.

If the profession is over-crowded, then in my opinion, we are acting unethically in admitting over 40,000 students to our law schools and in adding 9,000 members to the legal profession each year. There is injustice to the law student of poor or modest ability in encouraging him to spend three years of time and much money in going through law school if his chances of earning a competency are slight. The least we can do in fairness to our students, if we are not to restrict the number admitted, is to carry in our catalogues a note of warning, accompanied by a digest of the facts at hand regarding over-crowding of the profession.

There is injustice to the students and the American public in graduating an excessive number of lawyers and exposing them to the temptation to use unethical methods for obtaining money. Admitting that restriction of law school attendance as a whole would be a difficult problem, we could make some progress in that direction by working for bar admission quotas and for reduction agreements between law schools, state by state. There is injustice to our graduates and most of all to the American public if professional and governmental machinery do not provide legal service to all who need it at rates which they can afford to pay. An increase in the staff of legal aid societies for the poor and the establishment of bar or public-supported clinics for those of modest means would furnish many positions for our graduates who now are in distress and disappointment.

Surely, if this Association set itself toward acquiring more complete information regarding the economic status of lawyers and over-crowding in the profession, and also regarding the need for some form of state or bar supported legal aid on a large scale, it could advance far beyond the present stage of its knowledge. I believe that our Committee on Cooperation with the Bench and Bar should be instructed to continue its effort with regard to surveys. The foundations and the federal work projects are at least possible sources of support. And if they fail we can do something
with our own funds and man power, supplemented possibly by bar association aid. Surveys conducted by states, counties, or cities may be feasible, even if a national investigation is impossible. A very promising lead is to be found in the California Survey of the status of lawyers admitted to the Bar during the five years immediately preceding the survey. It seems to me that with the cooperation of the state bars, the state boards of bar examiners and the law schools in each state, it would be entirely feasible to conduct such surveys of young lawyers, state by state. This Association, through its Committee on Cooperation with the Bench and Bar, may very possibly be able to stimulate the conduct of such surveys in a number of the states.

Turning now from self-improvement, influence on other schools, and cooperative enterprises in legal education, I ask your consideration of our part in the preparation of legal publications.

It hardly needs argument to prove that the printed page is an essential tool for legal education as well as for assisting the bench and bar in the administration of justice. Whatever we can do to improve law books will be benefitting legal education in a broad sense.

That we have accepted this function is proven by the Anglo-American Legal History Series, the Continental Legal History Series, the Modern Philosophy Series; and the activities of our committees on reprinting law review articles, on form and style of law reviews, on the social science encyclopedia, and on International Law sources.

I believe we are justified in going farther in this work. There are four possible projects which are worthy of consideration as means of extending our influence in the field of publication.

First, there is the problem of a compendium of American Statute law. Our Committee on Current Legal Literature has considered this question and has sought in vain to interest a publisher. Its current report shows the beginnings of a cooperative enterprise with the American Law Institute for the purpose of collating statute law on unfair business practices.

A compendium of American state and federal statute law, arranged by topics, would be of great interest and assistance to teachers, students, writers, and legislative draftsmen. It would tell us the extent of departure from the common law and the direction of reform legislation. Statute law is not sufficiently considered by law teachers. Case books do not point the way to much statute law. Stimson's digest of American Statute law, issued in 1886, is, of course, valueless, except as a possible model for an up-to-date book. It is difficult to thumb the indices of forty-nine fat volumes. To prepare a card catalog of the results, even for two or three subjects, is a very strenuous labor. The easy way is to discuss the case law only.

But comparative statute law is not regarded as a practical question
by most judges and lawyers. They are usually content with the acts of a single legislature. A classified digest of present American Statute law would run into two or three large volumes and would seem not financially feasible as a self-supporting enterprise, even if the labor of preparing it cost nothing, unless it could procure the support of a large section of the bar. Law teachers and law libraries would not provide sufficient subscriptions to interest a commercial publisher. Unless the project is subsidized, I fear that it is impractical. The American Law Institute is studying the subject and may underwrite a comprehensive digest of Statute law.

But a less ambitious, similar scheme of some value might be undertaken by our Association. Would it not be possible to finance from law school and law library subscriptions an index of American Statute law with references to, but not digests of, the relevant sections from various jurisdictions? The Association could furnish the planning and supervision. The collection of the material could be parceled out to one or more assistants in each state. The consolidation of data and preparation for the press could be done by the Association Committee. The result would be a key to American Statute law, if not a digest of it. The work could be based on the outlines of the standard law school course and the most popular case books. References to all the statutes on a given subject could be placed side by side with a few key words by way of headings to show the general import of the legislative acts. To take a very simple example: under Personal Property, Finder and Loser, statutes could be grouped under the headings "Statutory reward to finder," "Found goods not reclaimed go to the State," "Public official made depository of lost goods," and so forth.

Secondly, an Association committee on publications could render a distinct service to progressive law teachers by collecting and arranging, topic by topic, references to two other classes of auxiliary material. I refer to the contributions of other social sciences and of business men. For years we have been talking about bringing to the aid of law teaching the views of historians, economists, philosophers, sociologists, pshychologists, statisticians, accountants, anthropologists, and other specialists. The argument has been made that we cannot fully understand how law has developed and how well it is adapted to modern society without knowing something of the facts and opinions which these men have discovered or expressed. In varying degrees we are probably all inclined to agree with this thesis. To a limited extent some of us have read and used the works of these social scientists, but the material which we could best use is scattered through scores of books and articles. Why not make a systematic search for the most valuable of the contributions of these allied learnings and consolidate the references obtained, subject by subject, in a source book for law teachers and students. There the
ambitious law instructor could find pooled headings and references, topic by topic, which would lead him to the best published thought in a given field.

If all the references now in the notebooks of our law teachers, and all the references which could be obtained from indices and social science teachers, were collected, examined, the poor and mediocre sifted out, and only the very best kept and classified, a useful guide to this auxiliary material could be made available for all law teachers.

Here, again, the outlines of the normal law course and the better case books should be followed. For example, under the topic Constitutional Law, sub-headings, Due Process Clause, Minimum Wage Laws, there could be arranged references to the writings of economists, statisticians, labor leaders, and social workers as to what are adequate wages and as to the effect of inadequate wages for women and children.

Whether this reference material should be arranged in a single volume, or in a set of volumes, or in one pamphlet for each law school course, could be decided after the material was collected and its bulk was ascertained.

It may be suggested that the Encyclopedia of Social Sciences published in 1930, in the preparation of which our Association had some part, supplies the need here mentioned and renders unnecessary a new reference book. While there is much helpful material in this Encyclopedia, it does not take the place of a guide or reference book adapted to our law courses. A great part of the articles and references in the Encyclopedia have little or no connection with law. The articles which do affect law are often too brief. The arrangement is not adapted to the outlines of a law course or set of case books.

Alongside this social science reference book there might advantageously be placed a source book of business materials. There is a large amount of printed matter issued by business men and their organizations which sheds light on the way in which law is operating today. Most of us stick too closely to the litigated cases which the supreme courts are deciding. We do not know enough about what might be called "non-litigated law." We do not know well business practice, the problems that are perplexing business men, or the solutions which they are working out for themselves. Our outlook on law will be much more realistic if we have easier access to these business materials. Examples of the publications I have in mind are to be found in the books and proceedings of the American Bankers' Association, the National Association of Real Estate Boards, and the various trade journals. Examples of the materials to be found in these business publications are trade customs, rules of trade associations, standard forms for contracts, discussions of trust investment problems arising out of the depression, and treatments of
new real estate financing methods. It would probably be impossible to reprint the articles which interest us, but references to them, arranged by course headings and sub-headings, could be given, with a few clue words to indicate the general content or thesis of each article.

A commercial publication recently announced, called “Business Digest,” and purporting to give summaries of the contents of the 300 leading trade journals, would be useful to our committee in preparing such a reference guide.

We now have an index to legal periodicals which gives classified references to all law review material. A business practice reference book would be based on selected important materials only and should be drawn to fit into the leading case books.

These three source or reference books could be financed from sales to law libraries and students and teachers. If the materials were obtained by Association volunteer workers, the expense, aside from printing, would be inconsiderable. When used in connection with our case books, our collections of law review articles, our legal periodical index, our history and philosophy series, and the Restatement, these books on statute, social science and business material would seem to give law teachers a complete set of tools for study and exposition of the law.

A last publication project which I suggest is the preparation of a critique of present day law books, with especial reference to textbooks. It may be urged that the law book publishing business is a private affair and not the concern of the bar or of teachers. But I believe the better class of law publishers regard themselves as auxiliaries of the profession. The law book houses of the country are on friendly terms with us. Many of their representatives attend our meetings. If modern American law books are open to adverse criticism and can be improved by a scientific comparison of their qualities with the needs of the profession, surely the publishers will welcome a friendly, constructive report upon their work.

And I venture the assertion that much of the output of the publishers is vulnerable to attack. I shall mention only a few examples of what I regard as weaknesses. Other instances may readily come to your minds. Many texts are expanded by various formal printing devices to excessive size. What could have been issued as a one or two volume work is, without good reason, issued as a two or three volume work. The decision to do this is not that of the author, but rather of the publisher. The decision is based on a desire to get more money for the book, and not on reasons of utility to the reader. This is an injustice to the profession.

Complaints about excessive charges for state statutes and about unnecessary duplication of law books are pending before an American Bar Association Committee.
Some of the publishers object to inserting tables of cases or dates of cases in a textbook or to citing in footnotes the works of rival publishers. Many textbooks are little more than unacknowledged quotations from headnotes, fastened together by quotations from judicial opinions. The amount of analysis, comment and criticism by the author is microscopic. Some fields of the law are discussed in several good books, while other subjects are inadequately treated in one or two poor volumes. The plan of the Committee on Current Legal Literature to prepare an outline of current legal research in member schools might be supplemented by a discussion of neglected and over-worked legal topics, with a view to giving advice to authors in search of subject matter for development.

The classification system in some digests is extremely crude and unscientific, part of the headings relating to legal topics or transactions or concepts, and other headings relating to things or physical objects. Thus, we have chapters on "bailments" and "contracts," and also chapters on "animals" and "automobiles." Some modern legal subjects are given no separate place in the digest system. The material is scattered under various headings. Thus, the trust receipt cases are now found in part under agency, chattel mortgages, bankruptcy, estoppel, and sales.

Most of us have had the experience of examining footnote references in an encyclopedia and discovering that half or more of the cases were not in point. Too much of law book writing is hack work, done with scissors, paste pot, and digest or headnote paragraphs.

The bench and bar is wasting a great deal of money in buying superficial, uncritical, inaccurate law books. Often it does not have time or take time to find out to what extent it is wasting money and why. We do have the time and, I make so bold as to say, the talent to give a fair and friendly criticism to the output of law books and to try to persuade the publishers to make the books more nearly worth the money which lawyers are paying for them. Should not the Association make an effort to perform this service?

A fifth and last function to which we have given some effort, and might give more, is cooperation with organizations interested in improvement of the law and its administration. This is commendable enterprise but it is hard to call it legal education. In doing it we are really acting as a special bar association. An example of this work is to be found in the committee on cooperation with the American Law Institute. The Association had much to do with the birth of the Institute, and teachers in member schools have been indispensable to the preparation of the Restatement.

There is another somewhat similar national organization with which we could very profitably cooperate. I refer to the National Conference
of Commissioners on Uniform State Laws. This organization has been in existence since 1892, has drawn and approved sixty-six proposed uniform state laws, and now has under consideration several proposed new statutes. The Conference, is, in some cases, working with the American Law Institute. It would be of great value to the Conference if our organization gave systematic criticism to the proposed uniform laws in their tentative stages and communicated our considered views to the Conference. A few law teachers are members of the Conference and make valuable contributions to its work. Occasionally these drafts of acts have been discussed in our Round Table meetings but this practice has been rare. Too often the Conference has sought for several years to elicit constructive criticism from lawyers and business men, only to find suggestions for amendment cropping up after the final approval of the act and its adoption by some of the legislatures. Failure to get the criticism of law teachers in the preparation of the Negotiable Instruments Law resulted in defects which excite comment to this day and has caused a movement for extensive amendment of that Act. A committee of our Association to procure the systematic discussion and criticism of all pending and future drafts of uniform laws could do a valuable work.

A second way in which we might perform a service in the realm of improvement of the law is by encouraging the states to follow the example of New York in setting up statutory revision commissions which study the statutory and common law with the object of modernizing and improving those parts which are outgrown or defective. The excellent work of the New York Commission deserves emulation. The law teachers of that state have taken the lead in it. Other law teachers would inevitably have to bear a laboring oar if the work spread elsewhere. It would be appropriate, in my opinion, for the Association to have a committee to report on the advantages of such a revision system, and to urge on law teachers that they seek to secure the support of state bar associations and legislatures for such a program. In this way there might come about a gradual, orderly revision of our state statutes by the cooperative effort of judges, lawyers, law teachers, and laymen.

It may be objected that the plans outlined in this address are too ambitious, that there is not time for so many new projects, that many of us are now busier than we ought to be with teaching, administering, writing, editing, serving on boards, committees, commissions, et cetera; that the law teacher's life, like all other American life, should be simplified rather than made more laborious and complex.

But it should be remembered that the Association is composed of 82 schools, with approximately 1000 teachers. About half of these teachers attend our sessions regularly or occasionally. If the committee and round table work of the Association were evenly distributed among the
Association teachers who are willing to give some time to the common cause, the burden on any single individual would not be heavy. There are many, especially among the younger men, who would be glad to take responsibility and have a more active part. In the past a large majority of the teachers in member schools have been passive. They have listened and read but never spoken or taken responsibility. Whatever we can do to increase active participation and to extend to all a part in the management of Association affairs, will be wholesome.

Let us not drift into a routine. Let us not permit our meetings to degenerate into mere visiting and barren threshing and rethreshing of old straw. Let us be alive to new opportunities for the improvement of legal education and the law through the united and harmonious action of all progressive schools.