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Council on Legal Education, A Meeting of the Association of American Law Schools- 1916: Address of the President

Walter Wheeler Cook

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ADDRESS OF THE PRESIDENT

A Council on Legal Education

A Plan for the Improvement of Legal Education and Standards of Admission to the Bar

By WALTER WHEELER COOK
Professor of Law, Yale University School of Law

In the able address of my predecessor in office, delivered before this Association a year ago, attention was briefly called to the fact that standards of legal education had in recent years not been advancing so rapidly as those of some other professions, and special reference was made to the notable progress, during the last ten years, in medical education and the requirements for admission to the practice of that profession. Only a brief statement, however, was made of the reasons for this rapid advance in medicine, and there was outlined no definite program for bringing about similar progress in the law. In the belief that there is no inherent reason why the legal profession should continue thus to lag behind its sister profession, I venture to direct your attention to-day to what appear to me to be the reasons for this inequality in the rate of progress of the two callings, and to suggest in outline a plan for the improvement of legal education and standards for admission to the bar. If I am to accomplish my purpose, it will be necessary, at the risk of being tedious, to traverse again, though briefly, a portion of the ground over which Mr. Richards so ably guided us last year.

In the year 1900 the representatives of a number of American law schools met at Saratoga and took the preliminary steps which resulted in the organization of the Association of American Law Schools, with the declared object of improving legal education in America, especially in the law schools. As one means of bringing about this improvement minimum standards were laid down for schools which desired to become members of the Association, in the belief that this would stimulate at least some schools to raise their standards to this minimum. These requirements were originally as follows: Two-year schools were admitted, with the proviso that after 1905 a three-year course should be required; after 1901, each member was to require for admission a high school course or its equivalent; and each school was to own or have access to a library containing at least the reports of the state in which the school was situated and of the United States Supreme Court.

In 1906, at the meeting held in St. Paul, several members resigned and one member was expelled. The immediate cause of these fatalities was that for the first time the requirement of a three years' course of study became effective. This meeting was also notable because for the first time two sessions were held, one of which was devoted entirely to the reading of papers.

In the previous year (1905) the requirement as to the prelegal education of candidates for admission to the law schools which were members of the Association was altered so as to demand "completion of a four years' high school course, or such a course of preparation as would be accepted for admission to the State University or to the principal colleges and universities in the state where the law school is located: Provided, that this requirement shall not take effect until September, 1907." It is a sad commentary upon law school education that the investigations of the present Executive Committee have revealed many delinquencies on the part of at least some of the members of this Association in the enforcement of even this minimum entrance requirement.

In 1909 the requirement of a three years' course of study was altered so as to read as follows: "It shall require of its candidates for any legal degree study of law during a period of at least three years of thirty weeks each, with an average of at least ten hours' required classroom work each week: Provided, however, that candidates attending night classes only shall be required to study law during a period of not less than four years of thirty weeks each, with an average of at least eight hours of required classroom work each week."

During the sixteen years since the organization of the Association, the only other change in these requirements for admission was made in 1912. It related to material equipment. The library rule, which originally provided merely that the school should
have access to a library, was amended at that time to read: "It shall own a law library of not less than 5,000 volumes."

Although, as stated, no other changes in the requirements for membership have been made, some recommendations to members, as well as certain resolutions interpreting the requirements, have been adopted. In 1908 the Association made the following recommendation to its members:

"Resolved, that the Association deems it highly advisable that the requirements for admission to the law schools which are members of this Association shall be advanced as rapidly as the conditions under which the work of the several schools is carried on will permit, and strongly commends the action of those schools which have already advanced their requirements so as to require one or more years of work at college as a prerequisite to admission to the Law School, and expresses the earnest hope that this advancement may continue until all of the members of the Association shall ultimately require at least two years of college work as preliminary to the study of law." (See Proceedings, 1908, pp. 4, 5.)

This resolution was adopted as part of the report of the Executive Committee, which stated that "the Committee does not now recommend that any advancement in the requirements for admission shall be made compulsory upon the Association, or a condition of membership in it."

This was eight years ago. Since that time a considerable proportion of the members of this Association have adopted entrance requirements of one or more years of college work. The figures are as follows: Out of a total of 47 members, there are 28 which require at least one year of college work; over half of these require two or more years.

In 1912 the Association adopted the following resolution, which, it will be seen, merely announced a policy without effecting any change in the actual requirements for admission:

"Whereas, the maintenance of regular courses of instruction in law at night, parallel to courses in the day, tends inevitably to lower educational standards: Be it

"Resolved, that the policy of the Association shall be not to admit to membership hereafter any law school pursuing this course." (See Proceedings, 1912, p. 45.)

Before entering upon a comparison of the results achieved in advancing legal education during the sixteen years over which the history of this Association extends, with those accomplished by the medical profession during the same period, I beg leave to make a brief digression from my main topic in order to call your attention to those portions of the report of the Executive Committee which relate to our requirements for admission. As is well known, for two years the Executive Committee have, so far as funds in hand permitted, been seeking to ascertain whether the members of the Association were honestly complying with the Articles of Association. This work focused the attention of the Committee sharply upon the requirements themselves, with the result that the report of the present Committee deals quite largely with questions relating to standards of membership in the Association.

Attention is called, first of all, to the suggested interpretation of article 6, section 2, of the Articles of Association. That section reads as follows: "It shall require of its candidates for any legal degree study of law during a period of at least three years of thirty weeks each, with an average of at least ten hours' required classroom work each week: Provided, however, that candidates attending night classes only shall be required to study law during a period of not less than four years of thirty weeks each, with an average of at least eight hours of required classroom work each week."

As previously stated, the section in this form was adopted in 1909. Prior to that date, under the somewhat similar wording of the section as it then stood, the question was raised whether members could, without violation of its provisions, allow credit towards a degree for study in law offices. In 1908 the following resolution was adopted:

"Resolved, That under no circumstances should students be admitted to advanced standing on account of work done in law offices, or elsewhere than in a Law School, except upon the applicant's passing rigid examinations on the subjects for which time credit is to be given; that the time credit so given for office work should not exceed one year; that the practice of giving advanced standing on account of office work, even when so restricted, is dangerous to the maintenance of high standards and is to be reprehended, but it is not deemed wise at the present time to adopt any regulation prohibiting the allowance of time credit of a year or less for such study in law offices and the consequent admission to advanced standing on that account." (See Proceedings, 1908, pp. 4, 5, 6.)

Unfortunately the printed reports of the meeting of that year do not explain how so extraordinary a construction was placed upon a provision providing for at least ten hours of required classroom work each week for three years. Probably the explanation is a simple one; most members of the Association at that time were giving credit for office study! In view of the clearness of the language of the section, and of the "danger to the maintenance of high standards" of legal education, the recommendation of the Committee is, that the section be interpreted as forbidding members from giving credit, either for office study or for correspondence work, even though the results..."
are tested by an examination. This recommendation is made at this time, because of the fact that certain members of the Association, relying doubtless upon the interpretation of the section in its original form, have been giving credit for office study or correspondence work. In this connection, permit me to call attention to rule 11 of the Standard Rules for Admission to the Bar, recommended to the American Bar Association by the Committee on Legal Education. This rule is as follows:

"All applicants, after being educationally qualified, should be compelled to study law for four years, the first three of which must be spent in compulsory attendance upon, and the successful completion of, and passing, the prescribed course of instruction at, an approved law school which requires not less than three years of resident attendance for the completion of its course and for graduation therefrom, and then the service of a continuous year of registered clerkship, as prescribed, exclusive of all other occupations. Provided, however, that the fourth year may be passed in an approved law school in post-graduate work, and that the applicant's law school course shall have included adequate courses in procedure and practice."

It will be noted that this requires the completion of the three years' course in a school which demands three years of resident attendance. The remaining portion of the rule, relating to a fourth year of study, I shall discuss later in this address.

A second recommendation of the Committee relates to the troublesome one of night classes. The present provision, requiring a four years' course of study for night schools, was adopted in 1909, and was followed in 1912 by the declaration of policy previously read. There is, of course, at least an appearance of inconsistency in the action of the Association in providing expressly for the admission of schools with night classes, and then adopting as a policy a refusal to admit schools which comply in all respects with those requirements. A careful consideration of the whole question has led the Executive Committee to make the recommendation that after July 1, 1920, no member shall accept toward any degree in law credits based upon instruction in night courses. This does not, of course, prohibit members from teaching law at night, and so providing for the budding Abraham Lincolns of whom we all hear so much whenever this matter is discussed. It is believed, however, that it carries out effectively the policy declared in 1912. It is possible, however, that it may be too drastic.

In this connection it may be of interest to note in passing the way in which the Council on Medical Education of the American Medical Association has dealt with this vexed question of night work. All medical colleges are divided by this Council into three classes. The details of the classification and the manner in which it is carried out, I shall discuss later. Class A colleges are those which are acceptable; Class B those which, under their present organization, might be made acceptable by general improvements; Class C, those which require a complete reorganization to make them acceptable. By vote of the House of Delegates of the American Medical Association, the Council has been directed "not to rate higher than Class C any medical college which gives the major portion of its instruction after four o'clock in the afternoon."

Your attention is called to the fact that late afternoon classes are thus by the Medical Association classed as substantially night classes in those cases where the student is doing the major portion of his work at that time. That there is justice in this classification is obvious. The real object of all provisions of this kind is to strike at a real evil, viz. the attempt on the part of a student to acquire an adequate training in law as a side issue while devoting the major portion of his time elsewhere. That this could be done if the student were to devote enough years to it is obvious, but in fact no night school demands, or is ever likely to demand, an adequate period. Attempts have from time to time been made to show that the work done in night classes is equal to that done in day classes, but it is believed that the figures used to demonstrate this proposition do not at all warrant the conclusions drawn from them. Time, however, prevents a farther discussion of this topic under the present occasion.

The remaining recommendation of the Committee to which, before discussing the broader aspects of my subject, I wish to direct your attention, is the one which requires each school to have on its faculty at least three instructors who devote substantially all their time to the work of the school. In view of the fact that experience has shown that in the long run, and with a few important exceptions which only go to prove the rule, the really vital teaching and research in any law school are done chiefly...
by the men who devote substantially their whole energy to their educational work, it seems clear that, unless a school possesses at least a nucleus of such men, work of a satisfactory character cannot be done. As the Committee point out in their report, 35 members of the Association already satisfy this requirement. I therefore most earnestly urge upon you its adoption.

Other recommendations of the Committee I leave for discussion at the business meeting. Permit me now to turn your attention to the broader aspects of my subject. Let us begin by surveying briefly the events of the past ten or eleven years in the field of medical education, in comparison with what has been going on in our profession during approximately the same period. In 1901 the Journal of the American Medical Association began collecting statistics of medical colleges, and in 1901 published its first educational number. The continued agitation for higher standards led finally in 1904 to the creation of a permanent committee of the American Medical Association—the Council on Medical Education. This Council, however, did not complete its organization and employ a permanent secretary and secure fixed headquarters until December, 1905. At that time—five years, be it noted, after the organization of our Association—this Council on Medical Education began its work for the advancement of standards of medical education and of admission to the practice of that profession. The organization of this Council and its methods of work will be described later.

Let us first observe the results it has accomplished since 1905. At that time the United States had over half the world’s supply of medical colleges, of which only a few were well conducted, the majority being owned by individuals or joint-stock corporations and conducted for profit. I shall ask leave to print in an appendix a fairly complete statement, with tables, showing the results which have been achieved by this Council on Medical Education of the American Medical Association as the result of a campaign for higher standards extending over only eleven years. I shall therefore, at this point, merely summarize the most important of these results, and compare them with what has taken place in the field of legal education. The chief source of my information as to the medical world is the last report of the Council on Medical Education made in June of this year. 2

In 1904 in all the medical colleges in the United States there was a total of 28,142 students; in 1915 a total of 14,891—a decrease of about 48 per cent. During the sixteen years of the life of this Association, on the other hand, according to the figures presented to us last year by my predecessor in office, the number of law students in residence schools increased in number from 12,516 in 1900 to 21,885 in 1915—an increase of about 75 per cent. Apparently nearly all the poorly prepared students, who were prevented from studying medicine because of the higher standards in that profession, transferred their allegiance to the law.

During the same period—1905 to 1915—the number of medical colleges decreased from 162 in 1904 to 95 in 1915, while during the period from 1900 to 1915 the number of law schools increased from 96 to nearly 150. In other words, over 60 poor or otherwise useless medical schools have died and 50 new law schools have taken their place!

The progress of our brethren of the medical profession appears still more striking when we consider quality as well as quantity. In 1904 only 4 medical colleges—only 2.5 per cent. of the total number—had higher entrance standards, while in 1915 83 medical colleges—57.4 per cent. of the total number—had such higher entrance requirements. (By higher entrance requirement is meant the requirement of at least one year of college work in addition to a full four years’ high school course. It should be noted also that the content of the year of college work is prescribed.) In 1904, only 6.3 per cent. of the medical students were studying in high standard colleges; in 1915, 80 per cent. were so studying. In 1904 only 6.4 per cent. of the medical graduates came from high standard colleges; in 1915, 75 per cent. came from such colleges. This is indeed remarkable progress.

Compare it with the situation in law. If, lacking a more accurate test, we regard as "high standard" schools those which comply with the requirements of this Association—obviously a much lower standard than that used by our medical brethren—what do we find? In 1900, 55 per cent. of the students in American law schools were in "high standard" schools as thus defined; in 1915, only 39 per cent. As a matter of fact, matters are much worse than these figures would indicate, for a considerable number of the members of our Association were two-year schools in 1900 and even to-day many would not be classed as "high standard" schools, if a basis similar to that followed by the Medical Association were followed. If that were done, I imagine that the figures would show in the "higher standard" schools as thus defined not more than 20 or 25 per cent. of the law students who attend law schools.

2 These figures as to the increase in the number of law students are perhaps not so significant as appears at first sight. Doubtless a larger proportion of students now sit themselves for the bar in law schools rather than in offices than was formerly the case; so that the total increase in the actual number of persons studying law is not so great as the figures seem at first sight to indicate. There has doubtless, however, been a large absolute increase; just how much no one can say.
schools. If we were to take into consideration students who study law in offices and by correspondence—as we should, since many still enter the profession in that way—the percentage would be still farther reduced. Accurate figures are of course lacking.

Turn now to the schools themselves, and examine them from the point of view of curriculum, faculty, material equipment, and standards for graduation.

Of the 95 medical colleges in existence in 1915, 85 had substantially adopted the standard erected in 1904 by the Council on Medical Education. This standard, which was regarded as making a college which conformed to it an acceptable Class A college, was as follows: (a) For admission to the medical college both a four-year high school course and one year devoted to college courses in physics, chemistry, and biology; (b) a four-year medical course; (c) a year as an intern in a hospital. Only 6 schools have as yet adopted the requirement of a year in a hospital, but it seems probable that nearly all will do so shortly; 54 of the 95 colleges require for entrance two years of college work, instead of one; and about a dozen more have announced their intention to do so by 1918 at the latest. By that date, then, at least 65, and probably more, of the medical colleges will thus require two years of college work for admission. So rapid has the progress been that the standard of the Council has now been raised, so as to require two years of college work, instead of one, for entrance to an acceptable Class A college; so encouraging is the outlook that the Council say in their last report: “It can confidently be predicted that by 1920 the legal requirement in this country will be” this higher standard—i.e., four years of high school, two of college, all before beginning the study of medicine; a four-year medical course; and a year as intern in a hospital.

Undoubtedly the medical colleges have been greatly helped in raising their standards by the success of the campaign for higher legal requirements for admission to the practice of medicine. In 1915, 17 states required as preliminary to the study of medicine two years of college work in addition to a four-year high school course; 26 other states required at least one year of college work; in other words, in 1915, 33 states required at least one year of college work before the student entered upon the study of medicine. Six other states required a four-year high school course, and only 4 states had no requirement as to preliminary education. Moreover, and most important of all, in 1915 all but one of the states required that the applicant for admission be a graduate of a medical college. This does not yet mean, of course, that in all of these 45 states he must be a graduate of a high standard college. The tendency, however, is in that direction, and in at least 30 of the states the state boards have refused recognition to a number of medical colleges, varying in number from 3 in some states to 30 in others. It may be further noted that in some states the medical practice act requires the standards for admission to be those of the Association of American Medical Colleges—i.e., substantially those of Class A colleges as defined by the Council.

The conditions in reference to the legal requirements for admission to the practice of the law were set forth last year by Mr. Richards. I quote: “In 23 states no preliminary education is required by law. In a few states this lack is atoned for to some extent by the actions of the boards of examiners. In 21 states a high school course is prescribed. In 2 states, a grammar school education. Boards of bar examiners are as a whole rather lax in enforcing these restrictions, some of the equivalents recognized being decidedly farcical.” The omission of any reference to college work is eloquent. Think of it, gentlemen: In medicine, 33 states now require of medical students a preliminary education of at least one year of college work in addition to a four-year high school course; 17 of these require two years of college work; and only 4 are without any requirement. In law, on the other hand, in this important matter of pre-legal education, not a single state requires more than a high school course, and 28 states have no requirement whatever. In medicine, in all but one of the states the candidate for admission must be the graduate of an approved medical college; in law, not a single state has that requirement.

To be sure, during the period we are discussing, the law schools have, relatively considered, made considerable progress; considered absolutely, however, the net result is not high as compared with the medical colleges. In 1900 only 3 American law schools required more than a high school course for admission; at present some 28 of the members of our Association require of candidates for degrees more than a high school education for entrance. The amount of college work required varies from the full college course required by 2 or 3 schools to one year of such work required by 10 or 11 of the schools. In a number of cases, however, this requirement is not for admission, the rules being satisfied if the year of college work is completed before the beginning of the third year of law study. This is, of course, progress; but, before we pride ourselves too much upon it, let us recall that in the United States there are nearly 140 resident law schools which confer degrees, and compare the 28 law schools, about 20 per cent. of the total, which demand some college work for entrance, or at least for graduation, with the

83 out of 95 medical colleges, nearly 88 per cent. of the total, which require this higher standard for admission. Let us also bear in mind that by 1918 at least 65, and very possibly more, of these medical colleges will require for entrance at least two years of college work. From that point of view our progress, appreciable though it may be, appears all too small.

My predecessor in his address referred to the notable increase during the period under discussion in the number of three year schools, pointing out that in 1900 about 50 per cent. of the schools were two year schools, while in 1915 only 17 per cent. were in that class. This also is indeed progress, relatively considered; but when we compare it with the four-year medical course which exists in nearly all the medical colleges, and remember the growing movement for the addition of a fifth year as interne in a hospital before the degree in medicine is granted or the candidate admitted to practice his profession, it also seems all too small.

Looking over the whole field, could there be a greater contrast than that which exists between the standards of preparation demanded by the two great professions of medicine and law? No wonder that the Chairman of the Council on Medical Education said in February of this year: "The American medical profession has done more during this period to put itself on a sound basis and make itself efficient than has been done by any other profession or men in any other field of effort." A proud boast, but true.

With the prevailing low standards for admission to the bar, is it surprising that the legal profession is full of incompetent, poorly trained men, who mismanage their clients' affairs and clog the courts with useless litigation? Who shall say that a large share of the law's delay of which we hear so much is not due to the inefficiency of these poorly trained practitioners? Obviously the law is and always must be a complex science; in this it only reflects the human relations which it governs. Can we expect it to work satisfactorily, if we put in charge of it poorly trained men? Let us remember that a poor system may work fairly well, if managed by the well-trained, but that the best system in the world will not work satisfactorily, if in charge of those who do not understand its mechanism.

Now that we have reviewed the advance in the standards of the medical profession, let us examine more closely how progress of so substantial a character has been brought about. At the outset we must not close our eyes to the fact that it will probably always be easier to obtain the adoption of high standards in medicine than in law, because of the more obvious, though not more real, connection of medicine with the life and health of the community. The recognition of this, however, must not blind us to the fact that the recent progress in medicine which we have described is due in the main to the efforts of this Council on Medical Education, aided recently by the sympathy and active cooperation of the Carnegie Foundation and of the Association of American Medical Colleges. Substantial progress began only after the Council was organized; before that time, conditions were much as they are in law at the present time.

First, then, of the organization of the Council on Medical Education. This body is a standing committee of the American Medical Association. It consists of five members, nominated by the President of the Association and elected by the business body of the Association, known as the House of Delegates. Members hold office for five years, one member retiring each year. The Council elects one of its members Chairman, and also appoints a permanent secretary, not a member of the Council. The Secretary is a salaried official, who gives all his time to the work of the Council. The functions of the Council are prescribed as follows:

(1) To make an annual report to the House of Delegates on the existing conditions of medical education in the United States. (2) To make suggestions as to the means and methods by which the American Medical Association may best influence favorably medical education. (3) To act as the agent of the American Medical Association under instructions of the House of Delegates in its efforts to elevate the standard of medical education." (Chap. VII, section 6, Constitution of American Medical Association.)

One of the chief functions of this Council is, therefore, the Inspection of the medical colleges of the country in order to determine and report to the Medical Association what standards they are actually maintaining. As previously stated, medical colleges are graded into three classes. This is done as follows: Each college is rated by the Council on a civil service basis on a scale of 1,000 points. The data relating to each college are grouped under ten general heads in such manner that each group allows a possible 100 points out of a possible 1,000 points. The data relating to each college are grouped under ten general heads in such manner that the groups have as nearly an equal weight as possible, each group allowing a possible 100 points out of a possible 1,000 points. Class A colleges are those which are acceptable; Class B, those which, under their present organization, might be made acceptable by general improvements; and Class C, those which require a complete reorganization to make them acceptable. The results of this examination are published annually in the Journal of the American Medical Association and other publications of the Association.

Under the leave to print, with your permission I shall include in an appendix a complete statement of the standard laid down by the Council on Medical Education for Class A—i.e., an acceptable medical college...
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—and will at this point give only a bare outline of the same. The Council requires for Class A colleges:

"1. A strict enforcement of the following standards and requirements, the college itself to be held responsible for any instances in which they are not enforced."

"2. A requirement for admission by the medical school of a four-year high school education, and in addition at least one year of college work, and, after January 1, 1918, two years of college work. This pre-medical college work must have been taken in a college of arts and sciences approved by the Council, or in lieu thereof the student must have an equivalent education as demonstrated by an examination approved by the Council."

The details of the high school course and the college work are set forth in great detail, with provisions for the keeping of accurate written records of each student, so as to make the work of inspection relatively easy so far as these matters are concerned. Great emphasis is properly placed on this matter of written records, for without them the work of inspection of the college would become an intolerable burden. As matters go, it is now relatively easy, as compared with the situation ten years ago.

The standards to be maintained by the medical school in its course of study, as well as its equipment, instructors, buildings, apparatus, library, clinical facilities, etc., etc., are also set forth in detail. A four-year course of resident study is required, with a recommendation for the addition of a fifth year as an intern in a hospital. The contents of the curriculum are specified in considerable detail. Each college is required to provide on its faculty at least six men, so paid that they may devote their entire time to the work of instruction and research. Detailed requirements are also made as to material equipment, including buildings, apparatus and books. Of the 95 medical colleges in existence in 1915, 67, or over two-thirds, were classified as Class A colleges, 12 were in Class B, and only 15 In Class C.

In 1914 a searching criticism of the methods of classification used by the Council was made in the Annual Report of the President of the Carnegie Foundation. (Pages 61-73.) Prior to that time the Council had attempted to group the colleges into four classes. The suggestion made in the report just referred to was that a looser form of grouping was desirable, and, perhaps partly as a result of the criticism, since that time the number of groups has been reduced to the three described. I shall include in the printed appendix referred to the more important parts of this report of the President of the Carnegie Foundation.

Reference has been made to the Association of American Medical Colleges, which has during the past four or five years been of material aid to the Council in its work. This Association of colleges is an organization much like our own, and has no official connection with the Council on Medical Education. Its requirements for membership are, however, apparently keeping pace with the standards of Class A. colleges, thus aiding in bringing the low standard colleges into disrepute.

The work of the Council naturally has concerned itself, not merely with the medical schools, but also with the legal requirements for admission to the practice of medicine. The two things, of course, must go hand in hand, and great advances cannot well be expected in one unless it be accompanied by substantial progress in the other. The fact that substantially every state has some kind of permanent medical examining or licensing board is of great aid; and the conditions in law, with only 29 states which have such boards, are less favorable. These greater difficulties in our way, however, ought not to discourage us, but rather to lead us to make efforts still more strenuous than those of our medical brothers.

Without a doubt you have already noted that the work I have been describing has been done chiefly by a Committee of the American Medical Association, entirely distinct from the Association of American Medical Colleges. This must not blind us to the fact that the initiative has really come from the educational side of the medical profession. Every one of the members of the Council on Medical Education is connected with a medical school, and a large proportion of the business body of the American Medical Association—the House of Delegates—are also representatives of medical schools. Moreover, the plan of organization of the Medical Association itself has caused the voice of the Council to be respected as that of the leaders of the medical profession. This plan of organization, with which some of you are perhaps unfamiliar, is as follows: Over half the medical practitioners of the country are members of the local medical societies. These choose delegates to the state societies, and the latter in turn choose the national House of Delegates, a body of approximately one hundred and fifty. The Council on Medical Education is, as already stated, a committee of this body.

Our own profession unfortunately possesses no organization so representative in character. With conditions as they are in the legal profession, apparently the initiative in a movement similar to that which has taken place in medicine must come from the law teachers as organized in this Association. So far as I am aware, no sign has come from the American Bar Association of a serious intention to grapple with these problems, with the exception of the action of the Section on Legal Education in formulating the Standard Rules for Admission to the Bar. This is a great step, so far as it goes, but
these rules have not yet been adopted by the Bar Association itself, and no machinery exists or has been proposed adequate to bring about their enactment into law in the various states.

Whether it will be possible to induce the American Bar Association to co-operate with our Association in creating a Council on Legal Education, similar to the Council on Medical Education, I do not know; but the failure of our profession in practically every state to safeguard the public from the incompetent lawyer is so obvious that we are justified in making a serious attempt at something of the kind. Work similar to that accomplished by the Council on Medical Education must be undertaken and carried through by some responsible body, if standards of legal education and of admission to the bar are to advance as they should. Great as are the difficulties in the way—and I do not seek to minimize them—the time has now come, I firmly believe, for this Association to take the preliminary steps to bring about the organization of such a Council on Legal Education, and I cannot believe that the American Bar Association would turn a deaf ear to a proposal of this kind.

I recommend, therefore, that this Association appoint a committee of five, to confer with the officers of the American Bar Association, or any committee which that body may appoint, with a view to the formation of a Council on Legal Education, whose functions shall be similar to those of the Council on Medical Education; this Committee to report to the next annual meeting of this Association, or, in the discretion of the Executive Committee, to a special meeting to be held in connection with the next meeting of the American Bar Association, if the Committee is ready to report at that time.

I venture to go a step farther, and to indicate precisely how it seems to me such a Council might be organized. It might consist of five members, two or three appointed by this Association and two or three by the Bar Association, as may be agreed. The Secretary should be a permanent officer, selected by the Council, and paid a salary large enough to justify him indevoting all his time to the work. Permanent headquarters should be established in some central location, preferably Chicago. At the headquarters permanent records of the activities of the Council should be kept.

The functions of this Council on Legal Education would, of course, be similar to those of the medical council. One of its chief tasks would be to work out in detail the tests to be satisfied by a Class A acceptable law school; i.e., the Council ought to erect a practical "ideal standard," to attain which all reputable law schools ought to aspire, leaving a select few to maintain still higher standards if they see fit. On the basis of these tests, the Council would then proceed without fear or favor to examine the law schools of the United States and classify them accordingly, repeating this at intervals, as the Council on Medical Education does, and publishing its results in some appropriate place. In this connection, I venture to suggest that this Association might wisely make some arrangement with the American Bar Association, whereby space in the Journal of the latter Association would be placed under the control of our Association and be available for the publication of matter relating to legal education. If an arrangement of this kind could be made, an ideal medium for the publication of the reports of the Council on Legal Education could be obtained.

The present time is especially favorable for the suggested Council on Legal Education to begin its work, for the reason that the results of the extensive and thorough investigation of the law schools by the Carnegie Foundation would doubtless be available by the time the Council could be organized, and would thus furnish the Council with at least a starting point for its investigation and classification of schools. It may be noted in passing that one of the inspections of the medical colleges was made by the Secretary of the Council in close co-operation with Mr. Flexner, the Investigator for the Carnegie Foundation. As is well known, Mr. Flexner's report was extremely helpful to the Council in its work of bringing up the standards of the schools.

I shall be met at once with the argument that the carrying out of any such program is impracticable for several reasons, of which I have time to mention only two: (1) Because of the difficulty of classifying the schools without favoritism; (2) because of the expense. As to the first: A careful study of the experience of the medical council has convinced me that this difficulty, while very real and not to be unduly minimized, is not insuperable. Candor compels me to admit that the work of the Council on Medical Education has been criticized at times for this very thing. In the report of the President of the Carnegie Foundation previously cited I find the following passage:

"In applying these criteria to the grading of medical schools it is not possible to leave out of account one difficulty inseparable from the very organization of the Council. This lies in the situation which arises when a body of men undertake to grade themselves. Not only are all the members of the Council connected with one medical school or another, but a large proportion of the House of Delegates are also representatives of medical schools. Men would be more than human if under such conditions they could entirely separate their duties as judges from their loyalty as members of various faculties. I have seldom met a teacher in a college, or a
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The employment in the work of inspection of the Carnegie Foundation suggests the remedy, viz., the elimination of an unconscious bias. This means simply the avoidance of a conscious favoritism, but merely the reflection of the universal human quality may be observed in his own medical school. The reflection of his own medical school. The reflection of this universal human quality may be observed in the existing classifications.4

Note should be taken that there is no charge of a conscious favoritism, but merely an unconscious bias. This means simply that, like all human institutions, the Council is not infallible or without defects, and in the same report the President of the Carnegie Foundation suggests the remedy, viz., the adoption of more carefully chosen criteria; the employment in the work of inspection of three or four experts, not necessarily all the time, but working in close co-operation when they do work, examinations of a detailed and careful nature; and, most important of all, full publicity.

The second difficulty—that of expense—should not be permitted to stand in the way. The work of the Council on Medical Education has cost from $5,500 to $10,000 per year. For the present year the appropriation is $6,500. If the Council were to be established jointly by our Association and the Bar Association, each would, of course, contribute a share of the expense, and I do not doubt that some one of the educational foundations would be found ready and willing to lend its aid to the financing of an important movement of this kind, if it were seriously undertaken. All this, of course, must be worked out by the committee which, if my recommendation is adopted, will be appointed to arrange for the organization of the Council.

The expenses of the Council on Legal Education would doubtless be heaviest in the earlier years of its work. Three general inspections of medical colleges have been made by the Council on Medical Education—the first in 1896—97; the second in 1900—01; the third in 1911—12. The Secretary of the Council informs me that since that time “numerous inspections have been made of individual colleges which were making improvements and seeking a higher classification. The policy at the present time is to make inspections only when other information obtained indicates that a change in rating is possible, or where reports indicate that a school is retrograding.” The average cost of the last inspection was approximately $25 per school, exclusive of the inspector’s salary, and of the expenses of other inspectors when joint inspections were made.

Too much emphasis must not be placed upon this one side of the activity of the proposed Council on Legal Education. It would have many other functions, into the details of which, however, for lack of time, I cannot go. Chief among these would be cooperation with members of the bar and of the Board of Bar Examiners in particular states in their efforts to bring about higher standards for admission to the bar; the urging of the appointment of the men best qualified to membership on state boards of examiners; and the education of the public and legislators regarding the necessity for raising the standards for admission to the practice of our profession. In this connection I desire to draw your attention to the nature of the problem involved in the attempt to obtain higher standards for admission to the bar. In the majority of our states at the present time some tests are required for admission to the practice of law. In some, these are fairly high; in others, they are not so high. In practically no state, however, are these tests sufficiently severe to prevent a large number of incompetent men from being admitted. The result is, of course, to mislead and defraud the public, for by licensing the incompetent attorney the state in effect holds him out to the public at large as competent to transact their legal affairs.

It has usually been thought that there were only two other possibilities: Either to permit any citizen 21 years old to practice law, regardless of his legal attainments as is provided in Indiana by the constitution, or to advance the standards for admission until the chance for incompetent men to slip through becomes negligible. The former of these we may at once discard as impracticable; the latter, if it were practically possible, would of course be the ideal system. It seems to be the one which we are more or less consciously striving to attain, and is the solution adopted by our medical brethren, apparently with success. It has, indeed, been argued by a keen critic that the medical profession have been attempting to place their standards higher than the educational situation in some parts of the country warrants.7 For this view there is some justification, but it seems to me that medical schools are not in those parts of the country Class A schools, and it would mislead the public so to class them.

On the other hand, to push the legal requirements for admission to practice in such states up to the Class A standard at once would naturally be without justification. Especially as applied to admission to the bar would a policy of this kind be productive of bad results for many reasons, and in any event would be unlikely to be adopted. The difficulty with it is that in very many, perhaps a majority, of the states the conditions of education and the general attitude

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of the public are such as to render it extremely unlikely that standards so high will be adopted, or, if adopted, enforced, so far as admission to the bar is concerned. The reasons for this are many, and were pointed out by Mr. Richards in the address of last year.

With the permission of the Carnegie Foundation, I venture to call your attention to the proposal of a fourth plan, contained in an unpublished report to the Foundation, made some time ago by my colleague upon the Yale faculty, Mr. Hohfeld. After discussing the three plans I have mentioned, Mr. Hohfeld suggests as a possible solution that two grades of practitioners be recognized. The first or highest would be called attorneys and counselors, as at present, and would be required to satisfy tests sufficiently exacting so that there would be every reason to believe that as a class they would be able to handle efficiently the legal affairs of their clients. The second or lower class would have to pass lower tests, designed to weed out the least competent of the applicants, but not high enough to guarantee competency on the part of those satisfying the tests. This second class of practitioners would be permitted, equally with the attorneys, to engage in the general practice of the law, but would not be permitted to call themselves attorneys until they had passed the highest test laid down for the latter. The advantages of such a plan would be obvious. The "poor boy," of whom we hear so much, if unable to satisfy the ideal requirements in the way of a legal education, would not be debarred from practicing law, and might ultimately succeed in entering the higher class. Practitioners of this lower class might perhaps—to revive a good old common-law term—be known as "Apprentices at Law."

A plan of this kind would have the following advantages: (1) It would prevent the absolutely incompetent from practicing; (2) it would not mislead the public; (3) it would enable the public to choose between competent and incompetent lawyers if they so chose; (4) It would leave the way still open for those of small means to enter the profession, with the chance of ultimately reaching the higher rank. I recommend this plan to the careful consideration of all those who are interested in raising the standards for admission to the bar, in the belief that, under the circumstances existing in particular states, it may in many cases prove to be the best solution of this very difficult problem. It would more especially meet the needs of those parts of the country just referred to, in which for any reason the educational conditions or the attitude of the public render it impossible to adopt immediately a standard that insures efficiency on the part of all members of the bar. Once in force, it would, I am sure, pave the way for the higher standard which should ultimately be adopted everywhere.

Before leaving this part of my subject I cannot forbear calling to your attention the recent organization of the National Board of Medical Examiners of the United States. This is a purely voluntary body, organized, however, so as to include representatives of the United States government medical service and of the state licensing boards. It has secured adequate funds for the carrying on of its work, and proposes to conduct throughout the United States uniform examinations of applicants for admission to the practice of medicine. The Board proposes to require of all applicants for examination a full four-year high school course, two years of college work, and the completion of the regulation four-year medical course. The examinations are to cover six full days, morning and afternoon. It is hoped that the certificate granted by this National Board will come to be recognized by the various state licensing boards as taking the place of the state's own examinations, just as the college entrance examinations of the College Entrance Examination Board have supplanted the entrance examinations of the various colleges. The movement is a most promising one, and has been cordially indorsed by the Council on Medical Education and the House of Delegates of the Medical Association.

Doubtless it would be a more difficult task to make a plan of this kind work in the matter of admission to the bar, because of the feeling that the applicants should be trained in the details of the procedure of the states in which they are to practice. That such a requirement is not an essential clearly appears when we recall that almost every state admits to its practice without examination practitioners of experience from other states. The truth is that the fundamentals of substantive law and of procedure are so much alike in all our states that a thoroughly trained man—the only kind who could pass the examination of a national board constituted on lines similar to the medical board just described—has little difficulty in quickly mastering the local variations. The standards set by such a board would undoubtedly have a potent influence upon the various state boards, and uniform national examinations might ultimately result.

Our Association would, I assume, ultimate-
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ly adopt as its requirement for membership in the Association compliance with the standard for a Class A law school established by the Council on Legal Education and thus furnish an additional incentive to schools to comply with that standard. I make this assumption for the further reason that, rightly or wrongly, membership in this Association is coming to mean, and should mean, in the minds of the general public, that the school in question is, as a rule, turning out men adequately equipped to do efficiently all that a lawyer ought to be able to do. Just as the Association of American Medical Colleges has, step by step, advanced its requirements to meet those of the Council on Medical Education, the logic of the situation would compel us to do likewise.

Undoubtedly schools already members of the Association, which did not meet the tests for Class A schools, would in all fairness be given a reasonable time in which to readjust themselves. If it should be felt that a standard of this kind would put too great a burden upon some of the schools, either in the newer parts of the country or in those sections in which educational standards or public sentiment would not warrant so high a requirement, an alternative method would be to classify the members of the Association into Class A and Class B schools, without raising the standards for membership. In that event we should have to determine whether Class A and Class B schools should have an equal voice in the affairs of the Association. These details, however, may safely be left for the future to work out.

I venture now, in closing, to outline and discuss briefly the qualifications which should, if the plan here outlined is carried out, be demanded of Class A schools as a reasonably practicable ideal. Not all of these, naturally, are of equal importance.

1. First and foremost, each Class A school should be required strictly to live up to all its requirements.

2. For admission, it should require of all candidates for degrees a full four-year high school course, and in addition at least two years of college work. The content of the college work should to some extent, although not rigidly, be prescribed.

3. It should have at least a three-year course of study. My own judgment is that it should be four. This I shall discuss later.

4. The major portion of a student's work should not be permitted to be done after 4 p.m. for the reasons previously discussed. Furthermore, the major portion of a student's work should not be permitted to be done after 4 p.m. for the reasons previously discussed.10

5. Actual work in residence for the three or four full years should be insisted upon. Neither office study nor correspondence study should be considered as taking the place of classroom work.

6. As a rule, full advanced standing should be granted only to students from other Class A schools. Certain exceptions could be allowed under rules prescribed by the Council. Here much can be learned from the experience of the Medical Council.

7. If a three-year course is permitted at first, the degree in law should not be conferred until after the completion of a fourth year, either in a Class A school or in an office; and as soon as possible all Class A schools should be required to establish a four-year course.

8. To some extent, though not in detail the Council should outline the curriculum. Here it would be necessary to proceed with great caution.

9. Each Class A school should be required to have at least five thoroughly trained professors, salaried so that they may devote their entire time to instruction and research. This number should ultimately be increased when the four-year course is adopted.

10. The rules of the Council should require such material equipment in the way of buildings, library, etc., as we all know are essential for a really first-class school. The rules should also require that the Class A school show evidences that the equipment and facilities are being intelligently used in the training of law students.

11. The rules should farther require every Class A school to keep accurate written records of every student's pre-legal education as well as of his record in the school, so that inspection would be easy.

12. The Council would have to consider whether a first-class school can be maintained on an income derived solely from fees of students; and, if not, what income in excess of fees is necessary. On this point I express no opinion.

Such in barest outline is my conception of the standard which the proposed Council should erect as the minimum toward which every reputable law school should strive. Permit me to comment on two features of this standard:

(i) The entrance requirement is fixed at two years of college work, always with the understanding that any school is at liberty to demand more. This is the point at which our medical brethren have halted, apparently to stay. In the opening address at the Twelfth Annual Conference of the Council on Medical Education held in this city last

thought and energy to something else. In this day of scholarships, student loan funds, etc., it is believed that such attempts should, as a rule, be discouraged.
February—which, by the way, was attended by 329 delegates—the Chairman of the Council on Medical Education, in discussing this very question, said:

"College and university educators generally and such educational foundations as the Carnegie Foundation have practically unanimously advocated what is known as the six-year combined course; i. e., after a four-year high school, two years in the university, with special attention to physics, chemistry, biology, and modern languages. The requirement of a college degree for admission to the medical school is not essentially a higher standard, but tends rather to discredit the good judgment of those responsible for such a requirement. They fail to appreciate the proper relationship that should exist between general education and medical education, and the important element of time that must be considered in the long preparation necessary for medicine. The medical schools have gradually accepted the position taken by the universities as shown by the fact that to-day 51 of the 95 schools have adopted for admission two years of college work, and it is evident that the 20 schools that will survive out of the remaining 40 will also adopt the two-year university science requirement for admission."

The experience of some of our law schools with the two-year requirement has apparently been unsatisfactory. The dean of one school informs me that they found the records of students who entered with two years of college work hardly as satisfactory as those of students who entered with merely high school preparation. I take it that the facts were as stated, but believe that the explanation is a simple one. When first introduced, the two-year requirement is an unusual one and calls upon a man to do an unusual thing. Moreover, if he does it, he sacrifices his college degree, and gets no specific recognition in the way of a degree for his two years of college work. The result is that the better and more ambitious students do not avail themselves of the privilege of entering at this time. If, now, the end of the two-year period becomes the recognized point for taking up professional study, and if the student is not required to sacrifice his baccalaureate degree, the problem is solved.

In medicine this result is being achieved. Upon the completion by a student of two years of college work and two years of the professional medical course many universities now confer the degree of Bachelor of Science in Medicine. The exact number of institutions doing this I have been unable to ascertain, but I am informed that the practice is a growing one. It is, of course, merely a following of the precedents set by schools of engineering and of architecture. It is not as though this lengthening of the legal curriculum necessarily meant any loss of time; this need not be the case if the year be taken away from the place where, at present, it is spent to the least advantage, and this, again, would act as a powerful stimulus to many, after they have left the school, to continue their scientific studies.

(2) Closely connected—indeed, in my own mind inseparably connected—with this question of pre-legal requirements is that of the length of the law school course. If the course is only three years in length, entrance requirements can be placed higher than if it be four years. To-day the standard law course is three years in length, but there are many signs of a change. Medicine has advanced from two to three, from three to four, and now there is a growing movement to defer both granting the medical degree and admission to practice until a fifth year has been spent by the candidate as an intern in a hospital. Six medical colleges already have adopted this last requirement, and some states demand it for admission. It will doubtless soon be the generally recognized standard.

That a lengthening of the law course is likely to occur in the near future is shown by the following facts:

(1) At the meeting of this Association held in 1914 my colleague, Professor Hohfeld, in his paper on A Vital School of Jurisprudence and Law, suggested increasing the law course to four years, reducing correspondingly the time devoted to pre-legal college work. 11

(2) At the same meeting I recall having been told that at one of the Round Table Conferences the same subject was discussed and that there appeared a surprisingly large sentiment in favor of lengthening the course to four years.

(3) In his report to the Carnegie Foundation, made in March, 1915, Professor Redlich suggests the wisdom of the same course of action. Professor Redlich says: "Three years appears entirely too short for a legal education, pursued with the earnestness and thoroughness which characterizes the leading university law schools of America at present."

In general, this lengthening of the period of law study would undoubtedly permit a deepening in various directions of the students' theoretical knowledge of the law, and this, again, would act as a powerful stimulus to many, after they have left the school, to continue their scientific studies.

It is not as though this lengthening of the legal curriculum necessarily meant any loss of time; this need not be the case if the year be taken away from the place where, at present, it is spent to the least advantage, namely, from the college. It would lend me too far, and I ought not to venture on the


basis of my own very insufficient personal experiences, to say here anything definite in regard to the efficiency of the present-day American college. The question is too difficult, and involves too many important considerations. But much that I have heard and read of the college and of its success in its present form, much that I could observe for myself, leads me with all caution to the conclusion that, in those very institutions in which college work is taken as a preliminary to law, the benefits of the college training could easily be secured to future law school students by setting a more rigorous pace in the period of time shortened by a year. The gain of this full year would undoubtedly, however, be a good thing for the law school and hence for legal education.”

(4) In June, 1915, we find Dean Stone of Columbia advocating the same plan, with emphasis upon recovering a year from the college if we lengthen the law course.

(5) In the same year the University of Michigan Department of Law introduced its optional four-year course, which went into effect this year. Under this plan two years of college work and three of law are required of candidates for the degree of Bachelor of Laws, and three of college work and three of law, or two years of college work and four of law, of candidates for the degree of Doctor of Law. The latter degree is conferred only if the candidate does exceptional work; if he does not, he receives for the completion of the three-year course the degree of Bachelor of Laws and for the four-year course the degree of Master of Laws.

(6) In August of the present year the Section on Legal Education of the American Bar Association voted unanimously that a fourth year should be required for admission to the bar, to be spent either in a law school or in an office.

(7) At a recent banquet of the Law Association of the University of California Dean William Carey Jones advocated the four-year course of study based upon two years of college work.

(8) The most recent action has been taken by the Northwestern University School of Law. Beginning in 1918 this school will require of candidates for law degrees either three years of college work and four of law, or four of college work and three of law, with the added requirement for those taking the three-year course that they obtain 75 semester hours of credit, instead of 70, as in the past.

You have all doubtless read Dean Wigmore’s discussion of this action in the December number of the Illinois Law Review.

In the same number is found a discussion of the problem of the four-year course by Dean Martin of Creighton University. Rumors are constantly coming in of discussions of this problem by law faculties; in some, it is said, action is impending. A teacher in one of the leading schools writes me that for many years he has had a feeling that the law school course should cover four years, and one year less of college work be required for admission, but that no increase to four years should be made without recovering a year from the college. He is, of course, discussing the proposition upon the assumption that a college course should be required if the law course covers only three years. It is at once apparent that—as previously stated—the two questions of pre-legal work and the length of the law school course are thus inseparably connected and must be considered together.

It is not my intention at the present time to weary you with an extended argument for the four-year course. That it is coming, and coming soon, I am thoroughly convinced. The reasons for the change are set forth in detail by Dean Wigmore, Professor Hohfeld, and the others to whom I have referred. One point only do I wish to emphasize, and that is this: If our law schools are to send out men adequately equipped, not merely to practice their profession at the bar, but also to do their part, as judges, as legislators, as legal authors, as legislative draftsmen, as members or advisers of administrative commissions, and as citizens, in guiding the development of our legal system in this period of storm and stress, when our legal institutions are being revamped so as to adapt them to the changed needs of society—if our law schools are to do this, they must require of all professional students appropriate courses in legal history, comparative law, and general jurisprudence for which no place can be found in the three-year course unless we displace subjects which cannot be spared without serious loss to professional efficiency. As it is, apparently time cannot be found within the three-year course for the adequate treatment of many topics, especially procedure and practice, without unduly encroaching upon the fundamental substantive law courses.

If a four-year course should be adopted, with adequate courses along the broader lines indicated, it is clear that without the sacrifice of liberality and breadth of culture we could do away with a year of college work that otherwise ought to be required. The study of legal history, Roman law, comparative law, analytical jurisprudence—of jurisprudence in all its phases—the study of these under men competent to teach them, would certainly do as much for the student, both in the way of mental training and of breadth of culture, as the year of college...
work which would be omitted. Indeed, it is probable that it would do much more, for all of us who have had experience in instructing both undergraduate college students and students in the professional schools know how much more earnestly on the average the latter devote themselves to their intellectual work. Compare, for example, the mental training derived from a course in analytical geometry or calculus with that which would be received from a thorough course in analytical jurisprudence. Can there be any doubt that the mental training received in the latter by students who approach the subject with the earnestness of the average professional student would be fully equal to that commonly derived from the former by the typical college undergraduate? I believe there cannot be two answers to this question.

I therefore recommend to this Association that it express itself officially upon the matter by adopting a resolution favoring the addition of a fourth year to the standard law school curriculum. This resolution should also specify the smallest amount of college work which should be required for admission. It is especially necessary that action be taken now, for there is a strong movement among some members of the bar who are not law teachers to demand that the fourth year be spent in an office, on the theory that only there can procedure and practice be adequately acquired. A requirement of this kind of course entirely ignores the most important reason for the lengthening of the course—the necessity for instruction in the broader fields of legal history, comparative law, and jurisprudence in general.

In case my recommendation looking to the creation of the Council on Legal Education should not commend itself to the Association—which, however, I hope will not be the case—I desire to recommend to the incoming Executive Committee that they consider the advisability of the following changes in our requirements for membership:

1. An amendment providing that all members of the Association shall require of all candidates for degrees two full years of college work prior to beginning the study of law; no student to be admitted as a candidate for any law degree until he has fully complied with this requirement.

2. An amendment determining the extent to which schools which are members of this Association may give credit for work done in schools not members. This matter has been carefully regulated by the Council on Medical Education. We must do the same if our standards are to be preserved.

3. An amendment empowering the Executive Committee to demand from members, as a condition of continued membership in the Association, the keeping of full and accurate written records of the educational history of each student, both before and after his admission to the school. Four years' experience on the Executive Committee convinces me that a provision of this kind is absolutely essential if the Committee is to do its duty of determining from time to time whether the Articles of Association are being complied with by members.

If these recommendations be thought to establish too high a standard, then I recommend that steps be taken to establish this higher standard for Class A schools, and that members who do not or cannot in good faith comply with that standard be classified separately as Class B schools. To do less would be to continue to mislead the public.

I am very hopeful, however, that this Association will see its way clear to undertake the work of establishing, in co-operation with the American Bar Association, the Council on Legal Education which I have outlined. Somehow, in some way, by some organization or group of organizations in a position to speak with authority, a Council on Legal Education or some similar body must be created, for the purpose both of erecting standards of legal education and of admission to the bar, and of undertaking and carrying through the work of educating the law schools, the members of the legal profession, and the public generally, so that the standards thus established may be made effective.

In the absence of other leadership, shall the law schools fail to lead the way?

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ROUND TABLE CONFERENCES

Thursday, December 28, 1916, 2:30 P. M.

Round Table Conferences were held on the following subjects: Public Law, Contracts, and Property.

The chairman and the topics are given on page 285 of these Proceedings.

SECOND SESSION

December 28, 1916, 8 P. M.

The President: The papers for this evening have been printed and sent out. There seems to be some doubt as to whether or not they have actually been read by the members of the Association prior to the meeting. I am asked to inquire what are the wishes of the Association. Do you wish the authors of these papers to read them, or have you all read them and are sufficiently familiar with the contents, so that that is not necessary? They are here and are ready to read them, or summarize them, if you so wish it. On the other hand, they are modest enough to give way to open the discussion, if you are already sufficiently informed about their contents. What is your wish? Those of you who are in favor of having them read will say aye; opposed, no. The ayes seem to have it. The ayes have it. It is a vote. The first paper is on "The Legal Clinic" by Professor Morgan, University of Minnesota.
Mr. Freund: Might not the authors of the papers be allowed to substitute a brief analysis of their papers?

The President: If they wish.

Mr. Morgan thereupon gave a summary of his paper upon "The Legal Clinic."

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The Legal Clinic

By E. M. MORGAN
Professor of Law, University of Minnesota

If the records of the proceedings of the various bar associations are a correct index of the opinions of lawyers, it would seem clear that a knowledge of practice should be a prerequisite to admission to the bar. Since we have nothing in this country equivalent to the French probationary period, or to the period between the German Referendar and Assessor examinations, such knowledge must be obtained either in a law school or in the office of a practitioner.

It is now generally conceded that a thorough training in legal reasoning and the principles of substantive law can be gained with less waste of effort in the law school than in the law office. There is widely prevalent, however, an impression that practice can be learned much more economically and satisfactorily in the office. It is doubtful true that familiarity with the principles of practice and their application could be most effectively acquired in some offices, if the lawyers in charge thereof were so minded. But only in those offices having a general practice could anything like a comprehensive knowledge of the subject be attained without a great deal of independent investigation. At present, the offices of general practice are few; and in those few, the experienced men is considered too valuable to be spent in the instruction of embryo jurists. In offices of specialized practice there is neither time nor opportunity for instructional work in general practice. In short, while theoretically the law office seems the logical place to get a well-rounded training in practice, the facts do not sustain the theory.

The average young man who enters a law office is required to run errands, to paste annotations in statutes and reports, to collect authorities upon narrow questions specially submitted to him, or, in exceptional cases, to draw briefs. Occasionally he makes investigations of fact, but usually he merely locates the witnesses and arranges for interviews between them and his superiors. He practically never meets a client, and he seldom if ever, assists in the actual trial of a case. He is kept so busy at the tasks assigned him that he has little opportunity for independent study or for visiting the courts.

It is true that he gradually becomes familiar with the practice in those classes of cases usually accepted in the office to which he is attached. But his general information upon the subject is very meager.

Furthermore, in many of our states, numerous young men have no desire, time, or opportunity to enter offices. They plan to practice in rural communities. To enter the office of a city lawyer, and to spend a year or more there, merely for the purpose of becoming acquainted with the rules of practice, would be most uneconomical; a sufficient number of country offices are not available.

Consequently it falls to the law school to give some instruction in practice as well as in substantive law.

There would seem to be no more reason for failing or refusing to teach the principles of practice than for dropping the usual courses on pleading and evidence. Why should a law school teach the requisites of pleadings, the effect of defects and irregularities therein, and the method of attacking them, and refuse to give instruction as to the same matters with reference to process? Is it less essential that a student know the effect of an appearance than that he know the effect of pleading over? The principles underlying the right to a jury, the selection of jurors, and the right to open and close, to take or force a dismissal, and to secure a directed verdict; the rules governing instructions to the jury and requests therefor; the privileges and limitations of counsel in arguing to the jury; the prerequisites and grounds of motions for a new trial, judgment notwithstanding the verdict, or an appeal—all these and other matters of practice are as important as the rules of evidence. They are almost as adequately treated in the decisions, and are as readily and as satisfactorily taught by the case method. And, in fact, the rules of pleading are of little practical value unless properly articulated with the rules and principles of practice.

But it is one thing to know the principles and rules of pleading evidence, and practice, and quite another to be able quickly and accurately to recognize their applicability and actually to apply them, to concrete cases. The real criterion of one's knowledge of procedure is one's ability to apply its rules, as well as the principles of substantive law, not to cases where only the relevant and material facts are given, but to cases as they actually arise in everyday life and as they are presented in court. As the medical or surgical student may know his theory and the rules for diagnosis and be practically useless at the bedside or in the operating room, so the law student may know his theory and be helpless before a real client or in court. To complement his theoretical training, the former has the medical or surgical clinic; the latter has nothing of the sort. The reasons for this discrepancy are