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To the Committee on Graduate Study:

I am submitting to you a thesis written by Clyde Conley Street entitled "A History of Legal Education in Tennessee." I recommend that it be accepted for nine quarter hours credit in partial fulfillment of the requirements for the degree of Master of Arts, with a major in History.

J. B. Sanders
Major Professor

We have read this thesis
and recommend its acceptance:

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Accepted for the Committee

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A HISTORY OF LEGAL
EDUCATION IN TENNESSEE

A THESIS

Submitted to
The Committee on Graduate Study
of
The University of Tennessee
in
Partial Fulfillment of the Requirements
for the degree of
Master of Arts

by
Clyde Conley Street
June 1941

FOREWORD

In the past much criticism has been directed against Tennessee for her backwardness in legal education standards; and perhaps, frequently with no little justification. It is believed that this work will indicate that legal education and standards have shown marked progress over the past few decades.

Little has been done on the history of Jurisprudence in Tennessee. The author has attempted to collect and organize certain data in the field of legal education that would show the evolution of standards of preparation for admission to the Bar. He has made general comparison of early Tennessee lawyers with those of the present as to educational qualifications; and he has called attention to the immense work that has been done in the codification of the State's laws. Facts concerning the founding and growth of our law schools have been compiled, as well as evidences of the tendency to continually raise standards of legal as well as pre-legal education.

The greatest bulwarks of efficiency-growth of the Tennessee Bar are the Supreme Court, whose require-

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ments for admission to the Bar are constantly growing in complexity; and the Board of Law Examiners, who have long since ceased making the Bar examination a matter of form in the process of acquiring membership to the Bar.

This work does not show that Tennessee has advanced to the last rung in the ladder of legal education, or that she is in a position to look down upon her neighboring states; perhaps it does show that she is progressively meeting the challenge, thrown out by a complex business and social world, for greater efficiency in the field of Jurisprudence.

The author gratefully recognizes the helpful suggestions and patient assistance of Drs. J. B. Sanders and S. J. Folmsbee, of the History Department, University of Tennessee, and E. Lucy Ogden and Helen H. Turner of the Library Staff, University of Tennessee Law Library, in the preparation of this work.

C. C. S.

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CHAPTER I

THE STANDARDS OF LEGAL EDUCATION ARE RAISED PROGRESSIVELY

Tennessee, the sixteenth state of the United States, chronologically, was admitted to the union¹ June 1, 1796. At the time Tennessee was admitted to the union there seems to have been a deal of litigation. Whether this was due to the number of criminals who were inevitably found on the frontier, or to misunderstandings as to boundary lines of real property, we are not so sure; perhaps both.

At any rate the practice of law was lucrative. As a matter of fact it was doubly attractive to young men. In addition to being lucrative it afforded the most accessible route to a political career. An aspirant to the profession of law was handicapped because of the inaccessibility of law schools. He usually read law in the office of some lawyer, learned a little of the routine of practice, obtained a license, and began

¹ Philip M. Hamer (editor), Tennessee- A History 1673-1932 (New York: American Historical Society, Inc., 1933), p. 183.

practicing in his own office. In 1798, while Tennessee was in her second year of statehood a law was passed providing that an applicant for a license to practice law must pass an examination before two or more judges of the Superior Court of Law and Equity; and if he had a "competent share of law knowledge" and was "a person of upright character," he could be granted a license to practice law anywhere in Tennessee, and in any court in the state. A subsequent law was passed providing that no particular period of study was to be required of applicants in order to take the examination.²

Immigrants began to cross the Alleghanies for the purpose of establishing settlements in the present State of Tennessee in the year 1769. The first of these settlements was on the Watauga river, the present site of Elizabethton. By 1772 so many settlers had crossed the mountains it was necessary to establish some form of government. In May of that year there was formed a "Written Association." Five commissioners were appointed to decide all matters of controversy arising in the

² Ibid., p. 374.

settlement. This organization constituted the first court³ west of the Alleghanies.

The court held its first sessions near the mouth of Gap Creek which flows into the Watauga river at Sycamore Shoals, between the present towns of Elizabethton and Johnson City. The sessions were held at this particular site because of the latter's proximity to the fort, a fact which indicates that danger from the ruthless Cherokee was imminent. As the community grew in size and population, and when safety permitted, the court held its sessions in the homes of the more prominent settlers. In 1779, however, the settlement moved the court to Jonesboro where a log building, without windows or floor, had been constructed. In 1784 the authorities of Washington County built a more spacious house, the plan being as follows: "Twenty-four feet square, diamond corner, and hewed down after the same is built up; nine feet high between the two floors, and body of the house four feet high above the upper floor; each floor to be neatly laid with plank; the roof to be of joint shingles hung on with pegs; a justice's bench, a lawyers' and

³ Samuel Cole Williams, "The Washington County Bar-The First Bar West of the Alleghanies," in Proceedings of the Sixteenth Annual Meeting of the Bar Association of Tennessee (Nashville: 1897), p. 95. For a more extended discussion see James Phelan, History of Tennessee (Boston: Houghton, Mifflin and Company, 1888), pp. 20-37.

clerk's bar; also a sheriff's box to set in.⁴

In 1776 the inhabitants living in the "Washington District" petitioned North Carolina to be taken under her jurisdiction. The petition was granted in 1777 and in the following year, 1778, the county court of Washington County became the court of common pleas and quarter sessions under the jurisdiction of North Carolina. The five commissioners became justices of the peace and members of the new court.⁵

From the foregoing facts it appears that the courts sitting at Jonesboro were not original courts but legitimate successors to them. In 1782 the legislature of North Carolina, in response to demands of the western settlers, established at Jonesboro a "court of oyer and terminer and gaol delivery," with jurisdiction over all counties then established. Later the whole settlement "west of the mountains" was erected into a "superior court of law and equity" district. Jonesboro was the site of the district and later was the site for the superior court for the entire territory south of the Ohio river, and there, in 1791, was established

⁴ Williams, loc. cit., pp. 96-97.

⁵ Ibid.

the first court exercising equitable jurisdiction in
the West.⁶

Of the first court, the Watauga Commission, we know very little because of lost records. It is well known, however, that two of its very prominent lawyers were Luke Bowyer and Ephriam Dunlap. Luke Bowyer was prosecuting attorney for the district for some time, but it seems that he gradually lost his prestige because of a temper over which he had little control. The records, scarce as they are, indicate several instances in which he was fined, and even bound in the stocks, for failure to show proper respect for the courts. Later records show that Bowyer continued to be a source of annoyance to the courts, but always held himself under sufficient control to escape fines. He also became prosecuting attorney and later recruiting officer in the American⁷ army, then engaged in the struggle for independence.

Minutes of the court refer to motions of Dunlap to commit one, Isaac Buller to "gaol" to be held until he could be delivered to an officer of the continental army to be conveyed to head-quarters. It appears that Dunlap practiced before the court for almost a year

⁶ Ibid., pp. 96-97.

⁷ Ibid., pp. 97-98.

without a license. The minutes show that John Sevier, Clerk of the Court, was ordered to certify to the Chief Justice of North Carolina "that Ephriam Dunlap is a gentleman of honesty, probity, and good behavior, and well qualified to act as an attorney." Whereupon Dunlap obtained a license. It may well be concluded that the Watauga Association had considered itself powerful enough to permit the practice of law without a license from the State of North Carolina. In 1782 Dunlap relinquished his office and his practice seems to have suffered a steady decline. The explanation was perhaps the arrival from across the mountains of more scholarly⁸ lawyers.

In 1777 Waightstill Avery and William Sharpe, two North Carolina lawyers, were sent into the territory to negotiate a treaty with the Cherokee Indians. Seeing, as they believed, a golden opportunity for the practice of their profession, they became regular attendants⁹ at the courts of the settlement.

Avery was a native of Connecticut and a graduate of Princeton. He was admitted to the North Carolina bar in 1769. He appeared before the Washington County

⁸ Ibid., pp. 98-99.

⁹ Ibid.

court in the August, 1778 term, as a practitioner. He is said to have had the finest library in North Carolina at that time. During the twenty years that he attended court at Jonesboro he was not evenly matched by any lawyer. History seems to verify the statement that he was sometimes, in fact very often, spoken of as "the lawyer." He died at his home in Morganton in 1821.¹⁰

William Sharpe seems to have made his first appearance in court at Jonesboro at the May term, 1779. He continued in the practice there for many years, though he never attained the peak of popularity enjoyed by Avery. He held two positions of honor and distinction. He was a member of the first Constitutional Convention of North Carolina, and was a member of the Continental Congress in Philadelphia from 1779-1782.¹¹

Spruce McCay, a North Carolina lawyer of the Salisbury Circuit, visited Jonesboro in 1779. He was admitted to the bar and practiced there for some time. He later became circuit judge, and on August 15, 1783 he opened the first term of the court of oyer and terminer to be held in what is now Tennessee. He thus

¹⁰ Ibid., pp. 99-100.

¹¹ Ibid., pp. 100-101.

enjoyed the distinction of being the first lawyer-judge to hold court on Tennessee soil. John Sevier was clerk of the court.

William Cocke, a Virginian, moved to the Watauga settlement about 1774 or 1775. He found employment with the Richard Henderson land company, which had recently acquired from the Cherokee Indians the vast expanse of territory lying between the Kentucky and Cumberland rivers, afterwards called Transylvania. One of the first bills in equity filed at Jonesboro shows William Cocke as complainant, the Henderson company as defendant, and John Rhea as attorney or solicitor. The prayer was for ten thousand acres in consideration of services performed. At the February term, 1780, the minutes show, the court ordered the clerk to make application to the judges of the Superior Court for a license to practice law to be issued to William Cocke, stating that he was a man of probity and character. The license was obtained in 1782. He was decidedly successful in his profession, perhaps ranking next to Avery.¹²

Alexander McGinty was admitted to the practice of law about 1787. He seems to have possessed the

¹² Ibid., pp. 103-104.

necessary qualifications of a successful politician, and within a short time he became state's attorney. The following is an excerpt from the minutes of the May term, 1788: "Alexander McGintry, attorney for the state in this county, having, of want of act of the assembly crept into an error of taking two pounds instead of one pound six shillings and eight pence, was¹³ by the court, freely pardoned at his own request."

In 1788 Andrew Jackson appeared in the Jonesboro Court with a license to practice law. He was a former student of the above mentioned Spruce McCay, having studied law under him at Salisbury, North Carolina. It was perhaps at McCay's instance that Jackson crossed the mountains. Shortly after Jackson located at Jonesboro he represented his first client. His opponent was the veteran Waightstill Avery, who in addition to his experience and ability had the better side of the case. Jackson, foreseeing defeat, decided to play a practical joke on Avery. Avery, as did most circuit riders, carried his books in his saddle bags, where they remained, even in the court room. In this particular case Jackson knew that Avery's case in point

¹³ Ibid., p. 104.

was in Bacon's Abridgment, which was in Avery's saddle bags. Jackson removed the book and substituted a side of bacon. Whereupon Avery, thinking that he was unwrapping Bacon's Abridgment, was very much embarrassed and perplexed when he found the slab of meat instead. However, Avery won the case. He gave Jackson a severe tongue-lashing, whereupon Jackson challenged him to a duel. After receiving the second challenge Avery accepted and the duel was fought near the courthouse in Jonesboro August 12, 1788. The antagonists fired a few shots¹⁴ and then abandoned the duel to become warm friends.

In February, 1791, Jackson was retained by one Daniel Shelby, who brought suit against Andrew Greer. It seems that Greer was a dangerous character and kept the sheriff from serving the warrant, threatening his life with a knife and stick. Jackson then obtained an alias capias and put it in the hands of deputy sheriff Russell Bean. Bean was a man whose animosity was feared by those who knew him. He served the process and marked the return thus: "Executed July 13, 1791." A few years later Jackson was to have a different experience with Bean. Bean had been arrested on a criminal charge and

¹⁴ Ibid., pp. 104-105.

had escaped. The sheriff was unable to retake him, whereupon Jackson, who was then judge, asked the sheriff to deputize him. This the sheriff did and Jackson brought Bean into court. It is believed that Bean submitted to arrest to save Jackson's honor rather than through fear of him. Jackson located in Nashville in the winter of 1788, but frequently returned to practice in the Jonesboro Court until his election to Congress¹⁵ in 1796.

The admission of new lawyers to the bar became rather frequent about the 1790's. Among those admitted in the late 1780's and 1790's were John McNairy, Archibald Roane, Daniel Allison, John Rhea, John Blain, Hopkins Lacey, William Charles Cole Claiborne, William Tatham, John Sevier, Jr., and Jenkins Whiteside. The lawyers heretofore considered paved the way and illumined the profession for such later worthy sons as John Blair, Thomas Emerson, Landon C. Haynes, Thomas A. R. Nelson, Seth J. W. Lucky, and James W. Deaderiek.¹⁶

The difficulties that had to be overcome by this early bar were numerous. These early lawyers had very

¹⁵ Ibid., pp. 105-106.

¹⁶ Ibid., pp. 107-110. For a more elaborate study of early Tennessee Lawyers, see Joshua W. Caldwell, Sketches of the Bench and Bar of Tennessee (Knoxville: Ogden Brothers and Co., Printers, 1898), pp. 1-399.

little opportunity to acquire an education. Much depended upon personal ambition and initiative. Months and months of reading and study, often without the bar-est instruction, were required-not as a prerequisite to obtaining a license, but in acquiring a sufficient knowledge of law and being able to cope with cool logical competition at the bar.

The lawyers of this early period were forced, in order to keep busy, to ride the circuit of the courts. About 1790 they rode from Jonesboro to Nashville; later Knoxville was added to the circuit. The journey was long and hazardous, requiring at first the protection of an armed guard. Later the guard was discontinued but the circuit riders were forced to spend nights before the campfire in the wilds of the Cumberland mountains because of the distance between the settlements.¹⁷

We have seen that in the early years of the statehood of Tennessee, obtaining a license to practice law and admission to the bar was in the main a matter of form. Prior to 1903 two chancellors or judges had authority to issue a license to practice law if satisfied with the applicant's qualifications. The faculty of

¹⁷ Williams, loc. cit., pp. 110-111.

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any law school had the same authority.

Among the earliest laws passed concerning the issuance of a license to practice law were the following: "Any two judges or chancellors of this State may examine the applicant touching his legal acquirements; and if satisfied of his qualification, and that he is of good character, shall grant him a license to practice law in the different courts of the state."

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"An act to authorize the faculty of the Law Department of the Cumberland University to grant license to practice law. Be it enacted by the General Assembly of the State of Tennessee, That the Faculty of the law department of Cumberland University, or any other law school in this State shall have the same power to grant license to practice law in the courts of this State, that the Judges of the State now have. This act to take effect from date of its passage."

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In 1881 a corporation was chartered by the State of Tennessee called the Bar Association. This organization met annually and continues so to do. One of the standing committees in this organization is the Committee on Legal Education and Admission to the Bar.

18 Proceedings of the Forty-Sixth Annual Session of the Bar Association of Tennessee (Johnson City: 1927), p. 154.

19 Return J. Meigs and William F. Cooper (editors), Code of Tennessee Enacted By the General Assembly of 1857-1858 (Nashville: E. G. Eastman and Company, State Printers, 1858), Sec. 3967. p. 716.

20 Public Acts of the State of Tennessee, Passed at the First Session of the Thirty-Third General Assembly (Nashville: E. G. Eastman and Co., Public Printers, Union and American Office, 1860), Book I, Chapter 73, p. 56.

This committee had its origin in the first meeting of the Bar Association in 1883. This committee and the association as a whole recognized the evils of a lax²¹ system of admission to the Bar such as Tennessee had. Each year at their meetings an effort was made to get²² the Legislature to raise the standards. In 1903 they²³ were rewarded with success.

In 1903 an act was approved by the state Legislature which deprived chancellors, judges, and faculties of law schools of the privilege of issuing licenses to practice law. The law provided for the creation of a Board of Law Examiners consisting of three members appointed by the Supreme Court. The members were to hold office for three years, except that under the first appointment they should hold one, two, and three years²⁴ respectively. All applicants for a license to practice law should be examined at Knoxville, Nashville, Jackson²⁵ or Lebanon. Later Memphis and Chattanooga were added,

²¹ Charter, Constitution, and By-Laws, Together With the Proceedings of the Bar Association of Tennessee, at its First Annual Meeting (Nashville: Marshall and Bruce, Stationers, 1882), pp. 11-29.

²² Proceedings of the Twenty-Second Annual Meeting of the Bar Association of Tennessee (Knoxville: 1903), pp. 12-13.

²³ Ibid., p. 13.

²⁵ Ibid.

²⁴ Ibid., p. 15.

the Supreme Court being authorized in the act to
²⁶
 designate other places if necessary. The Supreme
 Court was given authority to prescribe the rules by
 which the Board of Law Examiners should be governed
 in administering the examinations. Each applicant was
 to pay a fee of five dollars to the Board. The Board
 was to give an annual account on December 31 of receipts
 and disbursements to the Secretary of State. If the
 fees collected were insufficient to pay the salary,
 which was two-hundred fifty dollars per annum, and the
 expenses of the Board of Law Examiners, the Comptroller,
 upon order from the Secretary of State, was to draw a
²⁷
 warrant for the deficiency.

The Board of Law Examiners was to certify to the
 Supreme Court the names of all applicants who passed
 the examination. If the applicants in other respects
²⁸
 complied with the law a license was granted.

The act further empowered the Supreme Court to
 make other provisions, rules, and regulations as it
 might see fit for admission of persons who had been

²⁶ The examinations are given at Knoxville, Nashville, and Memphis, at present, in June and January of each year.

²⁷ Ibid., p. 13.

²⁸ Ibid., p. 15.

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licensed to practice law in other states.

The Supreme Court and Board of Law Examiners met at Jackson in April, 1903, for the purpose of prescribing rules for uniform examinations. It was agreed that no license to practice law should be issued except upon the certificate of the State Board of Law Examiners. Each applicant should file his application containing certain information obtained from the clerk of the county court of his residence, such as his place of residence, citizenship, character, etc., and should pay a fee of five dollars, ten days before the examination was to be given. The subjects upon which the applicant was to be examined were: real and personal property, personal rights, torts, contracts, partnerships, bailments, negotiable instruments, principal and agent, principal and surety, domestic relations, wills, corporations, equity and jurisprudence, evidence, common law and equity, pleading and practice, criminal law and evidence, and upon the principles of the constitutions of the State and of the United States and legal ethics.

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Another rule provided that if an applicant failed to pass the examination he could be examined at any

29 Ibid., p. 16.

30 Ibid., p. 16.

regular meeting of the Board after three months without payment of an additional fee. Later a rule was passed providing for payment of a fee of three dollars (now ten) by the successful applicants before obtaining a license. The Board was given authority to examine applicants orally, but the examinations were usually written.³¹ For the past several years they have, without exception, been written.

An applicant from another state, who has received a license to practice law in that state or, some other, must present a license to the Board duly certified, or a court record showing his admission. If such license conferred upon him the right to practice in the highest courts of that state and the methods of admission were equal in difficulty to those in Tennessee, he should receive a license without examination. Or if the applicant had practiced law five years under such license and was otherwise worthy he was to be granted a license without further examination.³² Powers and duties of the Board of Law Examiners are considered more fully in a subsequent chapter.

³¹ Ibid.

³² Ibid., pp. 16-17.

We have seen that an important step was taken in the elevation of the standard of legal education in 1903. However, the State Bar Association was not satisfied with mere uniformity of examinations and admission to the bar, but insisted upon some prerequisite as to pre-legal education or as to the actual time and place the applicant studied law.

In 1919 the Legislature passed an act which greatly broadened the powers of the Supreme Court with reference to prescribing rules of admission to the Bar. "The Supreme Court shall prescribe rules to regulate the admission of persons to practice law and provide for a uniform system of examinations, which shall govern and control admission to practice law, and such Board in
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the performance of its duties."

In the same year the Supreme Court revised the rules pertaining to taking the examinations for admission to the Bar. The revised rules provided that the State Board of Law Examiners should have at least one month to consider an application, that the applicant must have at least a high school education, and that for at least one year he must have studied the principles of law and

33 Public Acts of Tennessee Passed by the Sixty-First General Assembly (Jackson: McCowatmercer, 1919), Chapter 154, pp. 581-582.

equity in a reputable law school or in the office of a reputable lawyer who had been a member of the bar of the Supreme Court for five years. The new rules also increased the license fee to ten dollars instead of five, and the Legislature of the same year increased the examination fee from three to ten dollars.³⁴

Pursuant to the legislation and rules of revision of 1919 the State Board of Law Examiners made some very important changes in content of the application forms. Before each examination the Secretary of the Board was to furnish the State Bar Association and the Bar Associations of Memphis, Jackson, Nashville, Chattanooga, Murfreesboro, Knoxville, Johnson City, Bristol, and other Associations as the Board might designate, the names and residences of all applicants. The purpose obviously was to lessen the possibility of fraud and to expose one to the public to see if his moral character could withstand critical public scrutiny. In filling out the application blanks the applicant was asked to tell how long he had studied law, what else, if anything, he did

³⁴ Proceedings of the Thirty-Eighth Annual Session of the Bar Association of Tennessee (Memphis: 1919), p. 70.

while studying, in what school he studied (if he studied in a lawyer's office, the lawyer's name and address were to be given), whether he completed the entire course of study, how much academic education he had had and where he had acquired it.³⁵ Beyond question these new rules of 1919 had much to do with elevating legal education in Tennessee.

The Supreme Court was hesitant about prescribing new rules under the Act of 1919. It seems that the court at that time doubted whether it had jurisdiction to prescribe such a requirement under the language of the Act of 1903, citing as authorities, *Champion vs. The State* (1866), 3 Cold. 111, and *Ingersoll vs. Howard*, Heisk 247. The court further said, "Section 3695 of the Code, having prescribed the terms upon which licensed attorneys shall appear and practice in the several courts of this state, no court has the right to affix other conditions than those imposed by law."³⁶

In 1932 the Supreme Court, due to incessant requests of the State Bar Association, amended the rules regulating

³⁵ Ibid., p. 71.

³⁶ Proceedings of the Forty-Sixth Annual Meeting of The Bar Association of Tennessee (Johnson City: 1927), p.157.

the admission to practice law, now, "two years study of the principles of law and equity in a reputable law school, or in the office of some reputable lawyer who has been a member of the Supreme Court for at least five years," were required instead of one year's study, as³⁷ heretofore.

In 1933 during the meeting of the State Bar Association, the Committee on Legal Education and Admission to the Bar reported that the former rule requiring one year of legal study had been modified by the Supreme Court to the effect that after June 1, 1934 two years of legal study of the principles of law and equity were³⁸ required. Needless to say this modification, like all the others, came as a result of untiring persistence on the part of the State Bar Association. The Supreme Court had long since become satisfied that the Act of 1919 was not restrictive, and consequently made rules regulating admission to the Bar as they were directed by good conscience and the needs of the times.

In 1934 the State Bar Association held their annual

³⁷ Ibid. (1932). p. 89.

³⁸ Ibid. (1933), p. 95.

meeting at Memphis. The Committee on Legal Education and Admission to the Bar, pursuant to action taken by the Association at Knoxville in October, 1933, presented a report which is indicative of the attitude of the State Bar Association. This report stated that a petition had been presented to the Supreme Court requesting a further modification of the rules of admission to the Bar. The petition had been signed by every member of the committee. It requested that every applicant for admission to the Bar be required to have two year's pre-legal education in addition to a high school education or its equivalent. Supplementary to the petition, the committee filed as, Exhibit "C," a pamphlet which had been prepared by the American Bar Association, which showed a comparison of the legal and medical professions from 1900-1933. ³⁹

The Supreme Court was reluctant, however, to make a radical change in the rules for fear that the Legislature might become agitated and pass a law prescribing definitely the rules of admission to the Bar, thereby ⁴⁰ depriving the Supreme Court of its discretionary power.

³⁹ See APPENDIX, TABLE I.

⁴⁰ Ibid. (1934), pp. 203-207.

A recent report from the National Conference of Bar Examiners compares ten southern states as to admission to the Bar for the year 1934.⁴¹

In 1937 the Supreme Court modified the rules to the effect that a person must at least have a high school education (and not its equivalent), prior to the study of law.⁴² This is considered a very important modification, because numerous occurrences of the writer's knowledge smacked of fraud. The typically commercial law school-and they are not without existence in Tennessee-has been guilty of assuming that the applicant had the equivalent of a high school education because of age, business experience, or perhaps because he made his matriculation fee available. However gratifying this new rule of 1937 might have been to the State Bar Association they persistently clamored for higher legal and pre-legal standards.

They had not long to wait. In 1938 the Supreme Court again amended the rules so as to require the applicant to present to the Board of Law Examiners sufficient proof that he has had at least two years study in college,

⁴¹ See APPENDIX, TABLE II.

⁴² Faculty and Students of the University of Tennessee College of Law (editors), Tennessee Law Review (Knoxville: Tennessee Law Review Association, Inc., 1939), Vol.XV, p. 488.

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of a high school education.

This action put Tennessee with the majority of states concerning admission to the Bar. Tennessee is one of thirty-nine states requiring two years of college work as prerequisite to admission to the study of law. This two years' college study means the completion of one-half of the work acceptable for a Bachelor's degree granted on the basis of a four year period of residence study. Tennessee, however, is still behind the times in legal education requirements. Forty states require three years legal study, whereas Tennessee requires only two. This extra year of college study is all that the Tennessee requirements lack of meeting those of the American Bar Association, Provided the State's law schools possessed the required characteristics, which they all do not possess.⁴⁴ Perhaps at the insistence of the State Bar Association these requirements will soon be met.

Laxity of Tennessee regarding admission to the Bar is indicated by per capita representation of lawyers within the State.⁴⁵

⁴³ The rule was to have gone into effect June 15, 1940 but the date was subsequently changed to June 15, 1941.

⁴⁴ Ibid., pp. 704-705.

⁴⁵ See APPENDIX, TABLES III, IV, and V.

CHAPTER II

HISTORY OF CODIFICATION IN TENNESSEE

The conservatism or simple backwardness of Tennessee, whichever it may be, is in no way better exemplified, perhaps, than in its hesitancy in adopting and maintaining an official up-to-date code. Sixty-two years after attaining statehood Tennessee adopted her first official code, and not until seventy-three years later¹ was another code issued.

The first efforts toward compilation were made by George Roulstone in 1803, from the printery of the Knoxville Gazette. Roulstone collected all the acts of the Territory of the United States South of the River Ohio and of the State of Tennessee in 1801. These he organized in such manner that his work may be called, with some extravagance, a compilation. Roulstone's Laws is a very rare work today, and frequently sells for as² much as sixty dollars per copy when it is available.

In 1803 the General Assembly passed an act pro-

¹ Samuel Cole Williams, History of Codification In Tennessee (Johnson City: The Watauga Press, 1932), p. 9.

² Ibid., pp. 9-10.

viding for a commission of two to revise and bring together in one volume the ordinances of the governor and judges of the Territorial Assembly, as well as the acts of the General Assembly of Tennessee and the laws passed by North Carolina that might be enforced in Tennessee.³ The two commissioners were Willie Blount and Moses Fisk. Blount declined the commission and Fisk⁴ undertook the task alone. A report of the complete work was to have been made at the meeting of the General Assembly in 1805. Fisk reported that the work had not been finished and asked for an extension of time, which was granted. For some, or perhaps, many, reasons, another report was never made. Historians and jurists believe the principal reason was that it was practically impossible to assort the North Carolina Acts applicable and enforceable in Tennessee.⁵ Fisk was a graduate of Dartmouth College and an eminent educator, but perhaps not so able as a jurist and codifier.⁶

In 1807 Judge John Haywood moved from North Carolina into Tennessee. Judge Haywood had access to the statutes

³ Ibid., p.10.

⁴ Ibid., p.11.

⁵ Ibid.

⁶ Ibid.

which the North Carolina Cession Act of 1789 made applicable in Tennessee. Judge Haywood published a revised code (Revisal) which contained the North Carolina Acts applicable to Tennessee, the Acts of the Territory, and the Tennessee Acts, with a fairly adequate index. The sessions and chapters were chronologically rather than topically arranged. Three editions of Haywood's Revisal⁷ were published, the last in 1815. In 1820 Judge Edward Scott, using Haywood's Revisal and culling out the Old North Carolina Statutes, as well as adding marginal notes and making minor changes, published the Laws⁸ of Tennessee, which was the best compilation of its day.

Thus changes were being made in the organization and compilation of the laws of Tennessee; but these changes were not made as fast as times and conditions themselves were changing. In 1825 the General Assembly passed an act providing for the appointment of two persons learned⁹ in the law to revise and organize the statute laws. One thing in particular the codifiers must do: where there were two or more statutes on the same subject these were

⁷ Ibid., p. 12.

⁸ Ibid., p. 13.

⁹ Ibid., p. 14.

to be put in one statute. This commission consisted of
¹⁰
 Judge Haywood and Robert L. Cobbs. It seems that there was
 no little disagreement between these two gentlemen; for
 in 1826 the Legislature passed a resolution providing
 that when the two hopelessly disagreed, Judge Wm. L.
¹¹
 Brown should decide for them. Judge Haywood died in
 1826 and the work was completed by Cobbs. It was pub-
 lished in 1831, up-to-date in two volumes, the second of
 which was almost entirely, devoted to land litigation.

The Haywood and Cobbs Revisal was the nearest thing
 to a code in Tennessee prior to 1858, although it was
 never enacted as one. In 1834 a Constitutional Convention
 in Tennessee made numerous changes in the state laws.
 There now was great need for a new compilation of the
 statutes. The work was undertaken by two young lawyers,
 Robert L. Caruthers, of Lebanon, and Alfred O. P. Nichol-
¹²
 son, of Columbia, as a private enterprise. Their plan
 was, in the main, to arrange titles alphabetically. Prev-
 ious compilations had arranged the statutes chronologically.
 In addition to the alphabetical arrangement the statutes,

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid., p. 15.

up-to-date, were also arranged chronologically. References to important pertinent Supreme Court decisions were included, as well as the Federal and State Constitutions. Many legal forms were put in the Appendix. The work of Caruthers and Nicholson was so admirable that it served from 1836 until the enactment of the code in 1858. In 1846 Nicholson published a supplement containing the acts which had been passed during the preceding decade, arranged alphabetically, each under its title.¹³

By 1844 Tennessee was again clamoring for a new revision of the statutes.¹⁴ It seems, however, that there was then a particular scarcity of state funds. At that particular time there was a claim filed in the Chancery Court at Franklin, Tennessee, styled: State of Tennessee, Complainant vs. Smith Criddle, Defendant. It was a matter of common knowledge that the State was going to realize a sum of money as a result of this litigation.¹⁵ The General Assembly decided to use this contingent money as payment to a commission for revising the statutes. In January, 1844 a resolution was passed to that effect.¹⁶

¹³ Ibid., p. 16.

¹⁴ Ibid., p. 17.

¹⁵ Ibid.

¹⁶ Ibid.

Francis B. Fogg. of Nashville and Return J. Meigs¹⁷ were chosen to do the work. For some reason, perhaps the anticipated inadequacy of the Criddle fund this commission did not function. In 1852 the Criddle recovery was again set aside for the same purpose, and a resolution was added to the effect if it proved inadequate the governor was authorized to contract upon whatever terms desired. Return J. Meigs and William F. Cooper were employed to do the work, and were given two years in which to complete it. Upon their first meeting these gentlemen hopelessly disagreed as to the method of revisal. They finally decided to work separately. They divided the law into four parts: Public Rights, Private Rights, Redress of Civil Injuries and Crimes. The first two parts were taken by Meigs and the last two by Cooper. Cooper completed his assignment within two years, but the report could not be made to the General Assembly¹⁸ in either 1853 or 1854 because Meigs had not finished.

During the 1857-1858 session of the General Assembly Meigs and Cooper made their respective reports. A

¹⁷ Ibid.

¹⁸ Ibid., pp. 18-19.

committee was appointed for the purpose of inspecting and examining the works preparatory to their adoption as a code. This committee consisted of Senators Joseph B. Heiskell, W. P. Davis, And W. C. Whitthorne, and Representatives W. C. Dunlap, C. W. Rawles, H. B. Bate,¹⁹ Michael Vaughn, S. T. Bicknell, and Micajah Bullock.

In order to reconcile and correlate the two works a sub-committee was appointed composed of Heiskell, chairman, Bullock and Bicknell. This sub-committee and the code commissioners worked together for several months before the work was ready for adoption. Upon examination it was found that the real codification had been done by Mr. Cooper, and consequently the honor of preparing the Code of 1858 rightfully belongs to him. Some accounts derogatory to Cooper's part in preparing the Code of 1858 have been offered, but have been thoroughly²⁰ disproved. Perhaps sub-committee members deserve some credit; but the influence of Mr. Cooper cannot be doubted. It is difficult to see wherein the committee or Mr.²¹ Meigs deserves credit for anything except faithful work.

¹⁹ Ibid., pp. 19-20.

²⁰ Ibid., pp. 20-25.

²¹ Ibid., p. 25.

In 1871 J. H. Shankland, a Nashville lawyer, published a Supplement to the Code of 1858, and in 1872 a second, which included the acts passed during the interim. His work probably marks the beginning of the popularity of Code Supplements.²²

The year 1873 found the time ripe again for a code revision. As a result of the Civil War, certain statutes had become useless, such as those pertaining to slavery. Also the work of the Constitutional Convention of 1870 had had a great effect upon our statutes.

Seymour D. Thompson, a Memphis lawyer, and Thomas M. Steger, a Nashville lawyer, revised the statutes hoping to produce a compilation that would be enacted as a code. Their work was entitled A Compilation of the Statute Laws of the State of Tennessee. Judge Cooper cooperated with them by furnishing a private copy of the Code of 1858 in which he had made some valuable marginal notes. The work was at first published in three volumes. Subsequent editions were in two volumes. A supplement included the Acts of 1873. This compilation was commonly called Thompson and Steger's Code, and remained in use

²² Ibid., p. 26.

23

about ten years.

The Legislature of 1883 wished a new official code.
24
A resolution was passed providing for the appointment of W. A. Milliken, of Clarksville, and John J. Vertrees, of Nashville to revise and codify the statutes of the State. The Legislature gave certain instructions which were to be followed in the work. The title was to be Code of Tennessee, and the work was to be in one volume if possible. The plan of the Code of 1858 was to be followed, and the new work was to be annotated with references to pertinent Supreme Court decisions in the Tennessee Report.

In 1884 the work was published. It seems that the codifiers exercised too much freedom, and in some cases the revised statutes did not convey the same meaning that the original ones had. Nevertheless the work was widely used throughout the state for about twelve years; and although it was never adopted as an official code it came to be used as such. The Legislature itself once tried to amend the work as though the latter were the
25
official code. In a test case, Burnett vs. Turner, the

²³ Ibid., pp. 26-27.

²⁴ Ibid., p. 28.

²⁵ George W. Pickle (reporter), Reports of Cases In the Supreme Court of Tennessee (Nashville: Marshall and Bruce, Stationers and Printers, 1889), Vol. III, p. 124.

Supreme Court held that the amendatory act was unconstitutional. The opinion of the court was given by Snodgrass, J., who said: "There is no Revised Code of Tennessee, the Legislature not having adopted or enacted any compilation of our statutes as such since the enactment of the Code of 1858, which being the first Code, is not itself a revision."²⁶ This ruling made it imperative that an official code be adopted soon, because of the difficulty of amending statutes later than 1858, even though they had been compiled. In 1893 a Code Supplement to the compilation of Milliken and Vertrees was published by Robert T. Shannon, of Nashville, bringing it down²⁷ to date. In 1896 Mr. Shannon published a compilation which acquired the appellation of Code; however, it was not officially adopted as such. The annotations and notes excelled those of any of the preceding publications. It became very popular, apparently because of the facility with which it could be used. It was followed by a supplement²⁸ by the same author.

The Baldwin Book Company, of Louisville, Kentucky,

²⁶ Williams, op. cit., p. 29.

²⁷ Ibid.

²⁸ Ibid., p. 30.

bought Shannon's annotations of the Code of 1896 and employed Frank M. Thompson, then Attorney-General of Tennessee, to edit a compilation of the State Statutes, which it published in 1915 under the title of Thompson-Shannon Code. The records show that Shannon had nothing to do with its preparation except the selling of his annotations.²⁹ The work was published in one very large volume, of inferior quality. The paper was of necessity thin and of an inferior type. After the book had been placed on the market it was learned that there were numerous omissions, whereupon extra sheets were sent out to customers to be pasted in. The probable explanation for the hurry was the fact that Shannon was working on a publication of his own and the Baldwin Company wanted to precede him on the market.³⁰

As we have learned Shannon was preparing another work for publication. The Compilation of the Tennessee Statutes appeared in 1917 in five large volumes. The print was large and the notes well organized and exact. There was no abridgment; on the contrary, the work was so complete that it was criticized for its fullness. It appeared

²⁹ Ibid.

³⁰ Ibid.

³¹ Ibid., p. 31.

at a time when there was a competing product on the market, and although the forms of necessity was priced high, practically every lawyer availed himself of a copy to save searching the reports, and to be on a parity with opposing counsel. Shannon made the work complete about 1918³² by publishing an elaborate index volume.

There was much rivalry in the Legislature and even in the State Bar Association between the supporters of the Thompson Shannon Code and Shannon's Compilation of the Tennessee Statutes. This rivalry probably prevented either of the works from becoming the official Code of Tennessee. The next move was an attempt by the rivals to surpass each other by publication of a superior supplement. In 1920 Baldwin's Supplement to the Thompson-Shannon Code³³ appeared. There was really nothing new in it except that it did bring the statutes down to date. It never achieved popularity in Tennessee. In 1925 a Code Supplement was issued by Shannon. This was, of course, a supplement to Shannon's Compilation of Tennessee Statutes. It became exceedingly popular because the long sections of acts were broken up into shorter ones. It served to

³² Ibid., pp. 31-32.

³³ Ibid., p. 32.

increase the popularity of the work which it supplemented. Thus the Thompson Shannon Code almost went into disuse and the Compilation of Tennessee Statutes emerged the victor.³⁴

For several years the Bar Association of Tennessee had been consistently urging the adoption of an official code.³⁵ In 1916, A. W. Chambliss, of Chattanooga, now a 1941 Supreme Court Justice, initiated a movement whereby a standing committee was appointed by the association known as the Committee on Codification. The men who from time to time served in the capacity of chairman of that committee and who distinguished themselves by their vigorous efforts, were: Judge Robert M. Barton, E. A. Price, C. L. Sinely, Judge F. H. Heiskell, Fitzgerald Hall, D. L. Grayson, W. B. Lamb, Jr., Avery Handley, J. Conley Edwards, L. M. G. Baker, and Charles L. Cornelius.

In 1927 the General Assembly passed an act which had as its purpose the preparation and ultimate adoption of an official code.³⁶ Great was the disappointment when Governor Peay vetoed the bill. The excessive cost and little need for an official code were reasons given for the

³⁴ Ibid., p. 33.

³⁵ Ibid.

³⁶ Ibid., pp. 33-34.

³⁷
veto. In 1929, following another rally, a similar act was passed, and Governor Horton vetoed it, offering about the same reasons that Governor Peay had given. He anticipated that the cost would exceed \$150,000.00.³⁸ However, the bill was passed over his veto.

The act provided for the appointment of a commission of three lawyers to do the work of codification. They were given a free hand to strike out or add to the statutes, but in their report they should strictly account for modifications. The commission appointed by the Supreme Court was composed of Samuel C. Williams, of Johnson City, Chairman, Robert T. Shannon of Nashville, and George Harsh of Memphis.³⁹ The Commission set to work, holding meetings at which methods and plans were discussed. The work was divided into three parts, and assignments were: Public Rights to Shannon, Private Rights and Civil Procedure to Williams, and Crimes to Harsh.⁴⁰ The commissioners did most of the work separately, but held monthly meetings in order to discuss various problems connected with their tasks.⁴¹ In the summer of 1930 commissioner

³⁷ Ibid., p. 34.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Ibid., p. 35.

⁴¹ Ibid.

Shannon was incapacitated by ill health. He resigned in January 1931. By a resolution passed by the General Assembly and an order by the Supreme Court the remaining two commissioners were given the added duty of finishing⁴² their erstwhile colleague's work.

Two years from the beginning of their assignment the commission reported their work to a Joint Committee⁴³ on Codification. The committee accepted the report after reviewing and discussing it for forty days, and recommended it to the Legislature.⁴⁴ A bill was prepared to enact the report as the Code of Tennessee, and the⁴⁵ measure passed by a substantial majority. The total cost⁴⁶ was \$48,000.00.

The Code of Tennessee was issued in two forms. It could be had in one volume or in a set of three volumes. It was well organized under chapter and topic headings with a complete and easy-to-use index. Perhaps the most notable change from earlier compilations was its concentrations of many chapters under various subject headings.⁴⁷

Although the Code of Tennessee adopted in 1932

⁴² Ibid., p. 36.

⁴³ Ibid., p. 37.

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Ibid., p. 38.

was an improvement over previous compilations it was not entirely satisfactory. Before very long criticisms began to develop here and there. The most common ones were that the work had been too hastily done, especially the part originally assigned to Shannon, and that it was not annotated.

In 1932 the Michie Company published a compilation, edited by A. Hewson Michie and Charles W. Sublett, called Michie's Tennessee Code of 1932. This work was published in one volume containing, in addition to the compilation of statutes including the acts of the special session of the Legislature of 1931, a general index, an appendix containing the Constitution of the United States, and the Constitution of Tennessee, with annotations. This work obviously was put on the market to compete with the Code of Tennessee (1932), and it seems to have done so quite effectively. We shall see subsequently wherein it weakened itself, but not before some three or four supplements were published, the latest being published in 1939. Michie's Code and Supplements are still quite extensively used throughout the eastern part of the State. ⁴⁸

⁴⁸ The writer has been unable to determine whether this work is widely used in the central and western parts of the State or not. He has been informed that it is.

Samuel C. Williams, perhaps as a result of the criticism of the 1932 Official Code of Tennessee, prepared and published a compilation in 1934. This work contains eight volumes, one of which is a general index volume. The index excels that of any previous work. The entire work is annotated.

Perhaps the most admirable feature of this work is the provision at the end of each volume for a pocket supplement, some of which have already been published. This has undoubtedly advanced the date before another compilation will be necessary. It is, therefore, a money saving device for the struggling young lawyer. It has not, however, been adopted as an official code, although it is found in almost every lawyer's library. The only two works which have officially been adopted as codes of Tennessee are the Code of 1858 and the Code of Tennessee of 1932.

CHAPTER III

LAW SCHOOLS IN TENNESSEE

There are only three full-time law schools in the State. They are at Vanderbilt University, the University of Tennessee, and Cumberland University. Those at Vanderbilt and the University of Tennessee are the only law schools in the State that are approved by the American Bar Association.¹

There are twelve law schools in operation in Tennessee at the present time.² The writer does not consider it of moment to record a history of the law schools that for one reason or another have ceased to exist. Suffice it to say that most of them were not sufficiently grounded to meet the more and more complex requirements made by the Bar Association of Tennessee, and to cope with certain other factors. Most, though not all, of the present legal educational institutions in the State seem to have been established mainly for

¹ W. Raymond Blackard, "Law Schools In Tennessee," in Faculty and Students of the University of Tennessee College of Law (editors), Tennessee Law Review (Knoxville: Tennessee Law Review Association, Inc., 1937), Vol. XIV, p. 269.

² See APPENDIX, TABLE VI.

profits. Most of them were inadequately equipped, and as requirements became more stringent and a more thorough course of instruction was required they were forced to close their doors for lack of patronage. The final check upon the quality of work done in the law schools was the pre-admission Bar Examination. The Bar Examination without question has increased in difficulty during the past three decades.

Andrew Jackson Business University School
of Law

The Andrew Jackson Business University School of Law, located in Nashville, was organized in 1927, by Mr. D. E. Short, Jr. It was incorporated at that time, but did not assume its present name until 1932 when the law college was started. In 1936 it was incorporated as an educational institution, and this removed it from the category of profit-making institutions. It was granted the privilege to confer a law degree in that year. Financially the school is at a very low ebb. For a long time its surplus income will have to be

used to pay Mr. Short for the sale made by him when the institution was incorporated as a non-profit making corporation.³

The enrollment in this school is usually a little better than thirty. The average rank of the school in bar examinations for the past few years is eleventh, with an average success of 20%.⁴

The institution has a nominal requirement of a high school education as a prerequisite to entrance, but the rule is not enforced.⁵

The officials are D. E. Short, Jr., President, and Mrs. D. E. Short, Vice President. The Board of Trustees consists of these two officials and C. L. Short and Stelle Short. The tuition for the two-year course is \$160.00 and there is a \$5.00 graduation fee. A student enrolling for the first time signs a contract to pay for the full two-year course.

Two classes, representing two courses are held each week. They are held at night for three hours. They meet

³ Faculty and Students of the University of Tennessee College of Law (editors), Tennessee Law Review, Vol. XV, pp. 378-384.

⁴ Ibid.

⁵ Ibid.

on separate nights, consequently only one room is used or needed. The library of the school is very inadequate, consisting of: A complete set of Corpus Juris, Corpus Juris Secundum, Williams' Tennessee Code of 1934, annotated, a fifteen volume set of American Federal⁶ Tax Reports, a few old texts, and a few case books.

The two-year course is given in one-hundred twenty consecutive weeks, six hours being spent each week. The purpose of this arrangement is to meet the classroom (720 hours) requirement of the Supreme Court. All students, whether beginners or advanced, are in the same class, and study the same subjects. One may enter the school during any month of the year. All seventeen subjects required by the Supreme Court are finished during the one-hundred twenty weeks. Little, if any, work is required at the university other than attendance of⁷ classes. At present there are three teachers in the school.

Whether this school will continue to function under the present ruling of the Supreme Court requiring

⁶ Ibid., p. 380.

⁷ Ibid., pp. 381-383.

two years of pre-legal education remains to be seen. The percentage of graduates who are actually engaged in the practice of law is relatively low, in fact extremely so, compared with the more prominent law schools of the State. It appears that the school is patronized more for the purpose of increasing business efficiency⁸ than for professional reasons.

The Chattanooga College of Law

The Chattanooga College of Law was organized in 1898. It is located in Chattanooga. In 1910 it was discontinued, but not for long. A new charter was obtained, and the school has operated continuously from that time to the present. The average attendance is seventy-five to one hundred. The admission requirement formerly was a high school education, but the Supreme Court ruling requiring two years of pre-legal study in college is being complied with. The length of the course is three years. The classroom hours per week total six and one-

⁸ Ibid., p. 384.

half, not including moot court, advocacy and legal bibliography. The school ranks seventh in bar examinations for the past five years, with an average success of 37.3%.⁹ The faculty consists of fourteen members, most of them being practitioners or office-holders. There is a Board of Trustees, but it appears that Judge Swaney, the Dean, determines most of the school's policies. The tuition fee for the past several years has been one hundred dollars if paid at the beginning of the course, one-hundred five dollars if paid in installments.

The school rents classrooms in the Chattanooga Court House.¹⁰ At present it is using three rooms in addition to a library which contains from twelve hundred to fifteen hundred volumes. All classes are held in the evening. Although the school has made some progress in the past, and boasts some distinguished alumni, it does not meet the requirements of the highest accrediting associations.¹¹

As has been heretofore indicated, the school

⁹ Ibid., p. 332.

¹⁰ Ibid., p. 333.

¹¹ Ibid., pp. 337-338.

offers a three-year course, upon the satisfactory completion of which an LL. B. degree is awarded. Formerly an LL. M. degree was awarded upon completion of a year's special work in addition to the LL. B.¹² This practice, however, was discontinued about 1933.¹³ Perhaps the greatest criticism of the institution is, that high grades are easily made there, and that these high grades are not always corroborated by results of the Bar Examination.

The Cumberland University Law School

The Cumberland University Law School is located at Lebanon, Tennessee. Cumberland and Harvard Universities had the largest law schools in the United States prior to the Civil War. In 1860 the enrollment at the Cumberland Law School was one-hundred eighty, which was greater than that of Harvard. When the University was founded two years of work in law were required for the LL. B. degree. In 1871 the requirement was diminished by one-half and a one-year course was sufficient

¹² Ibid., p. 335.

¹³ Ibid., p. 337.

14

for graduation. When the law department was opened October 1, 1847, six students constituted the enrollment. The University was presided over by Abram Caruthers; the other faculty members were prominent persons. No southern school has excelled Cumberland University in prominence achieved by its alumni.¹⁵

Judge Abram Caruthers was called from the bench of the Circuit Court to this new work by the Board of Trustees. The office of Robert L. Caruthers, for many years President of the Board, was used as the classroom. Judge Abram Caruthers' opening address attracted wide attention, particularly because the Judge very critically attacked the old system of teaching by lectures, declaring that law was a science and should be taught as one.

The school was a success from the very beginning. The year following its founding Judge Nathan Green, Sr., one of the Supreme Court Judges of the State, was called to aid Judge Caruthers in conducting the institution. In 1852 Judge Green resigned from the Supreme Court. Judge Bromfield L. Ridley was chosen professor

¹⁴ W. Raymond Blackard, "Law Schools In Tennessee," in Faculty and Students of the University of Tennessee College of Law (editors), Tennessee Law Review, Vol. XIV, p. 268.

¹⁵ Philip M. Hamer (editor), Tennessee-A History 1673-1932, p. 374.

of law in 1848 and served until 1852. In 1856, Nathan Green, Jr., was elected professor of law, the school having grown until three instructors were needed.

These three were serving as professors when the Civil War began in 1861. At that time there were one hundred and eighty students in school. Judge Abram Caruthers died during the Civil War. At the close of the war, Judge Nathan Green, Sr., and Nathan Green, Jr., revived the school, but the former of these professors died in 1866. He was succeeded in the year of his death by the Hon. Henry Cooper, who resigned in 1866 and was succeeded by Judge Robert L. Caruthers. Caruthers resigned in 1881 and was succeeded by Dr. Andrew B. Martin, who served until his death in 1920. In 1919 Judge Nathan Green, Jr., died after having taught in the law school for more than sixty years. Judge Edward E. Beard succeeded him and served until his death in 1924. W. R. Chambers and Judge Albert Williams were added to the institution in 1920, and 1923 respectively.

In September, 1930 Judge A. B. Neil was elected professor of law, and became Dean in January, 1935.

Judge Neil was a member of the graduating class of 1896. He practiced law in Nashville until 1910, when he became Circuit Judge, in which capacity he served twenty-four years. Judge Frank T. Fancher served as Professor of Law from 1935 to 1937; and was reelected in 1939. Sinclair Daniel was a member of the faculty from January to June 1932. In June, Samuel B. Gilreath succeeded him. In 1938, Edward L. McNeilly became professor of law and served until his death August, 1939.

The faculty today consists of Ernest L. Stockton, A.M., LL. B., LL. D., President; Albert B. Neil, LL. B., LL. D., Dean and Professor of Law; Samuel B. Gilreath, LL. B., Professor of Law; Frank T. Fancher, LL. B., Professor of Law; and Sara Hardison, LL. B., Secretary and Librarian.

The law department has had an enrollment in excess of two hundred students since about 1936. Formerly a high school education or its equivalent was required for admission, but since 1938 a high school education has been required. At present an additional

two years of pre-legal education in college are required for admission. This change was made in order to meet the two years pre-legal requirement by the Supreme Court. The classroom hours per week total ten, not including moot court. An LL. B. degree formerly was awarded upon completion of one nine-month's term, but since 1938 it has been awarded only upon completion of a two-year term. For several years the school has offered a second-year course (merely a repetition of first-year work), less than twenty percent of the student body consisted of second-year students. The average ranking in Bar Examinations since 1933 is sixth, with an average of 46.2% passing the examinations.¹⁷ All classes are held during the day.

The law classes are held in Caruthers Hall, which was erected in 1877. It contains two classrooms, an office, and a library consisting of 7,000 volumes, on the first floor, and an auditorium on the second floor. The law school has a rather large income. The first-year students pay tuition in the amount of \$260.00

¹⁷ Faculty and Students of the University of Tennessee College of Law (editors), Tennessee Law Review, Vol. XV, p. 354.

each, the second-year students pay \$120.00 each.

The surplus from the law school, however, is used in maintaining the non self-supporting College of Sciences and Arts.¹⁸

During the past few years there has been a great deal of criticism directed at the Cumberland University Law School. This criticism has been of different kinds. In the first place, it is said that the percentage of failures of the Bar Examination has been entirely too high for a school with a reputation once enjoyed by this school. In the second place, it is charged that the school has attempted to live on its past. It has not kept pace with the more progressive law schools; it has maintained a one-year course and tried to compete with two-year and even three-year courses offered by other schools. The old text books, that once were satisfactory have not been exchanged for the more modern ones. In the third place, complaint has been made that the law school has been permitted to suffer while its income has been shared with the College of Sciences and Arts, the latter not having been on a self support-

¹⁸ Ibid., p. 356.

ing basis for a long time, if ever. Fourthly, it is pointed out that the faculty is not adequate in number to do justice to the student body. There are but two part-time teachers and one full-time teacher for a student body of two hundred. Moreover, it is charged that the courses have been permitted to degenerate into lecture courses with "yes" and "no" answers to too infrequent questions, and that the students thus are denied practice in the art of oratory and self-expression so necessary to the practitioner.¹⁹

About 4,500 people have graduated from the Cumberland Law School, among them some of America's greatest; one Secretary of State, two Justices of the United States Supreme Court, one Judge of the Court of Claims, forty-seven College and University Presidents, eighty-nine College and University Professors, thirty Foreign Missionaries, twenty-one Moderators of the General Assemblies of the Presbyterian Church, ten United States Senators, sixty-two Congressmen, ten District Judges, five Federal Circuit Court Judges, nine United States District Attorneys, and forty-four

19 Ibid.

State Supreme Court Judges. This is only a partial list of her distinguished graduates. Of them all Cumberland is perhaps proudest of Cordell Hull, present²⁰ Secretary of State.

East Tennessee Law School

The East Tennessee Law School is located at Johnson City, Tennessee. It was organized about 1925 as a branch of the Johnson City Business College, which is a thriving institution. I. R. Thornberry is president and owner of the business college (a profit-making corporation), and has for several years been nominally head of the law school, although he has had little if anything to do²¹ with its management.

The school for the past few years has had an average enrollment of approximately ten. To the writer's knowledge the school has not been in operation since 1938. The admission requirements were a high school education or its equivalent, and a tuition charge of one hundred dollars per year, which was payable monthly.

²⁰ Ibid.

²¹ Ibid., p. 338.

The average number of classroom hours per week was six; the length of the course was two years. From 1933 until 1938 the ranking of the school in Bar Examinations was²² tenth with an average success of 27.5%.

For the past few years before the school was discontinued it was entirely managed by Sam R. Howell, the Dean, who also did all the teaching. Classes were held in an adequate room of the business college. Three class-periods were held each week, Monday, Wednesday, and Friday evenings. Mr. Howell holds LL. B. and LL. M. degrees from Georgetown University of Washington D. C., and was admitted to the Bar in Tennessee in 1933. He was a very capable instructor and his leaving was undoubtedly the occasion for discontinuance of the law school. He is now serving on the legal staff of the Interstate Commerce Commission. Five of the 1938 graduates took the bar examination at Knoxville in January, 1939; three of these²³ passed and have been admitted to the Tennessee Bar.

22 Ibid.

23 Author's observations.

John Randolph Neal College of Law

The John Randolph Neal College of Law, is located in Knoxville. It was founded by John Randolph Neal, the present Dean. It appears that the principal purpose of the institution in the beginning was to offer graduate work in law, although this purpose has not been adhered to very strictly.²⁴

The average enrollment is approximately seventy-five. The admission requirements in the past have been very indefinite; however, the late Supreme Court ruling making two years of pre-legal collegiate education a prerequisite to admission to the Bar will automatically determine admission requirements for this institution as well as for others which have previously required less. Presumably there will be few if any students in a law school, regardless of its requirements, who later will be precluded from admission to the Bar. The course of study has been so arranged at the Neal School that it may be given in two or three years, apparently at the discretion of the Dean.

²⁴ Faculty and Students, op. cit., p. 341.

The average ranking in Bar Examinations since 1933 is eighth, with an average success of 31.7%²⁵.

The school is nominally governed by a Board of Trustees which consists of Mrs. Wheelock of Chattanooga, Admiral George F. Neal of the United States Navy, John Neal Wheelock, Joe D. Penland, and Dr. John Randolph Neal. It seems that Dr. Neal, the Dean, however, has unlimited power in determining the school's policies.²⁶

Classes are held in an office building in downtown Knoxville. They are held in the evening. The first-year classes are held on Monday, Wednesday, and Friday evenings between the hours of seven and nine. The second-year classes are held on Tuesday and Thursday evenings from seven until nine. The third-year classes meet every Thursday evening from approximately four-thirty until six-thirty. It seems that degrees are awarded when the Dean is satisfied as to the competency of the applicants rather than upon the satisfactory completion of a given amount of work. Inadequacy of

²⁵ Ibid.

²⁶ Ibid., p. 342.

records makes it difficult to follow the school's history very closely. There are evidences, however, that degrees have been conferred for less than three²⁷ year's study.

The courses offered by the school profess to cover all courses prescribed by the Supreme Court; but again inadequacy of records makes accuracy as to this difficult to determine. Dr. Neal does practically all of the teaching which consists largely of lectures. It appears that little actual study is done at the school, a fact which is characteristic of schools holding evening classes. The library consists of about eight hundred volumes, and is the personal property²⁸ of Dr. Neal. Dr. Neal received his A. B. degree from the University of Tennessee; M. A. and LL. B. degrees from Vanderbilt; and the Ph.D. from Columbia University. He has taught in the law school of the University of Tennessee at Knoxville and the law school of the University of Denver, Colorado. In addition to his own lectures Dr. Neal invites numerous lecturers to address the classes during the school term. His absence from

²⁷ Ibid., pp. 343-344.

²⁸ Ibid., pp. 342-343.

classes is frequently occasioned by his interest in political and civic affairs. On such occasions his place in school is taken by Mr. Henry N. Camp, who is also Registrar. Mr. Camp received his A. B. degree from the University of Virginia; and his LL. B. and LL. M. from the University of Tennessee; and the degree of LL. D. from John Randolph Neal College of Law. He teaches Corporations, Pleadings and Practice, and Federal Jurisprudence, in addition to substituting²⁹ when Dr. Neal is away.

The Neal School has not conferred degrees since 1935, although prior to that time, degree conferring had been rather pronounced. The school has awarded degrees of Doctor of Civil Law, Doctor of Science, Doctor of Music, Doctor of Philosophy, Doctor of Laws, etc., as honorary degrees, in addition to Bachelor of Laws and Master of Laws as earned degrees. As has been mentioned before, the conferring of degrees rests with the Dean, Dr. Neal, with the nominal concurrence of the Board of Trustees. Several applications are on³⁰ file for degrees at this writing.

²⁹ Ibid., pp. 344-345.

³⁰ Ibid., p. 344.

Kent College of Law

The Kent College of Law is located in Nashville, and is one of the two colored law schools in the South. The other is located in Louisville, Kentucky. The Nashville institution was organized in 1932, and was incorporated as a non-profit making corporation in June, 1933, with power to confer degrees. It was organized by the present Dean, Z. Alexander Looby. Dean Looby is a practicing lawyer of Nashville. He has an A. B. degree from Harvard University, an LL. B. from Columbia³¹ University, and a S. J. D. from New York University.

The average enrollment is about ten or twelve. The admission requirement prior to the two years pre-legal study rule of the Supreme Court was a high school education. Six classroom hours are spent each week in the evening and the courses cover three years. The average ranking in Bar Examinations is ninth with an average success of 28.6%. A tuition fee of \$75.00³² per year is charged, and a graduation fee of \$5.00.

The classes are held in the waiting room of the

³¹ Ibid., p. 384.

³² Ibid.

law offices of Looby and Campbell, both of whom teach in the school. The second and third-year classes are combined. The private library of the law firm of Looby and Campbell consists of about four hundred volumes, and is available for the students at all times. The curriculum is about the same as that of
³³
any standard law school.

Dean Looby is undoubtedly the life of the school. While he receives some emolument from the tuition charges, the amount is very small after expenses are paid. It seems that he considers the institution as something of a philanthropic enterprise. As has been said previously, this school is one of two colored law schools in the South. The city of Nashville has a colored population of 40,000, and only four practicing colored lawyers. Obviously the number of colored lawyers per one thousand of the colored population is much smaller than that of white lawyers per one thousand of the white
³⁴
population.

It is true that the Kent College of Law cannot be

³³ Ibid., pp. 384-385.

³⁴ Ibid., p. 385.

compared to some of our legal institutions in Tennessee, but it marks what might well be the beginning of an important step in legal education for the colored people of the South. It has started on a rather high plane, considering its resources, and requires the completion of three years of study before the conferring of a degree. Some of our white law schools require only two years, and one or two never have required more than one.

Law College, University of Tennessee

The University of Tennessee was chartered under the name "Blount College" by the Legislature of the "Territory South of the River Ohio" on September 10, 1794. It was named for William Blount, then Governor
³⁵ of the Territory. In 1807 Blount College was changed
³⁶ to East Tennessee College by an act of the Legislature. In 1840 the name of the institution was changed to East Tennessee University, and in 1879 to the University of Tennessee. Under the president of C. W. Dabney

³⁵ The University of Tennessee Record (Knoxville: University of Tennessee Press, February, 1929), Vol. XXXII, pp. 5-6.

³⁶ Scott (compiler), Laws of Tennessee, 1715-1820. (Knoxville), Vol. I, Pt. 2, pp. 1047-1050.

the Department of Law was authorized by the Board of Trustees of the University in November, 1889, and began operations February 13, 1890, with a two years' course leading to the degree of LL. B. It was opened in Dead-erick Building, the present site of a parking lot next to the Old Post Office Building on Market Street. In 1890 it was moved to North College (now Humes Hall). From 1892 to 1894 it was held in South College. From 1894 to 1919 or 1920 the classes were held in Old College (the central of three buildings where Ayres Hall now stands). In 1920 the school was moved to South College (then Carriek Hall). From 1921 to 1927 it was in Ayres³⁷ Hall. It was moved to the present location in 1927.

The Civil War caused a general lowering of educational standards throughout the South. A law course of one year was prevalent in most law schools. The two-year course given by the Tennessee institution was considered rather advanced. Despite this fact, however, the school continued to grow and presently an additional year was added. In order to encourage more students to take it, no tuition was charged for this

³⁷ E. Lucy Ogden To the author.

third year. There were no admission requirements except that the student had to be at least nineteen³⁸ years of age and have a good education in English.

Entrance requirements and standards of work within the institution have been raised progressively. In 1925 the standards were raised from one to two years of college work. In 1907 the University assumed financial³⁹ responsibility for the College of Law. In 1903 the General Assembly of Tennessee passed a law creating a State Examining Board. As a result, admission to the Bar became more difficult; consequently, in 1913 a third year was added to the University's law course. The addition of the third year qualified the College of Law for membership in the Association of American Law⁴⁰ Schools, which membership it holds today.

The enrollment of the school for the current year 1940-41 is ninety-one. The admission requirements are two years of college work, with an average grade of not lower than "C" (75-84%). All classes are held

³⁸ The University of Tennessee Record, Vol. XXXII, p. 6.

³⁹ University of Tennessee Record-Biennial Report (Knoxville: Published By the University of Tennessee Press, January, 1909), Vol. XII, p. 40.

⁴⁰ The University of Tennessee Record, Vol. XXXII, p. 6.

during the day, with an average of fourteen and one-half classroom hours each week. The course extends over three years, and operates on the normal full-time basis of thirty-five or thirty-six weeks. However, one may attend the summer session at which he may complete work equivalent to one quarter; therefore, one may graduate in two years with three quarters work⁴¹ being done during the summer. Upon satisfactory completion of three years work and eighty-six semester hours of credit the degree of LL. B. is awarded. No advanced degrees are offered. The average ranking of the school in Bar Examinations since 1933 is first with an average success of 88.7%.

The tuition fee is \$160.00 per year for residents of the State and \$250.00 per year for non-residents. Except for a graduation fee of \$5.00 the tuition fee⁴² is all-inclusive. These fees are turned into the general University fund and the Law College as well as the remainder of the University gets support from the State. Statistics show that the institution costs the State⁴³ much more than the tuition amounts to.

⁴¹ Faculty and Students of the University of Tennessee (editors), Tennessee Law Review, Vol. XV, p. 353.

⁴² Ibid., p. 351.

⁴³ Ibid.

The law school has a building for its exclusive use. The building contains two good classrooms and a moot court room; one whole floor is occupied by the library. The building is well furnished, and each full-time member of the faculty has a private office. The library contains over 18,000 volumes with an annual expenditure of \$2,500.00 for books. A full-time librarian⁴⁴ is employed.

The Dean of the School is Henry B. Witham. The faculty consists of six full-time professors in addition to one part-time professor who gives a course in Legal Bibliography and several attorneys who give special lectures. The faculty personnel and their training are as follows: Arthur Larson, A. B. (Augusta College, S. D.), A. B. in Juris., M. A. Juris. (Oxford University, England), Associate Professor of Law; W. Raymond Blackard, A. B. (University of Tennessee), LL. B. (Harvard University), Research Fellowship (Harvard University), Associate Professor of Law; Robert M. Jones, B. S. (Grant University), LL. B. (University of Tennessee), Professor of Law; Harold C. Warner, Ph. B. (University of Chicago), J. D. (University of Chicago), Associate Professor of Law; William H. Wicker, A. B.

⁴⁴ Ibid., p. 352.

(Newberry College), LL. B. (Yale University), LL. M. (Harvard University), Professor of Law; Henry B. Witham, A. B., LL. B., J. D. (University of Iowa), Dean and Professor of Law. The part-time Professor is Karl E. Steinmetz, LL. B. (University of Wisconsin), In-
⁴⁵structor in Law.

The School is well organized, with excellent grading and book-keeping systems. Although the standards of law schools in Tennessee have been deplorably low and admission to the Bar fairly easy in the past, the University of Tennessee College of Law, with its relatively high standards, has continued to grow scholastically as well as numerically. As was mentioned above, it is approved by the American Bar Association, is a member of the Association of American Law Schools,
⁴⁶and ranks with the better law schools of the South.

Nashville Y. M. C. A. Night Law School

The Nashville Y. M. C. A. Night Law School was informally founded in 1911, although it was not until

⁴⁵ Ibid., p. 153. Information concerning Mr. Larson was procured by conversation of the author with Dean Henry B. Witham, February, 1941.

⁴⁶ Faculty and Students, op. cit., pp. 351, 353, 354. See also APPENDIX, TABLE VII.

1927 that it was incorporated as a non-profit educational institution. The institution probably got its name from the fact that five of the incorporators were directors of the Nashville Y. M. C. A. The School has no connection with the Y. M. C. A. except that the men interested in it are also interested in the Y. M. C. A., and it has its quarters in the Y. M. C. A. building.⁴⁷

As was mentioned above the school was incorporated as a non-profit corporation, yet profits aggregate and are distributed among the faculty members for their services. However, this institution, unlike many others, especially night law schools, apparently has never exploited the students. A tuition fee of \$75.00 per year is charged plus a graduation fee of \$5.00 and a special fee of \$2.50 for special examinations. The proceeds are used to defray the general expenses of the school including teacher's salaries, rent, etc. After all expenses have been paid the remainder is divided among the faculty members as a "bonus."⁴⁸

The enrollment for the past few years usually has exceeded one hundred students. The admission require-

⁴⁷ Faculty and Students, op. cit., p. 386.

⁴⁸ Ibid.

ments in the past have been a high school education or its equivalent and lately a high school education, but the recent Supreme Court ruling that an applicant for admission to the Bar must have had two years pre-legal collegiate training is serving to raise the standard of admission in all law schools within the State that expect to continue in operation. Classes are held on Tuesday and Thursday evenings from seven until ten o'clock, making a total of six hours of classroom work per week. The length of the course is three years. Under this curriculum the student spends two-hundred forty hours in the classroom per year, and seven-hundred twenty during the three-year course, which meets the requirement of the Supreme Court. The average ranking of the school in bar examinations since 1933 is third,⁴⁹ with an average success of 70.4%. The library, which is very small is located in the Y. M. C. A. building where the classes are also held. The library space is only about twelve by fifteen and accommodates not more than six or seven students; however, they have access to the

49 Ibid.

50

public libraries of the city. The method of teaching is a combination of lecture, case assignment, and question and answer. A system of examinations and grading is maintained; the records show a very small number of failures. The second and third years are combined. Upon satisfactory completion of the three-year course the graduate is⁵¹ awarded the degree of LL. B.

The Dean of the institution is O. W. Hughes; however, most of the duties usually assumed by a dean are performed by the Secretary and Treasurer, Mr. W. A. Miller, and his assistant. The faculty consists of eight practicing attorneys who devote no time to the school except in the actual teaching of classes. These men are held in high esteem by the Bar Association. Five of them are graduates of the Vanderbilt Law School; two are graduates of their own school; and one was admitted to the bar on⁵² private law study.

This school can almost be put in a category of its own in comparison with the average night law school. It has a capable faculty composed of men who are not

50 Ibid., p. 387.

51 Ibid., pp. 387-388.

52 Ibid., p. 388.

trying to exploit the students; it is meeting the seven-hundred twenty classroom hours requirement; and it ranks⁵³ with the day law schools in Bar Examination results.

National Business College, Incorporated

This night law school had its beginning in 1935 when Mr. E. E. Duncan started a class of eight or ten students at the Knoxville Business College. At the end of that year the law course at the Knoxville Business College was discontinued. The National College of Law and Commerce was organized in October, 1936, whereupon the students who had started the law course in the Knoxville Business College came over to the former. The teachers of law in the National College of Law and Commerce were⁵⁴ Mr. E. E. Duncan, Dean, and Mr. Ellison.

The following year the enrollment increased to twelve or fifteen. It seems that there were no admission requirements unless the student expected to take the Bar Examination, in which case he must state that⁵⁵ he was a high school graduate. In December, 1937, the

⁵³ Ibid., pp. 388-390.

⁵⁴ Ibid., p. 347.

⁵⁵ Ibid.

charter was amended and the name of the institution became National Business, Incorporated. It was incorporated as a profit-making corporation. Mr. Duncan, who has a degree of LL. B. and is a C. P. A., was President, and Mr. J. L. Saylors, the owner of the entire stock in the corporation, was Vice-President. A tuition fee of \$150.00 for the two-year course was charged. Mr. Duncan paid \$10.00 per month rent for the law school and the balance of the school's income was divided between⁵⁶ Mr. Duncan and Mr. Ellison, the other teacher.

The length of the course was two years. The classes were held from seven until eight-thirty on Monday and Thursday evenings, an aggregate of three hours per week. It will be seen clearly that this provision would fall short of the seven-hundred twenty class-⁵⁷ room hours required by the Supreme Court. The classes were held in down-town Knoxville in one room of an⁵⁸ office building. The school had practically no library.⁵⁹ The first and second-year classes were combined. Subjects were taken up one at a time, and continued until finished. The order in which they were taken up is as

⁵⁶ Ibid.

⁵⁸ Ibid., p. 347.

⁵⁷ Ibid., pp. 347-348.

⁵⁹ Ibid., p. 348.

follows: Contracts, Bailments and Carriers, Negotiable Instruments, Sales, Partnerships, Common Law Pleadings, Corporations, Domestic Relations, Agency, Personal Property, Real Property, Torts, Equity, Criminal Law,⁶⁰ Constitutional Law, Evidence, and Moot Court Practice. Examinations were provided at the end of the two years' work, and the degree of LL. B. awarded to those who⁶¹ satisfactorily completed it.

Mr. Duncan studied at the Walton School of Commerce in Chicago and the East Tennessee Law School in Johnson City. He was head of the latter institution for five or six years, and holds an honorary degree of LL. B. from it. Mr. Ellison, the other teacher, attended George Washington University. Mr. Duncan was, as mentioned above, for some time head of the Johnson City Law School.⁶² There he distinguished himself and brought renown to his institution by the passing of the Bar Examination by 100% of the applicants from the⁶³ institution over a period of a few years.

Mr. Duncan's Law school is no longer affiliated

⁶⁰ Ibid., pp. 348-349.

⁶² Ibid., pp. 349-350.

⁶¹ Ibid.

⁶³ E. E. Duncan to the author.

with the National Business College, Incorporated. It is a private business with Mr. Duncan who is the only teacher. He has about fifteen students enrolled, all are in their second year and will receive their LL. B. degrees if they satisfactorily complete this year's work. Mr. Duncan has had fairly good success with his law school here so far as his students' passing the Bar Examination is concerned. However, the school will be discontinued after this year because of the Supreme Court ruling requiring two years of pre-legal college work.⁶⁴

Southern Law University, Incorporated, Memphis

The Southern Law University was organized as a profit-making corporation in 1932, by Sam S. Margolin, the present Dean. The organization of the institution was preceded by preparatory and review courses for applicants to the Bar, conducted by Mr. Margolin.⁶⁵ There has been marked increase in enrollment from year to

64 Ibid.

65 Faculty and Students, op. cit., p. 373.

year, perhaps partly due to the fact that each old student gets a tuition reduction of ten dollars for each new student⁶⁶ which he causes to enroll. The enrollment is approximately eighty-five. Prior to 1938 any one with a high school education or its equivalent was eligible for admission; after that time high school graduation was required.⁶⁷ This was automatically changed by the subsequent Supreme Court ruling requiring all applicants for the Bar Examination to have two years of pre-legal collegiate education. This rule does not make it mandatory for the law schools to require such preparation for admission, but if they expect to remain in operation they must of necessity meet the minimum requirements of the Supreme Court. The average ranking of this school in Bar Examinations since 1935 is fourth, with an average success⁶⁸ of 69.7%.

The tuition fee is ninety dollars per year, payable at ten dollars per month. As was mentioned above, this is a profit-making corporation, but there seems to have been no attempt to exploit the students. The earnings⁶⁹ of Mr. Margolin have been very moderate. Classes are

⁶⁶ Ibid.

⁶⁸ Ibid., p. 373.

⁶⁷ Ibid., p. 372.

⁶⁹ Ibid.

held in three rooms on the twelfth floor of the Sterrick Building. The rooms are large, well furnished, and sufficiently lighted; consequently Mr. Margolin must pay high rent. He also employs two additional teachers whose salaries are considered above the⁷⁰ average paid part-time law teachers.

All classes are held in the evening, from seven until nine, on Monday, Wednesday, and Friday; the same time on alternating Thursdays is given to moot court and legal research. The length of the course is three years, upon the satisfactory completion of which the degree of LL. B. is awarded. The school maintains a grading system according to which any grade above sixty-five is⁷¹ passing.

The institution is almost entirely run by Dean Margolin; although he has a Board of Trustees they are⁷² for the most part purely nominal. In addition to his duties as Dean, Mr. Margolin teaches practically all of the first-year subjects. The other teachers are: Mr. Joseph Bearman, who teaches second-year subjects, and Judge Julian C. Wilson, who teaches third-year subjects.

⁷⁰ Ibid., pp. 373-374.

⁷¹ Ibid., pp. 375-376.

⁷² Ibid., p. 373.

Mr. Margolin graduated from the University of Memphis Law School in 1929, and enjoys the reputation of having made the highest grade in the Bar Examination rating of that year. Mr. Bearman attended the University of Cincinnati Law School and was formerly Assistant United States Attorney. Judge Wilson is a graduate of the University of Mississippi Law School. He was admitted to the Mississippi Bar in 1892. Later he became Chancellor in that State. He has practiced law in Memphis since 1907.⁷³

The Southern Law University, Inc. conducts a quiz or "cram" course each year. The students are not required to take it and get no credit if they do, yet few seem to neglect it. No tuition is charged students for this course. The class is held two hours seven days a week for six weeks next preceding the June Bar Examination. Outsiders may attend by paying a fee of \$ 30.00.⁷⁴

University of Memphis Law School

With some exceptions in Texas the University of Memphis Law School is the largest evening law school

⁷³ Ibid., p. 376.

⁷⁴ Ibid., p. 377.

in the South. Many prominent members of the Memphis
⁷⁵
 Bar are among its alumni. It was organized in 1909 by
 S. W. Jones, the present Dean, as a department of the
 University of Memphis. The University included depart-
 ments of Dentistry, Medicine, and Pharmacy in addition
 to Law. Later the three former departments became a
 part of the University of Tennessee. In 1922 a charter
 was acquired for the University of Memphis Law School
 as a non-profit educational institution. Since that time
 it has not been connected with any other department or
⁷⁶
 institution.

Classes have been held in the evening from the be-
 ginning, but several years ago an afternoon class was
 organized. The hours were from four-thirty until six-
 thirty, five days each week over a period of two years.
 In 1938 this class was discontinued. The evening classes
 are held for two hours on Monday, Wednesday, and Friday
 evenings, making a total of six classroom hours each
⁷⁷
 week. The course extends over a period of three years.

The average enrollment for the past few years has
 been between one hundred twenty-five and one hundred fifty.

⁷⁵ Ibid., p. 372.

⁷⁶ Ibid., p. 367.

⁷⁷ Ibid.

Formerly a high school education or its equivalent was required; however, in 1938 the requirement was changed to high school graduation. Since that time, as was learned above the Supreme Court made two years pre-legal education necessary. The average ranking of the school in Bar Examinations since 1933 is fifth,⁷⁸ with an average success of 66.8%.

The school is located in the Commercial Bank and Trust Building in down-town Memphis. There are three ample classrooms, well equipped, and a library of per-⁷⁹haps fifteen hundred volumes. The curriculum comprises⁸⁰ twenty-two courses. A grading system is maintained with sixty-five being the lowest passing grade; however, any grade between sixty and sixty-four inclusive is condition and such condition may be removed by success-⁸¹fully passing the next regular examination. Upon satisfactory completion of the three-year course the degree⁸² of LL. B. is awarded. Statistics show that over a period of years the average shrinkage of a class between the first year and graduation is from twenty-five⁸³ to thirty percent.

⁷⁸ Ibid.

⁷⁹ Ibid., p. 369.

⁸⁰ Ibid., pp. 369-370.

⁸¹ Ibid., p. 371.

⁸² Ibid., p. 370.

⁸³ Ibid., p. 372.

Mr. S. W. Jones is the Dean of the school, a position he has held since the founding of the institution. Dean Jones teaches most of the first-year courses. Besides the Dean there are nine other members of the faculty, each of whom generally teaches not more than one or two courses a year. Of these nine faculty members, two are Circuit Court Judges, two are Chancery Judges, and five are members of the Bar. The esteem of the faculty is one factor in the rating⁸⁴ of this evening law school.

Assisting Dean Jones in running the institution is a nominal Board of Trustees consisting of the Dean, two other members of the faculty and two laymen. However, the actual managing of the affairs of the school⁸⁵ is done by the Dean.

As was mentioned above this school was organized as a non-profit educational institution. This might sound a little misleading upon investigation. The tuition fee is \$130.00 per year, which is a substantial sum, considering the number of students. On the other hand the expenses are moderate, indicating that there

⁸⁴ Ibid., pp. 367, 370, 372.

⁸⁵ Ibid., p. 368.

is a surplus annually which goes to the Dean.⁸⁶ There is a movement under-way to make the course of study four years instead of three, but Dean Jones is unwilling to adopt such plan unless competing law schools⁸⁷ agree to extend their courses.

Vanderbilt University Law School

The Vanderbilt University School of Law is located in Nashville. The Law School had its beginning with the origin of the University. The four departments of the University when it was organized were Academic, Biblical, Law, and Medical. The charter was obtained in 1872, but the University was not begun until 1875, with the exception of the law school.⁸⁸

Judge W. I. Cooper was chosen Dean of the first School of Law, In 1874 rooms were rented from the Methodist Publishing House in preparation for the first year of the school. When October came the rooms were not ready, and most of the students left school

86 Ibid.

87 Ibid., p. 372.

88 Ibid., p. 390.

and returned home. Four students remained and two others joined later. These six students were put in charge of W. B. Reece, Esquire, who gave them his full time and attention. William V. Sullivan of Oxford, Mississippi, one of the six, finished all the work of the junior and senior classes and received an LL. B. degree on May 27, 1875. He was the first graduate under the Deanship of Judge Cooper. He had received all his⁸⁹ instructions from Mr. Reece.

The first Dean to become active head of the school was Judge Thomas H. Malone who served from 1875 until 1902. Associated with him were professors William B. Reece and Edmund D. Baxter. Judge Malone resigned in 1902 and was succeeded as Dean by Horace H. Lurton, then a judge in the United States Circuit Court of Appeals. James C. McReynolds, now associate Justice of the Federal Supreme Court, was professor of law during part of the first decade of this century. Judge Lurton was followed in his Deanship by Allen G. Hall, who was the school's first full-time official and who served until his death in 1915. He added full-time men to

⁸⁹ E. C. Arnold to the author.

the staff, raised entrance requirements, increased the course from two to three years, adopted the case system, and secured membership in the Association of Law⁹⁰ Schools. No one has made a greater contribution to the Vanderbilt Law School than Dean Hall. John Bell Keeble succeeded Mr. Hall as Dean. He was a forceful leader and efficiently continued what Dean Hall had started. To him belongs the credit of establishing the first summer session necessitated by the increased enrollment of the past world-war period. In 1929 he died, one-half hour after having conducted a class in Constitutional Law. After the death of Dean Keeble, Mr. Ed T. Seay, who was a part-time teacher for more than twenty years, became acting Dean and served dur-⁹¹ing the school term 1929-30.

In September, 1930 the present Dean, E. C. Arnold, began his work as the second full-time head of the school. Dean Arnold had formerly been professor of law in the law school of the University of Florida and George Washington University Law School. He had also formerly been engaged successfully in the prac-

90 Ibid.

91 Ibid.

tice of law, and had served as Assistant Solicitor in the Department of Agriculture. The duties assumed by Dean Arnold were arduous and were rendered the more so by the depression which the United States was undergoing at that time. "he has held the institution to its course," and has been behind the forces in building a library and keeping the school affiliated with the American Bar Association and the Association of American Law Schools. He has been instrumental in developing a practice court unexcelled in any law school. He advocates the case method of teaching, but believes that the faculty members should modify it to best suit the needs in a particular subject.⁹²

The present curriculum is as follows: First-year courses consist of Agency, Common Law Actions, and Common Law Pleadings, Constitutional Law and Criminal Procedure, Legal Bibliography and Legal Ethics, Personal Property, Real Property I, and Torts; required courses for second and third-year students are Appellate Practice and Practice Court, and electives are Administrative Law, Bills and Notes, Business Assoc-

92 Ibid.

iations, Conflict of Laws, Constitutional Law II, Constitutional Law III, Contracts II, Creditor's Rights, Domestic Relations, Drafting of Legal Instruments, Equity I, Equity Pleading, Evidence, Insurance, Legislation, Municipal Corporations, Real Property II, Real Property III, Sales, Security Transaction. Tennessee⁹³ Practice, Trade Regulations, Trusts, and Wills.

The faculty members beginning the school year 1940-41 are: Earl C. Arnold, Professor of Law and Dean of the School of Law, Thomas H. Malone, Professor of Law, Morton Hendrick, Professor of Law, William Armstrong Hunter, Professor of Law, John Howard Moore, Professor of Law, Harold E. Verrell, Professor of Law, Lowe Watkins, Assistant Professor of Law, Albert A. White, Professor of Law, and Lillian C. McLaurin, Law⁹⁴ Librarian.

The Vanderbilt University School of Law boasts an alumni excelled by few schools: Joseph W. Byrns, Sr., late Speaker of the House of Representatives; James Woodall Rogers, Mayor of Dallas, Texas; William L. Cook, Judge of the Supreme Court of Tennessee; Hill McAllister, Ex-Governor of Tennessee; P. M. Trammell,

93 Ibid.

94 Ibid.

late Senator from Florida; William Wirt Hastings, late member of Congress; Fitzgerald Hall, President, Nashville and St. Louis Railway, Nashville; Joseph W. Byrns, Jr., Member of Congress from Tennessee; Emory Marvin Underwood, Judge of the Federal District Court in Georgia; John W. Holland, Judge of the United States District Court, Miami, Florida; Robert E. Lee Saver, former President of the American Bar Association; and many others of similar and less prominence.⁹⁵

The Law School is on the third floor of Kirkland Hall, the Administration Building of the University. There are three classrooms, one of which will accommodate about one hundred persons and is used for practice court.⁹⁶ The library is on the same floor and consists of about 17,500 volumes. It has seating space for about fifty students. It is in charge of a member of the faculty who is assisted by five students. About \$2,500.00 a year is spent for books and periodicals.⁹⁷

Business matters and appointments are recommended by the faculty and Dean to the Chancellor of the

95 Ibid.

96 Faculty and Students, op. cit., p. 391.

97 Ibid., pp. 391-392.

University, and by the latter official to the Board⁹⁸ of Directors, which body usually approves them. From a financial point of view Vanderbilt University is an extremely wealthy institution. In 1873 Commodore Vanderbilt gave the school \$500,000.00, a gift which⁹⁹ was subsequently increased to \$1,000,000.00. The total resources of the University today are estimated as¹⁰⁰ follows:

Productive funds	\$22,500,000.00
Value of Physical Plant	6,500,000.00
Total Annual Income	1,500,000.00

The tuition fee of the law school is \$200.00 per year plus a matriculation fee of \$10.00, a diploma fee of \$5.00, a library fee of \$15.00, and a medical fee of \$4.00. The school, however, does not seek to be self-supporting. During the past few years the total annual expenditures have exceeded income by¹⁰¹ approximately \$20,000.00. The enrollment for the past decade has approximated seventy-five students, with an annual graduating class of approximately

98 Ibid., p. 391.

100 Ibid., p. 391.

99 Ibid., p. 390.

101 Ibid.

102

twenty members.

The Vanderbilt University School of Law is one of the out-standing legal institutions in the South today. The average rank in Bar Examinations is second, with an average success of 80%.¹⁰³

The Bar Examiners have recently compiled statistics on bar examination results of students representing the various law schools of the State, in which this institution ranks second.¹⁰⁴

102 See APPENDIX, TABLES VIII, IX, and X.

103 Faculty and Students, op. cit., p. 390.

104 See APPENDIX, TABLE XI.

CHAPTER IV

THE BAR ASSOCIATION OF TENNESSEE

In 1881 sixty-nine lawyers in Tennessee drafted a charter and presented an application to the State for the incorporation of the Bar Association of Tennessee. In 1875 the Legislature had passed a general act providing for the organization of corporations.¹ The corporation was given a right to sue and be sued in its own name, to purchase and receive both personal and real property, to establish by-laws, make rules and regulations, to elect a President and Secretary or Treasurer and other minor officers. A Board of Directors was provided whose duty it would be to keep records, call elections, determine membership fees, etc. The corporation was organized as a non-profit corporation. Provision was made in the charter for dissolution of the corporation by the members and also for modification by similar means. The charter denied the corporation the right to engage in any kind of trading operations. The date

¹ Acts of the State of Tennessee Passed by the Thirty-Ninth General Assembly, 1875 (Nashville: Tavel, Eastman and Howell, Printers to the State, 1875), pp.232-264.

of application was December 14, 1881.

The objects of the Association are set out in Article I of its Constitution. "The objects of the Association are to foster legal science, maintain the honor and dignity of the profession of law, to cultivate professional ethics and social intercourse among its members, and to promote improvements in the law, and the mode of its administration."²

The Constitution further provides that nominations for membership must be made by the local council of a county or bar association. When neither exists in a county, nominations must be made by the Central Council. There are two prerequisites to membership. One must be a member of the Bar in Tennessee in good standing and must have gone through the process of nomination described above. The officers of the association as provided by the constitution are a President, three vice-Presidents, a Secretary and Treasurer, and a Central Council. The above officers constitute a Board of Directors. The tenure of each of these offices is one year, and the President is not eligible to succeed

² Charter, Constitution, and By-Laws, Together With the Proceedings of the Bar Association of Tennessee at its First Annual Meeting (Nashville: 1882), p. 11.

himself. Officers are elected by members of the association. An admission fee of five dollars and annual dues in the amount of three dollars are charged. Formerly the By-Laws provided for annual dues of five dollars. Failure to pay the annual dues means automatic expulsion. By-Laws are subject to amendment by a majority³ of the association.

Five standing committees are provided in the constitution. They are appointed by the President, and consist of five members each. These committees are: Committee on Jurisprudence and Law Reform, Committee on Judicial Administration and Remedial Procedure, Committee on Legal Education and Admission to the Bar, Committee on Publication, and Committee on Grievances. Vacancies occurring in either of these committees are filled by appointment by the President until the next meeting of the association. A majority of any committee⁴ constitute a quorum.

The Central Council determines the time and place of the annual meeting. Formerly the By-Laws required that this meeting be held during the month of July or

³ Ibid., pp. 11-13.

⁴ Ibid., p. 13.

August. The Secretary gives notice of time and place of meeting by publication or personal notice. The President opens each annual meeting with an address in which he calls attention to outstanding statutory changes made by the State Legislature and by the Congress of the United States during the preceding year.⁵

The Constitution may be amended by a vote of three-fourths of the members present at an annual meeting provided there are not less than twenty members present. Members may be suspended or expelled from the association by the Committee on Grievances for misconduct in relation to the association or the legal profession.⁶

One of the Vice-Presidents presides at the association meetings in case of inability of the President. The Secretary keeps a record of all meetings, and as secretary and treasurer, collects and disburses funds with the consent of the Central Council.⁷ The By-Laws provide that the order of business shall be thus: reading minutes of preceding meeting; address of the President; report of the Treasurer; report of the Central

⁵ Ibid., pp. 13-14.

⁶ Ibid., p. 14.

⁷ Ibid., p. 15.

Council; elections, if any, to membership; reports of other standing committees; reports of special committees; election of officers and appointment of committees; and miscellaneous business. This procedure is subject to change by a majority of members present. The Secretary and Treasurer is the only officer of the association who receives a salary. He receives one hundred dollars per year, one half due May 1, and the other half due November 1.

The first meeting of the Bar Association of Tennessee was held at Bon Aqua Springs on July 4, 1882. Only twenty-six members were present when the meeting was called to order. The meeting lasted one day. Forty-seven new members were elected, but we have no record of how many of the new members were present at the meeting. Records of that meeting were very brief but we are able to determine that the Secretary and Treasurer collected membership dues in the amount of \$280.00, and that expenditures amounted to \$47.11, leaving a surplus of \$232.89. There was no banquet during the first meeting, but provisions were made for one at the

⁸ Ibid., p. 16.

¹¹ Ibid., p. 24

⁹ Ibid., pp. 21-22.

¹² Ibid., p. 25.

¹⁰ Ibid., p. 23

next meeting. The day given over to the first meeting was consumed by the President's address, report of the Committee on Legal Education and Admission to the Bar, adoption of resolutions for the next meeting, and papers by the members on the following subjects: "The Legal Rights of Married Women," "The 100-3 Case,"¹³ and "State Commerce and Regulation of Railways."

No meeting of the Bar Association has been able to boast an abler president than the first. Judge William Frierson Cooper was one of the most accomplished jurists on the bench when he was elected the first President of the Bar Association of Tennessee. In his address to the association in 1882 Judge Cooper philosophized, "Life is a sleep of which love is the dream."¹⁴ He died in New York City on May 7, 1909.

The second annual meeting of the association was held at Bon Aqua Springs on July 11th. and 12th., 1883.¹⁵ B. M. Estes was president. We are unable, through lack of records, to determine the exact number present, but the meeting must have been very successful. The report of the Secretary and Treasurer shows that dues collect-

¹³ Ibid., pp. 25-27; see also Ibid., pp. 49-63.

¹⁴ Ibid., p. 47.

¹⁵ W. B. Swanay, "Report of Special Committee Appointed to Write a History of the Bar Association of Tennessee," in Proceedings of the Forty-Third Annual Session of the Bar Association of Tennessee (Chattanooga:1924), p.114

ed amounted to \$932.98, and expenditures amounted¹⁶ to \$288.90, leaving a balance of \$643.99. Twenty-six new members were elected. It seems that two reports: "A Plea for Uniform Laws," and "The French Bar," given by John Ruhm and L. B. McFarland respectively, were considered to be exceedingly valuable. Other matters before the meeting for discussion were on the subject of "Legal Ethics," and the question of a state constitutional convention. A Committee was appointed to formulate a code of ethics for guidance of the profession, but nothing was done on the¹⁷ question of the constitutional convention. Plans were made for the next annual meeting to extend over a period of three days and to conclude with a banquet. From that time forward banquets have played a prominent role in the association meetings. Some of its members have become accomplished after-dinner speak-¹⁸ers.

The third annual meeting was begun at Lookout Mountain on July 3, 1884, but adjourned to Chattanooga,¹⁹ because lights could not be procured for a night session.

¹⁶ Ibid., p. 115.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Ibid.

The records indicate that this was the most successful meeting thus far held. The annual address was delivered by Professor Simeon E. Baldwin of Yale University. Professor Baldwin used as his subject, "Insanity as a Legal Fiction."²⁰ After this meeting it became customary to have the annual address by some distinguished lawyer from another state.²¹ Several interesting reports were given; among the outstanding were: "Life and Character of Judge R. J. McKinney," by W. A. Henderson; "Some of the Characteristics of John Marshall of Franklin," by Randal M. Ewing; and The Life and Character of Judge W. B. Turley," by Alex W. Campbell. A report was submitted on Legal Ethics by a special committee presided over by G. N. Tillman. This report resulted in the appointment of a committee of three to prepare a "Code of Ethics."²² Two joint debates were held on the subjects, "Constitutionality and Advisability of Prohibition Laws," and "The Advisability and Feasibility of the Codification of the Common Law."²³ The banquet was a complete success, an outstanding feature being the reading of a paper by Charles C.

²⁰ Ibid.

²¹ Ibid.

²² Ibid., pp. 115-116.

²³ Ibid., p. 116.

Bonney, of Chicago, on the subject, "Constitutional Law---the Lookout Mountain of American Jurisprudence." If the association had not been thoroughly established before, it was at this meeting.²⁴

On July 1st. and 2nd., 1885, the fourth annual²⁵ meeting of the association was held in Nashville.

It was well attended, and one-hundred thrity-eight new²⁶ members were elected. The name of Honorable W. G. McAdoo, Jr., of Chattanooga appears in the record as a promi-²⁷nent attendant. Honorable Thomas M. Cooley delivered the annual address on the subject, "The Lawyer's Duty to the State."²⁸ Among other interesting papers read were: "The Exodus of the Criminal Classes," by John L. T. Snead; "Civil and Political Status of the Negro," by David M. Key; "The Lawyer," by William S. Fleming; and "The Life and Character of Judge Archibald Wright," by M. B. Trezevant. J. O. Pierce, Chairman of the Committee on Judicial Administration and Remedial Procedure, gave a report which dealt with reforming our judicial system and obtaining relief for the over-²⁹crowded dockets of the Supreme Court. This report was

24 Ibid.

25 Ibid.

26 Ibid.

27 Ibid.

28 Ibid.

29 Ibid.

discussed at the meeting, and the remarks made by Judge Cooper served as a basic formula for the subsequent reform requiring assignment of errors in the Supreme Court. The meeting was followed by a banquet³⁰ immensely enjoyed by all. Speeches were given by some of the association's most prominent members: Ex-President Wheeler, President-elect Folkes, Judge David M. Key, H. H. Ingersoll, H. M. Wiltse, John J. Vertrees,³¹ A. S. Colyar, and Judge Thomas M. Cooley. This was the first meeting the proceedings of which were stenographically³² recorded.

Memphis was the scene of the fifth annual meeting³³ held on July 1st. and 2nd., 1886. An outstanding point of interest was observed at that meeting: when the meetings were held in large cities the large increase³⁴ in membership was very marked. However, the association was not always affected by that, because many of them considered the meeting a vacation and preferred³⁵ places like Lookout Mountain. President Folkes' address provided plans for what later became a reality. He advocated that the association use its influence in

30 Ibid.

31 Ibid., pp. 116-117.

32 Ibid., p. 116.

33 Ibid., p. 117.

34 Ibid.

35 Ibid.

an effort to have the next General Assembly enact laws regulating admission to the Bar and the creation³⁶ of a Board of Law Examiners. A bill providing for these measures had previously been drafted by T. M.³⁷ Stegar and others. He further advocated reform of the judicial system so as to relieve the Supreme Court of the crowded dockets, and reformation in our Revenue³⁸ and Assessment Laws.

Honorable U. M. Rose, of Little Rock, Arkansas, delivered the annual address, using as his subject,³⁹ "The Future of Our Laws."

The two important business matters of this meeting were methods of speeding litigation in the lower courts and relieving the crowded dockets of the Supreme Court, and discussions of the Assessment and Revenue Laws.⁴⁰ A motion in favor of a constitutional convention was made, but no action was taken at this⁴¹ meeting. A banquet, concluding the meeting, was held at the Gayos Hotel, at which many distinguished speakers⁴² were featured.

³⁶ Ibid.

³⁷ Ibid.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Ibid.

The sixth annual meeting was held at Knoxville on July 20th. and 21st., 1887. Twenty-six new members, mostly from Knoxville, were chosen at that time.

The address of President John W. Judd was the keynote of the meeting. As was the custom he summarized the new laws of the General Assembly and Congress. He called attention to the new rule of the Supreme Court requiring assignment of errors, and showed how that recent practice had facilitated judicial procedure. He advocated the holding of a constitutional convention to remedy other defects in our judicial system. For the first time he showed the influence the Bar Association as a body was having upon the laws of Tennessee. The advisability of a constitutional convention seems to have been the theme of the standing committees as well as the meetings as a whole. It was noted that a bill to create a Board of Law Examiners had been presented to the Legislature and had been voted down. The meeting, as usual, was concluded by a banquet which seems to have been a gala affair.

August 1st. and 2nd., 1888 the seventh annual

43 Ibid.

44 Ibid., p. 118.

45 Ibid.

46 Ibid.

47 Ibid.

48 Ibid.

meeting was held in Tullahoma. This was the first meeting extensively attended by ladies. It is believed, however, that they were wives and daughters of members,⁴⁹ not members themselves.

Most of the records of this meeting were destroyed by fire in the office of the Secretary; consequently the recommended measures were not presented to the General Assembly of 1889.⁵⁰ Some of the most timely subjects discussed at the meeting were: "That No Male Person Should Be Allowed To Sue For a Divorce Under the Pauper's Oath," submitted to vote and did not carry; "That a Party Seeking a Continuance to the First Trial Term For the Absence of a Witness, Shall be Required to State What he Expects to Prove by the Witness," adopted; "Where a Continuance is Sought on Affidavit for the Absence of a Witness, Shall the Court be Allowed in its Discretion to Inquire Into the Probable Truth of the Affidavit?"⁵¹ This was modified and carried.

Chairman J. J. Turner of the Committee on Jurisprudence and Law Reform, elaborated on the adoption

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ Ibid.

of a whipping post for certain classes of crimes, and⁵² why a constitutional convention should be held. Another important step taken by the Committee was the recommending of the creation of a code commission.⁵³ Every member of the association voted in favor of a constitutional convention.⁵⁴ John Haskell Butler, of Massachusetts, delivered the annual address on "The Lawyer as a Citizen." Important papers read were: "Some Needed Changes in Our State Constitution," by Francis Fentress, and "Chancery Pleadings and Practice in Tennessee," by H. P. Figures. There is no record that this meeting was concluded with a banquet. In view of the past and the popular custom, there is an assumption that it⁵⁵ was concluded with some social event.

The eighth annual meeting was held in Memphis⁵⁶ July 11th. and 12th., 1889. This meeting saw the novel introduction of an address of welcome by S. P. Walker, Chairman of a local Committee of Arrangements. Mr. Walker announced that the Memphis Bar had made arrangements for an excursion on the Mississippi River at⁵⁷ 7 O'clock P. M. on board the Steamer, "Rose Lee."

⁵² Ibid., p. 119.

⁵³ Ibid.

⁵⁴ Ibid.

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ Ibid.

"As usual, the record of those in attendance is incomplete. The President's address is of more than ordinary interest, and is brimful of bright gems of ancient and modern lore. Particular attention is called to the necessity for a system of uniform laws, and the suggestion was made (among the first in all probability), that the American Bar Association memorialize the Governors of all the States, setting forth the subjects needing uniformity of legislation, and fixing the number of delegates from each State, and the time and place of such convention. This recommendation was adopted by the association, and the delegates of the American Bar Association were instructed to present some to that association at its next meeting, which was done; and, as is well known, such an organization was perfected, is still in existence, and its deliberations have been productive of vast benefit in this respect. The membership at this time was about two hundred, and the proceedings are full of splendid and weighty arguments showing profound thought on all of the subjects discussed."⁵⁸

Thomas J. Semmes, of New Orleans delivered the annual address on "The Louisiana Law of Fixtures."

It is impracticable to attempt to give the history of each annual meeting of the Bar Association of Tennessee. Volumes could be written on the subject. The distinguished speakers from time to time, their subjects, and the practical benefits of the Bar Association⁵⁹ will be dealt with in the remainder of this discussion.

In 1891 the annual address was delivered by Judge H. H. Lurton, on a subject very timely at that day,

⁵⁸ Ibid.

⁵⁹ A complete list of Presidents and Secretaries and Treasurers of the Bar Association of Tennessee appears in APPENDIX, TABLE XII.

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"Is the Trust Dangerous?" In 1897, Seymour D. Thompson and Walter Clark gave joint addresses, the former on "Mr. Justice (Andrew) Jackson," and the latter on "The Revision of the Constitution of the United States." In 1898, the principal speaker was Phillip Lindsley, who spoke on the subject, "Tennessee Lawyer in Texas." This extraordinary address was followed in 1900 by Joseph R. Lamar, on "A Century's Progress in Law." Charles Noble Gregory delivered the address in 1901, on "Sir Samuel Romilly and Law Reform;" in 1903, H. H. Lurton, spoke on "The Evolution of the American Law on Constitutional Limitations;" and in 1904, Jacob M. Dickson spoke on "The Alaskan Boundary Case." In 1906 and 1907, Seldon B. Spencer and Hannis Taylor were the speakers respectively. The former used as his theme "Law and Lawlessness," and the latter, "The Growing Importance of the Fourteenth Amendment." In 1908, Martin W. Littleton spoke on "Great Questions Now Confronting American Lawyers." One marked distinction of this meeting was the presence of William H. Taft, a visitor. The meeting of 1909 also had a distinguished

60 Swanay, loc.cit., p. 121.

65 Ibid.

61 Ibid.

66 Ibid

62 Ibid.

67 Ibid.

63 Ibid.

68 Ibid.

64 Ibid., p. 122.

69 Ibid.

visitor, W. W. Smithers, of Philadelphia. The American Bar Association was meeting at Chattanooga at that time.⁷⁰ In 1911 Frederick N. Judson addressed the meeting on "The Future of Jurisprudence in the United States."⁷¹ In 1912 the Association was favored with a number of addresses from as many prominent speakers, among them were: Thomas J. Shelton, of Norfolk, who spoke on "Reform and Uniformity of Judicial Procedure;" Alexander H. Robbins, of St. Louis, on "Courts and Legislation."⁷² The same was true in 1913. The principal speakers were: Blewett Lee, "Sovereignty of the Airs;" Thomas M. Pierce, "The City and the Railroads;" Rome G. Brown, "The Judiciary as the Servant of the People;" and William Thornton, "Who was Thomas Jefferson?"⁷³

The meeting of 1914 heard such prominent speakers as John B. Knox, on "Andrew Jackson;" Nathan William McChesney, "A Plan for Modern Unified Courts;" and James C. McReynolds, "The Law Business of the United States."⁷⁴ In 1915 the speakers were Peter W. Meldrin and Alfred P. Thom, who spoke on "A Roman Advocate,"⁷⁵ and "The Rights of the States," respectively. One of

⁷⁰ Ibid.

⁷¹ Ibid.

⁷² Ibid.

⁷³ Ibid.

⁷⁴ Ibid.

⁷⁵ Ibid.

the most learned addresses heard by the association was given by John C. Doolan, in 1916 on "Postal Powers of Congress." In 1917 George S. Ramsey address-⁷⁶ ed the meeting on, "Relation of Master and Servant."⁷⁷ At the time of the association meeting of 1919 post-war conditions were fresh in everyone's mind, and a topic of public and private conversation. At that time W. C. Fitts delivered an address on, "Duties of America to European Nations;" and A. Mitchell Palmer followed on. "Private Property During the War."⁷⁸ G. B. Rose and Kenneth D. McKellar were the speakers in 1920 and 1921, respectively. The former spoke on, "Industrial Crisis and the Bar;" and the latter on a timely subject, "Disarmament."⁷⁹ The speech of William L. Frierson in 1922, was somewhat historical; "Impeachment and Trial of Andrew Johnson." Clarence N. Goodwin spoke at the same meeting, on "The Government of the Bar."⁸⁰ Perhaps no meeting of the association has had the honor of a more distinguished group of speakers than that of 1923. Among them were: R. E. L. Saver,

⁷⁶ Ibid.

⁷⁷ Ibid.

⁷⁸ Ibid.

⁷⁹ Ibid.

⁸⁰ Ibid.

who spoke on, "Remove Not the Ancient Landmarks Which Thy Fathers Have Set;" and H. B. Schermerhorn,⁸¹ "An American Lawyer in the Paris Courts." Justices James C. McReynolds and Edward T. Sanford, Justices of the United States Supreme Court were guests of honor,⁸² and gave brief addresses. In 1924 the principal address was given by Hon. Martin T. Manton, on "The World Court and the Conflict Between Constitutional and International Law."⁸³

In 1925 three able speakers-Finis J. Garrett, George Harsh and Lovick P. Miles-addressed the association. Their respective subjects were:"Constitutional Amendments," "The Memphis Association," and "Comments on the Acts of the General Assembly and Congress." Mr. Lovick P. Miles was President of the association⁸⁴ at that time. The meeting of 1926 was addressed by Joseph W. Bailey, Senator from Texas, on "Our Dual Sovereignty," and by Samuel Cole Williams, of Johnson City,⁸⁵ using as his topic, "Tennessee's First Lawyer." In 1927 the comparatively small city of Johnson City

⁸¹ Ibid.

⁸⁴ Ibid. (1925), pp. 26, 91, 109.

⁸² Ibid.

⁸⁵ Ibid. (1926), pp. 116, 139.

⁸³ Ibid.

was honored as the meeting place of the Bar Association Convention. One of its prominent barristers, Major Paul E. Devine, delivered the welcoming address. The response was given by Finis J. Garrett, Minority leader in Congress at that time. Other prominent speakers and their subjects were James H. Malone, of Memphis, on "The Vindication of Andrew Johnson," and Samuel Cole Williams, on "The Records of Our Earliest Courts." The After Dinner Speech was delivered by United States Senator Lawrence D. Tyson, of Tennessee.⁸⁶

The Bar Association Convention of 1928 was held in Memphis. The welcoming address was delivered by Mr. Charles N. Burch, of Memphis. The response was given by Mr. R. A. Davis, of Athens. Mr. Davis is a former Justice of the Court of Appeals, fought in France in the Thirtieth Division, and at present is a member of the Board of Law Examiners of Tennessee. Mr. Giles L. Evans, of Nashville, addressed the convention on "The Law on Hydro-Electric Power In Tennessee."⁸⁷ Again in 1929, Memphis was chosen as the meeting place

⁸⁶ Ibid. (1927), pp. 28, 30, 96, 108, 124.

⁸⁷ Ibid. (1928), pp. 30, 32, 134.

of the association. Committee reports and discussions were the order of the day at this meeting. It was distinctly a business meeting and little time was given to speeches other than those pertaining to some phase of the convention business. Several resolutions were adopted. The explanation for the breach in procedure lies in the fact that the American Bar Association was in session from Oct. 23rd. to the 25th. The State Bar Association met only one day, Oct, 24th., in order to conflict with the superior body as little as possible.⁸⁸

In 1930 the association meeting was held at Chattanooga. The addresses of welcome were given by B. E. Tatum, Chattanooga City Attorney, and Charles Coffey, President of the Chattanooga Bar Association. Charles Warren, former Assistant Attorney General of the United States delivered an address on "Presidential Independence," and Judge Samuel Cole Williams led an open forum discussion on the code. The addresses of welcome at the 1931 meeting were given by Lawrence

⁸⁸ Ibid. (1929), pp. 27, 32, 134.

⁸⁹ Ibid. (1930), pp. 28, 30, 103, 131.

Taylor, Esq., Mayor of the City of Jackson, and Chester G. Bond, Esq., President of the Jackson Bar Association. After the disposition of business the convention was addressed by Honorable Charles A. Boston, President of the American Bar Association on "Historical Background of the State of Tennessee and Legal Education of the Coming Lawyers," and by R. V. Fletcher,⁹⁰ "Judicial Legislation." Nashville, the State Capitol, was the scene of the meeting in 1932. The welcoming address was delivered by Thomas G. Watkins, Esq., President of the Nashville Bar and Library Association. The response was given by Judge R. B. Baptist, of Covington. P. E. Cox, State Archaeologist, delivered an interesting historical address on "The Code of Hammurabi." This address was followed by one by Honorable Lloyd P. Stryker, member of the New York Bar, on "The Lawyer As a Leader."⁹¹

The meeting in 1933 was held in Knoxville. Addresses of welcome were given by Honorable John T. O'Connor, Mayor of Knoxville, and Frank Montgomery, Esq., President of the Knoxville Bar Association.

⁹⁰ Ibid. (1931), pp. 28, 30, 129, 161.

⁹¹ Ibid. (1932), pp. 18, 21, 90, 93.

Honorable J. E. Holmes, of the Memphis Bar gave the response. The convention was fortunate in having the Honorable James M. Beck, Former Solicitor General of the United States, who delivered an address on "The Future of the Constitution." Another outstanding address was delivered by William R. Pouder, in which he discussed taxation from the viewpoint of National and State income and expenditures.⁹² Memphis has always been a popular place for Bar Association Meetings.

It was the meeting place in 1934. The meeting opened June 1st. Addresses of welcome were delivered by Honorable Watkins Overton, Mayor of Memphis, and Capt. William M. Stanton, President of the Memphis and Shelby County Bar Association. Mr. John Jennings, Jr., of the Knoxville Bar gave the response. This was an important business meeting, most of the time being taken by committee reports and discussions. However, an address was given by Honorable Sennett Conner, Governor of Mississippi. His subject was, "Evolution In Government." Honorable Webb Venable also gave an interesting address in which he stressed among other things, the

⁹² Ibid. (1933), pp. 28, 29, 31, 96, 128.

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responsibility of the Bar. The place of meeting in 1935 was shifted back to the State Capital, Nashville. This meeting differed greatly from that of the previous year. It was a meeting in which business somewhat receded in favor of addresses by prominent speakers. The welcoming address was given by Albert G. Ewing; Honorable Joe V. Williams of Chattanooga, gave the response. The Honorable Henry Breckinridge, of Kentucky addressed the convention, vigorously defending the Federal Constitution. An address similar in tone was given by Judge W. L. Cook. This series was climaxed when the audience, responding to the request of Justice James C. McReynolds, stood and drank a toast to the Constitution of the United States.

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In 1936 the association met in Chattanooga. The meeting was opened June 5th. The address of welcome was delivered by Honorable James B. Frazier of Chattanooga. Honorable Walter P. Armstrong of Memphis gave the response. An address by President Joe V. Williams, on "The State of the Bar," was a high point in the convention. Other addresses were given by Harvey T.

93 Ibid. (1934), pp. 27, 30, 33, 160, 186.

94 Ibid. (1935), pp. 30, 32, 56, 65, 117.

Harrison, of Little Rock, Arkansas, and Boyle G. Clark, General Chairman of the Bar Committee of Missouri, on "My Country, 'Tis of Thee," and "Compact Between Missouri Supreme Court, Its Bar⁹⁵ and Its People," respectively. Again in 1937 the association met in Memphis. The welcoming addresses were given by Clifford Davis, Vice-Mayor of Memphis, and John T. Shea, President of the Memphis and Shelby County Bar Association, to which George H. Armistead, Jr., Vice-President of the middle Tennessee Division, responded. Mr. Walter P. Armstrong, President, delivered a stirring address on the subject, "The Future of the Lawyer." Other addresses were: "The Centenary of Associate Justice John Catron, of the United States Supreme Court," by Congressman Walter Chandler, of Memphis, and "The State Today," by Honorable Stanley⁹⁶ Reed, Solicitor General of the United States. The association held its meeting the following year, 1938, in Nashville. The outstanding event of this meeting was the report of a survey committee of the

⁹⁵ Faculty and Students of the University of Tennessee College of Law (editors), Tennessee Law Review, Vol XIV, pp. 3, 10, 38, 54.

⁹⁶ Ibid., Vol. XV, pp. 3, 4, 6, 24, 32, 52.

American Bar Association on the law schools in Tennessee. The committee report was not very complimentary, which brought forth bursts of oratory which smacked of that of the days before the American Revolution. The addresses of welcome were given by Thomas L. Cummings, Mayor of Nashville, and W. P. Cooper, of the Nashville Bar. Response was given by Judge R. A. Davis, of Athens, present member of the Board of Law Examiners in the State. Following these preliminaries, an address was given by Major General Allen W. Gullian, of the United States Army, on "The⁹⁷ Spirit of International Law." The 1939 meeting was held in the Assembly Room of the Lookout Mountain Hotel in Chattanooga. Mayor Ed Bass of Chattanooga, and Mr. Charles S. Mayfield of Cleveland, extended the welcome, to which Judge J. D. Senter, of the Court of Appeals, responded. Judge Burt J. Thompson of Forrest City, Iowa, spoke on the possibilities of law institutes in Tennessee. This was a meeting characterized by strict attendance to business matters ably presided

⁹⁷ Ibid., pp. 413, 414, 417, 454.

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over by Judge R. A. Davis. At the time of this writing the proceedings of the meeting of 1940 have not been published. However, the program has been published. Some of the outstanding features appearing on the program are worthy of mention here. The meeting was to be held in Memphis, with the welcoming addresses by Mayor Walter Chandler, of Memphis, and Floyd M. Henderson. President of the Memphis and Shelby County Bar Association, and the response to welcome by John J. Hooker, Vice-President of the Bar Association of Tennessee. The major address was to be delivered by Honorable Elwood Hamilton, Judge of the U. S. Circuit Court of Appeals, Sixth Circuit, on "Justice In a Changing World." Further announcements included the regular

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routine of business.

We shall now consider the benefits which have resulted from the Bar Association of Tennessee. The fact that it is a progressive organization is evidenced by the growth in membership. It started with sixty-three members, all signers of the charter; today it boasts a membership exceeding eleven hundred

⁹⁸ Ibid., Vol. XVI, No. I, pp. 68, 69, 80. See also APPENDIX, TABLE XII.

⁹⁹ Faculty and Students, op. cit., No. IV, pp. 464, 465.

persons. We are not particularly interested here in the advantages of this organization to society, rather than in its members. Suffice it to say that the advantages of membership are numerous and weighty. Social contacts, inspirational and instructive addresses by the nation's most prominent speakers, parliamentary experience, upholding and elevating the legal profession, and being instrumental in the codification of our statutes are advantages not to be considered¹⁰⁰ lightly.

The Committee on Legal Education and Admission to the Bar has performed extraordinary service in preventing the legal profession from becoming overcrowded with poorly trained and incompetent barristers. True, the process has been gradual, but through cooperation of our State Legislature and Supreme Court with this committee, as well as the assistance of the entire association, our standards now are practically on a par with those of the leading states. It was through the untiring efforts of this committee that

¹⁰⁰ Author's observations.

the Board of Law Examiners was created in 1903.¹⁰¹ Much of our most progressive legislation has been sponsored by the Bar Association. Three times it was successful in getting legislative acts passed submitting the question of calling a constitutional convention to a vote of the people, in 1897, 1917, and 1923. It sponsored the Jarvis Bill which reduced insolvent costs in criminal cases, a measure from which the State and counties benefit approximately one million dollars per year. The association also sponsored the Estes Fee Bill which placed county officers in large counties on salaries. However, this measure was held unconstitutional. The organization was likewise the parent of a bill which reduced the number of circuit and criminal judges and chancellors in the State, known as the Judicial Redistricting Bill. The salaries of judges and chancellors were increased by another bill in an effort to make these positions attractive to our ablest jurists.¹⁰² Other acts sponsored by the association are: providing commissions to select jurors in

101 Proceedings of the Twenty-Second Annual Meeting of the Bar Association of Tennessee, p. 13.

102 Ibid. (1924), p. 126.

the larger counties, regulating qualifications of jurors in 1899 and 1909, reducing the number of justices of the peace in counties at various times, permitting stenographers to take depositions under certain conditions, and to report trials before juries, extension of time after a term of court for preparing and filing bills of exceptions and perfecting appeals, and the creation of the Court of Chancery Appeals for the purpose of relieving the Supreme Court. ¹⁰³ Practically all of our Uniform Laws owe their existence to the Bar Association. The most important ones are: Negotiable Instruments Act, Warehouse Receipts Act, Stock Transfer Act, Partnership Act, Sales Act, Flag Act, Foreign Depositions Act, Cold Storage Act, Proof of Statute Act, Declaration Judgment Act, Acknowledgments Act, Fraudulent Conveyance Act, Extradition Act, and Aeronautics Act. As was mentioned above, all of these are uniform acts, and "Uniform" is an appropriate part ¹⁰⁴ of the title.

One of the most valuable laws, from the standpoint of clarification, sponsored by this organization was

¹⁰³ Ibid.

¹⁰⁴ Ibid.

an act permitting defendants to file or exercise a plea in abatement along with the general issue or plea in bar. It is obvious, of course, that the plea in abatement must be filed and considered first, there being no place for it after the general issue or plea in bar has been resorted to. ¹⁰⁵ For a long time the association urged the passage of an act requiring a prompt demand for a jury in cases appealed from justice of the peace courts, and requiring the defendant to give security for costs in such appealed cases involving open accounts. After much persistence the efforts were rewarded with success. The association recommended, and with effect, that in certiorari cases issue may be joined upon the facts alleged as grounds for appealing. In other words, the appellee may attack the petition for writ of certiorari filed in the appellate court by the appellant, disputing the right of the appellant to be heard in the appellate court. That is a distinct matter from the causes for the original litigation. If the issue is settled in favor of the appellant the case proceeds to be reviewed or heard de novo as the

¹⁰⁵ Ibid., p. 127.

106

case might be.

The Torrens System of Registration was legislation sponsored by the State Bar Association. It is a system devised for the protection of real property titles, and to facilitate their recording.¹⁰⁷ In the larger counties, at its instance, laws have been passed providing that process can be issued and returned to the first Monday in the month following the filing of the suit, if accompanied by a copy of the declaration. By this procedure the appearance term is in effect abolished. Similar legislation has been enacted effecting chancery procedure. Process is returnable to the first rule day in the month following the filing, and answer is imperative if the process was served five days before the rule day. This has facilitated, as well as hastened chancery procedure. The "Workmen's Compensation Law" is largely a product of repeated recommendations made by the association. Again, it sponsored the act in 1913, which removed disabilities of married women, and the modifications which it has

106 Ibid.

107 Shannon, Robert T. (Compiler, editor, and annotator), A Compilation of the Tennessee Statutes (Nashville: Tennessee Law Book Publishing Company, Publisher, 1917), Vol.III, pp. 3533, 3534, Sec. 3793A3.

undergone. Under the same sponsorship, an act was passed providing that in every divorce case instituted by the female she might deposit \$6.00 with the court in lieu of a cost bond. The Supreme Court accepted the suggestion of the State Bar Association providing for the assignment of errors, briefs, etc., which had previously been denied.¹⁰⁸

In 1908 the American Bar Association adopted the Canons of Professional Ethics, which in turn were adopted by the Bar Association of Tennessee in 1909 as the Tennessee Code of Legal Ethics. At the instance of the association the Supreme Court adopted them and requires that all applicants for admission to the Bar familiarize themselves with them and agree to conduct themselves accordingly in the practice of their profession.¹⁰⁹

108 Proceedings of the Forty-Third Annual Session of the Bar Association of Tennessee, p. 127.

109 Ibid.

CHAPTER V

THE STATE BOARD OF LAW EXAMINERS

As was mentioned in the preceding chapter, the State Bar Association sponsored an act, which was passed in 1903, creating a State Board of Law Examiners. This act repealed Sections 3967 and 3968 of the Code of Tennessee and Chapter 73 of the Acts of 1856-¹60. It created a State Board of Law Examiners consisting of three members. The members must be members of the State Bar. They are appointed by the Supreme Court for a period of three years. However, under the first appointment they were to serve one, two, and three years respectively, or until the successor of each was appointed. This original act provided that these members should give examinations to applicants for licenses to practice law or to be counselors at law. The act specifically designates Knoxville, Nashville, Jackson, and Lebanon as places where the examinations are to be held, and additional places if deem-

¹ Acts of the State of Tennessee, 1903 (Nashville: Foster and Webb; Printers, Stationers, and Binders, 1903), p. 575.

2

ed necessary. The Supreme Court is also given authority to prescribe the rules. providing they are uniform, under which the examinations are to be given. During the same session, the Legislature passed a supplemental bill providing that the examinations should also be
³ given at Chattanooga.

The act further provided that the members of the Board of Law Examiners should receive two-hundred fifty
⁴ dollars per annum each for their services, plus expenses. Every person applying for the examination was to pay a fee of five dollars, and this was to be paid for each examination in case he was unsuccessful and took more than one. The act made it mandatory that the Board should make an annual report to the Secretary of State, turning all receipts and disbursements over to him, on the thirty-first of December. If the balance proved insufficient to compensate the Board, the Secretary of State must order the Comptroller to draw a warrant
⁵ for the difference. It further placed a duty upon the Examiners to notify the Supreme Court of all persons

2 Ibid.

3 Ibid., p. 1293.

4 Ibid., p. 575.

5 Ibid., p. 576.

who had successfully passed the examination, provided such persons had complied with all other rules and requirements. If the Supreme Court found that all of the above conditions had been complied with by the applicants, it must issue an order licensing such persons to the practice of law.⁶ A reservation was made to the above, however; if the license had been procured by fraud, the Court reserved the right to revoke it within the space of two years. It further provided that where a graduate of any law school of Tennessee has been licensed to practice law under this act, the Supreme Court will send the license to the faculty of said school upon request to be delivered to the licensee.⁷

The Supreme Court was given authority to make whatever rules it deemed necessary for admitting persons to practice law in Tennessee who had previously been admitted to the Bar in a foreign state. A license granted by the Supreme Court was made valid in all courts of the State.⁸

⁶ Ibid.

⁷ Ibid.

⁸ Ibid.

These rules governing examinations for admission to practice law have been modified from time to time since the Act of 1903. Examinations are held in Nashville, Knoxville, and Memphis in January and June of each year. The application fee for the examination is ten dollars if the applicant is a resident and fifty dollars if a non-resident. An additional fee of ten dollars is paid for the license by successful candidates. An unsuccessful applicant may take the examination repeatedly by paying the regular fee each time. There is no way, according to the rules of the Supreme Court, of procuring a license to practice law in Tennessee except by the method herein described.

If an applicant desires to take the examination in January he must place his application papers with the Secretary of the Board not later than the first day of December next preceding, and if he desires to take the examination in June, the papers must be in not later than the first day of May next preceding. The application papers shall satisfy the Board that

⁹ A. B. Broadbent, R. A. Davis, and R. I. Moore, Statutes and Rules of the Supreme Court and the Board of Law Examiners Governing Admission to the Bar of Tennessee (Memphis: 1940), p. 1.

the applicant is a citizen of the United States; that he intends to live and practice law in Tennessee; that he is a person of integrity and moral character above reproach; that he has studied the principles of law and equity by personal attendance, for not less than tow years in a reputable law school or in the office of a reputable lawyer who has been admitted to practice before the Supreme Court for a period of five¹⁰ years. The applicant must have had at least a high school education before he began the study of law. After June 15, 1941, he must have had at least two years of college work before beginning the study of law. He must state and show himself to be prepared for examination upon the following subjects: Constitutional Law, including the Constitution of the United States~~x~~ and of the State of Tennessee; Wills, Suretyship, Bailments, Criminal Law, Equity, The Law of Real and Personal Property, Evidence, Landlord and Tenant, Contracts, Partnership, Corporations, Torts, Agency, Negotiable Instruments, Domestic Relations, Pleadings¹¹ and Practice, and Professional Ethics.

¹⁰ Ibid.

¹¹ Ibid., p. 2.

The applicant must also furnish the Board with a certified statement from the county court of his county, showing that he is twenty-one years of age; and a certificate of one or more reputable lawyers, or the dean of a law school that he has completed the required study course, that he has familiarized himself with the Canons of Professional Ethics, accepts them and agrees to conduct himself in accordance¹² with them.

If an applicant for admission to the Bar in Tennessee already has a license to practice law in a foreign state-that is, some other state in the union- he may be admitted in this State, under certain conditions, without an examination. He must present his license or a certified copy from the court in which he was admitted. Such license must have conferred upon him the right to practice law in the highest court of his state or county. He must present three letters from attorneys or judges that he is in good standing at the Bar from which he came. The requirements for admission to the Bar from which he came must be of at least equal difficulty with those in Tennessee;

12 Ibid.

or if he can prove that he has practiced law for five years in courts of record, and the Board is satisfied of his worthiness, he may be admitted. In any case he must meet the same requirements as the applicant for the examination as to his citizenship, residence and intention to practice law, and moral character.¹³ The foregoing is not to be construed as conflicting with the rule of comity in Tennessee. By that rule non-resident attorneys who are associated with Tennessee lawyers in cases tried in this State, may be allowed to appear in such case without obtaining a license, when presented to the court by a member of the Bar.¹⁴

The State Board of Law Examiners has three officers; a President, Vice-President, and a Secretary and Treasurer. The last two offices are filled by the same member. It is mandatory that the Board shall use a seal with the following words inscribed thereon: "State of Tennessee Board of Law Examinaer." All licenses executed by said Board must contain the signature of at least two members, which constitute a

¹³ Ibid., p. 3.

¹⁴ Author's observations.

quorum for transacting business, together with the seal affixed. The members of the Supreme Court must sign all licenses issued. In addition to the above rules the Board has authority to make such other rules as are deemed necessary, provided they are not in conflict with the aforementioned rule.¹⁵ The present members of the Board of Law Examiners, their respective positions relative to such Board, and their addresses are: A. B. Broadbent, President, Clarksville, Tennessee; R. A. Davis, Vice-President, Athens, Tennessee; R. I. Moore,¹⁶ Secretary-Treasurer, Memphis, Tennessee.

We have been interested thus far with the organization, rules, and personnel of the Board of Law Examiners; now, let us see them in action-administering the Bar Examination.¹⁷

As was mentioned above the examinations are held in Nashville, Memphis, and Knoxville. As a rule a member of the Board of Examiners gives the examination at each of the three places. Each examination covers

¹⁵ A. B. Broadbent, op. cit., p. 4.

¹⁶ Letters from A. B. Broadbent, R. A. Davis, and R. I. Moore, to the author, October, 1940.

¹⁷ The remainder of this chapter is based upon the author's observations and experience as a result of having taken the Bar Examination in January, 1940, at Knoxville.

a period of two days. There are four sessions: nine o'clock until twelve and one o'clock until four, for the two days, respectively. That means that one actually spends twelve hours taking the entire examination. The recent examinations have been long and complex, and although one becomes tired he has no time to rest during a session. The entire time is needed, regardless of how well versed one is in law. There is no way of determining what subjects in the legal curriculum will be the subject of any particular session except as they are given; by the process of elimination, one might "spot" the subjects for examination at the last session or two.

In Knoxville the examination is given in the County Court Room of the Court House. When one enters the room for the first session, especially if early, one finds a general atmosphere of nervousness; many small groups are gathered here and there talking in rather low but hurried tones, and an unusual amount of cigarette stubs are on the floor about each group. Finally the examiner enters, all are seated and a few preliminary instructions are given. The applicants must furnish their own paper, pens or typewriters, ink, blot-

ters, etc. At the beginning of the examination each applicant is given a number. He places that number instead of his name, on each of his examination papers. The purpose of this is to prevent the examiner from knowing whose paper they are grading at any particular time. However, the examiners could discover the names, for there is nothing to prevent them from finding the card upon which the name of the owner of the paper with the corresponding number appears. Also at the beginning of the examination a pledge card is given to each applicant. At the end of the examination he signs the card saying he has neither given nor received help during the examination.

After a while all is quiet in the examination room. The air of nervousness has disappeared and the applicants have settled down to work. At the end of each session there are the groups again, but this time comparing answers. No credit is given for "yes" and "no" answers, even though they are correct. By the time one has finished with the fourth session there is a decided need for rest.

The applicant usually is notified of the results

of the examination within three months after he has taken it. An average grade of 75% is required on all papers for passing. No grades are published, however, The applicant is simply notified that he passed or failed. If he passed he pays an additional ten dollars for the license which is issued by the Supreme Court. He is then a lawyer who, after the formality of being introduced to the various courts of record, is privileged to practice law in any state court in Tennessee.

As we stated above, the Bar Examination has ceased to be merely a matter of form. It is a real test of one's legal knowledge, and a passing grade is prima facie evidence that one is well versed in the subject of law and its practice. The importance of extended pre-legal education as well as law school training is clearly shown in recently compiled statistics in
18
Tennessee.

¹⁸ See APPENDIX, TABLES XIII and XIV.

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APPENDIX

APPENDIX

TABLE I. COMPARISON OF THE LEGAL AND MEDICAL PROFESSIONS
¹
 FROM 1900-1933

Doctors and Lawyers	1900	1910	1920	1930	1933
Doctors	132,002	146,064	144,977	153,794	157,000
Lawyers	107,474	114,704	122,519	160,605	175,000
New Admissions per year..					
Doctors	5,676	5,713	4,059	5,497	5,559
Lawyers	3,830	4,102	5,586	10,012	9,340
Law School and Medical School Attendance					
Doctors	25,171	21,526	13,798	21,597	22,135
Lawyers	12,408	19,498	24,503	46,751	38,500

¹ Proceedings of the Fifty-Third Annual Session of the Bar Association of Tennessee (Memphis: 1934), p. 207.

APPENDIX

TABLE II. ADMISSIONS TO THE BAR IN SOUTHERN STATES DURING
 THE YEAR 1934²

Tennessee	299
Georgia	182
Virginia	175
Alabama	131
Florida	128
Arkansas	123
North Carolina	81
Louisiana	75
Mississippi	48
South Carolina	38

² Ibid. (1935), p. 103.

APPENDIX

TABLE III. GEOGRAPHICAL DISTRIBUTION AND PER CAPITA REPRESENTATION
 OF LAWYERS BY TOWNS IN TENNESSEE MARCH 3, 1939³

City or Town	County	Population	No. Lawyers
Adamsville	McNairy	643	1
Alamo*	Crockett	906	5
Altamont*	Grundy	140	1
Ashland City*	Cheatham	712	4
Athens*	McMinn	5,385	16
Benton*	Polk	525	7
Blountville*	Sullivan	250	2
Bluff City	Sullivan	671	1
Bolivar*	Hardeman	1,217	6
Bristol	Sullivan	12,005	23
Brownsville*	Haywood	3,204	24
Byrdstown*	Pickett	135	2
Camden*	Benton	955	6
Carthage*	Smith	1,068	13
Celina*	Clay	756	5
Centerville*	Hickman	943	10
Charlotte*	Dickson	291	2
Chattanooga*	Hamilton	119,798	291

APPENDIX

TABLE III. GEOGRAPHICAL DISTRIBUTION AND PER CAPITA REPRESENTATION
OF LAWYERS BY TOWNS IN TENNESSEE MARCH 3, 1939, CONT'D.

City or Town	County	Population	No. Lawyers
Clarksville *	Montgomery	9,242	25
Cleveland*	Bradley	9,136	14
Clinton*	Anderson	1,927	9
Collierville	Shelby	1,008	1
Columbia*	Maury	7,882	39
Concord	Knox	530	1
Cokkeville*	Putnam	3,736	24
Copperhill	Polk	1,050	2
Covington*	Tipton	3,397	12
Crossville*	Cumberland	1,128	9
Dandridge*	Jefferson	446	4
Dayton*	Rhea	2,006	9
Decatur*	Meigs	158	2
Decaturville*	Decatur	419	4
Dickson	Dickson	2,901	14
Dover*	Stewart	406	6
Dresden*	Weakley	1,047	13
Ducktown	Polk	1,526	1

APPENDIX

TABLE III. GEOGRAPHICAL DISTRIBUTION AND PER CAPITA REPRESENTATION
OF LAWYERS BY TOWNS IN TENNESSEE MARCH 3, 1939, CONT'D.

City or Town	County	Population	No. Lawyers
Dunlap*	Sequatchie	1,295	4
Dyer	Gibson	1,214	2
Dyersburg*	Dyer	8,733	21
Elizabethton*	Carter	8,093	29
Erin*	Houston	819	4
Erwin*	Unicoi	3,623	9
Etowah	McMinn	4,209	3
Fayetteville*	Lincoln	3,822	14
Franklin*	Williamson	3,377	19
Gainesboro*	Jackson	556	10
Gallatin*	Sumner	3,050	13
Greeneville*	Greene	5,543	19
Greenfield	Weakley	1,429	2
Halls	Lauderdale	1,474	2
Harriman	Roane	4,586	8
Hartsville*	Trousdale	1,015	5
Helenwood	Scott	315	1
Henderson*	Chester	1,503	4

APPENDIX

TABLE III. GEOGRAPHICAL DISTRIBUTION AND PER CAPITA REPRESENTATION
OF LAWYERS BY TOWNS IN TENNESSEE MARCH 3, 1939, CONT'D.

City or Town	County	Population	No. Lawyers
Hohenwald*	Lewis	980	4
Hollow Rock	Carroll	428	1
Humboldt	Gibson	4,613	5
Huntingdon*	Carroll	1,284	11
Huntsville*	Scott	315	6
Jacksboro*	Campbell	830	2
Jackson*	Madison	22,172	51
Jamestown*	Fentress	857	13
Jasper*	Marion	1,251	5
Jefferson City	Jefferson	1,898	5
Jellico	Campbell	1,530	5
Johnson City	Washington	25,080	68
Jonesboro*	Washington	981	9
Kenton	Obion	810	2
Kingsport	Sullivan	11,914	30
Kingston*	Roane	826	9
Knoxville*	Knox	105,802	292
Lafayette*	Macon	547	4

APPENDIX

TABLE III. GEOGRAPHICAL DISTRIBUTION AND PER CAPITA REPRESENTATION
OF LAWYERS BY TOWNS IN TENNESSEE MARCH 3, 1939, CONT'D.

City or Town	County	Population	No. Lawyers
La Follette	Campbell	2,636	9
Lawrenceburg*	Lawrence	3,102	16
Lebanon*	Wilson	4,656	26
Lenoir City	Loudon	4,470	3
Lewisburg*	Marshall	3,112	11
Lexington*	Henderson	1,823	10
Liberty	DeKalb	285	1
Linden*	Perry	539	3
Livingston*	Overton	1,526	10
Lobelville	Perry	380	2
Loudon*	Loudon	2,578	7
Lucy	Shelby	110	1
Lynchburg*	Moore	380	3
Lynnville	Giles	422	1
Madisonville*	Monroe	926	7
Manchester*	Coffee	1,227	9
Martin	Weakley	3,300	8
Maryville*	Blount	4,960	16
Maynardville*	Union	375	3

APPENDIX

TABLE III. GEOGRAPHICAL DISTRIBUTION AND PER CAPITA REPRESENTATION
OF LAWYERS BY TOWNS IN TENNESSEE MARCH, 3, 1939, CONT'D.

City or Town	County	Population	No. Lawyers
McEwen	Humphreys	620	1
McKenzie	Carroll	1,858	1
McMinnville*	Warren	3,914	10
Memphis*	Shelby	253,143	468
Milan	Gibson	3,155	2
Monterey	Putnam	1,731	1
Morristown*	Hamblen	7,305	16
Mountain City*	Jefferson	1,058	7
Mount Juliet	Wilson	816	1
Mount Pleasant	Maury	2,010	5
Munford	Tipton	376	1
Murfreesboro*	Rutherford	7,993	25
Nashville*	Davidson	153,866	395
New Bern	Dyer	1,621	2
Newport*	Cocke	2,989	11
Oakdale	Morgan	1,122	2
Obion	Obion	1,103	2
Old Hickory	Davidson	3,050	3

APPENDIX

TABLE III. GEOGRAPHICAL DISTRIBUTION AND PER CAPITA REPRESENTATION
OF LAWYERS BY TOWNS IN TENNESSEE MARCH, 3, 1939, CONT'D.

City or Town	County	Population	No. Lawyers
Oneida	Scott	1,383	4
Paris*	Henry	8,164	18
Pikeville*	Bledsoe	551	5
Pulaski*	Giles	3,367	12
Red Boiling Springs	Macon	230	2
Ridgely	Lake	979	5
Ripley*	Lauderdale	2,330	19
Roan Mountain	Carter	310	1
Rockwood	Roane	3,898	3
Rogersville*	Hawkins	1,590	14
Rutledge*	Grainger	518	5
Savannah*	Hardin	1,129	8
Selmer*	McNairy	925	9
Sevierville*	Sevier	882	13
Shelbyville*	Bedford	5,007	19
Smithville*	De Kalb	886	6
Sneedville*	Hancock	246	4
Somerville*	Fayette	1,333	5
South Pittsburg ...	Marion	2,104	4

APPENDIX

TABLE III. GEOGRAPHICAL DISTRIBUTION AND PER CAPITA REPRESENTATION
OF LAWYERS BY TOWNS IN TENNESSEE MARCH 3, 1939, CONT'D.

City or Town	County	Population	No. Lawyers
Sparta*	White	2,211	8
Spencer*	Van Buren	390	2
Spring City	Rhea	1,090	1
Springfield*	Robertson	5,577	17
Spring Hill	Maury	416	1
Stanton	Haywood	503	1
Sweetwater	Monroe	2,269	4
Tazewell*	Claiborne	184	13
Tiptonville*	Lake	1,359	4
Tracy City	Grundy	2,669	3
Trenton*	Gibson	2,892	14
Troy	Obion	522	1
Tullahoma	Coffee	4,020	4
Union City*	Obion	5,865	19
Wartburg*	Morgan	212	11
Watertown	Wilson	927	4
Waverly*	Humphreys	1,152	6
Waynesboro*	Wayne	908	3

APPENDIX

TABLE III. GEOGRAPHICAL DISTRIBUTION AND PER CAPITA REPRESENTATION
OF LAWYERS BY TOWNS IN TENNESSEE MARCH 3, 1939, CONT'D.

City or Town	County	Population	No. Lawyers
Whitwell	Marion	3,028	1
Winchester*	Franklin	2,210	16
Woodbury*	Cannon	502	6

³ The Martindale-Hubbell Law Directory Seventy-First Annual Edition (New York: Martindale-Hubbell, Inc., Publishers, 1939), Vol. I, pp. 887-913.

Note: * denotes county seat.

APPENDIX

TABLE IV. GEOGRAPHICAL DISTRIBUTION AND PER CAPITA REPRESENTATION
 OF LAWYERS BY COUNTIES IN TENNESSEE MARCH 3, 1939,
 BASED UPON 1940 CENSUS⁴

County	Population	No. Lawyers
Anderson	26,500	9
Bedford	23,149	19
Benton	11,962	6
Bledsoe	8,358	5
Blount	40,883	16
Bradley	26,751	14
Campbell	31,086	16
Cannon	9,892	6
Carroll.....	25,960	13
Carter	37,975	30
Cheatham	9,927	4
Chester	11,123	4
Claiborne	24,714	13
Clay	10,904	5
Cocke	24,057	11
Coffee	19,045	13
Crockett	17,244	5

APPENDIX

TABLE IV. GEOGRAPHICAL DISTRIBUTION AND PER CAPITA REPRESENTATION
OF LAWYERS BY COUNTIES IN TENNESSEE MARCH 3, 1939,
BASED UPON 1940 CENSUS, CONT'D.

County	Population	No. Lawyers
Cumberland	15,625	9
Davidson	257,411	398
Decatur	10,311	4
De Kalb	14,553	7
Dickson	19,710	16
Dyer	34,946	23
Fayette	30,319	5
Fentress	14,553	13
Franklin	23,862	16
Gibson	44,833	23
Giles	29,123	13
Grainger	14,369	5
Greene	39,391	19
Grundy	11,534	4
Hamblen	18,439	16
Hamilton	180,439	291
Hancock	11,186	4

APPENDIX

TABLE IV. GEOGRAPHICAL DISTRIBUTION AND PER CAPITA REPRESENTATION
OF LAWYERS BY COUNTIES IN TENNESSEE MARCH 3, 1939,
BASED UPON 1940 CENSUS, CONT'D.

County	Population	No. Lawyers
Hardeman	23,576	6
Hardin	17,793	8
Hawkins	28,517	14
Haywood	27,693	23
Henderson	19,210	10
Henry	25,919	18
Hickman	14,868	10
Houston	6,427	4
Humphreys	12,420	7
Jackson	15,091	10
Jefferson	18,618	10
Johnson	12,980	7
Knox	178,929	293
Lake	11,230	9
Lauderdale	24,458	21
Lawrence	28,700	16
Lewis	5,849	4

APPENDIX

TABLE IV. GEOGRAPHICAL DISTRIBUTION AND PER CAPITA REPRESENTATION
OF LAWYERS BY COUNTIES IN TENNESSEE MARCH 3, 1939
BASED UPON 1940 CENSUS, CONT'D.

County	Population	No. Lawyers
Lincoln	27,232	14
Loudon	19,909	10
McMinn	30,625	19
McNairy	20,423	10
Macon	14,902	6
Madison	54,201	51
Marion	19,135	10
Marshall	16,042	11
Maury	40,347	45
Meigs	6,386	2
Monroe	24,272	11
Montgomery	33,346	25
Moore	4,096	3
Morgan	15,287	13
Obion	30,952	24
Overton	18,767	10
Perry	7,536	5

APPENDIX

TABLE IV. GEOGRAPHICAL DISTRIBUTION AND PER CAPITA REPRESENTATION
OF LAWYERS BY COUNTIES IN TENNESSEE MARCH 3, 1939,
BASED UPON 1940 CENSUS, CONT'D.

County	Population	No. Lawyers
Pickett	6,212	2
Polk	15,468	10
Putnam	26,163	25
Rhea	16,342	10
Roane	27,714	20
Robertson	29,048	17
Rutherford	33,618	25
Scott	15,943	11
Sequatchie	5,037	4
Sevier	23,121	13
Shelby	357,620	470
Smith	16,152	13
Stewart	13,549	6
Sullivan	69,172	56
Sumner	32,675	13
Tipton	27,814	13
Trousdale	6,113	5

APPENDIX

TABLE IV. GEOGRAPHICAL DISTRIBUTION AND PER CAPITA REPRESENTATION
OF LAWYERS BY COUNTIES IN TENNESSEE MARCH 3, 1939,
BASED UPON 1940 CENSUS, CONT'D.

County	Population	No. Lawyers
Unicoi	12,130	9
Union	9,108	3
Van Buren	4,049	2
Warren	19,760	10
Washington	51,732	77
Wayne	13,637	3
Weakley	24,470	23
White	15,991	8
Williamson	25,252	19
Wilson	25,232	31

4 Summary of Preliminary Figures For the State of Tennessee:
1940, No. 13, (G-32). Washington: Department of Commerce, Bureau
of the Census, 1940. Also The Martindale-Hubbell Law Directory
Seventy-First Annual Edition, Vol. I, pp. 887-913.

APPENDIX

TABLE V. PER CAPITA REPRESENTATION OF LAWYERS IN TENNESSEE⁵
 MARCH 3, 1939

Population	No. Lawyers	Average No. Persons Represented by one Lawyer
2,915,841	2,692	1,083 $\frac{1}{2}$

⁵ Ibid.

APPENDIX

TABLE VI. TWENTY-SEVEN LAW SCHOOLS HAVE BEEN FOUNDED IN TENNESSEE
 SOME HAVE BEEN DISCONTINUED. OPENING AND CLOSING
 6
 DATES ARE GIVEN BELOW.

LAW SCHOOLS THAT HAVE CONFERRED DEGREES:

Cumberland University, Lebanon	1847-61;1866--
University of Nashville, Nashville	1854-55;1870-72
Vanderbilt University, Nashville	1874--
Walden University (colored), Nashville	about 1880-about 1917 (also known as Central Tennessee College)
University of Tennessee, Knoxville	1890--
Southern Normal University, Huntingdon	1892-about 1910
University of the South, Sewanee	1893-1910
American University, Harriman	1894-1902 (also known as the American Temperance University)
Union University, Jackson	1895-1906;1919-21 (also known as Southwestern Baptist University)
Chattanooga College of Law, Chattanooga	1899-- (also known as U. S. Grant University)
Southern Law School, Nashville	1900-about 1902
University of Memphis, Memphis	1909--
University of West Tennessee (colored), Memphis	1911-1912
Lincoln Memorial University, Harrogate	1919-1921
John Randolph Neal College of Law, Knoxville..	1923--

APPENDIX

TABLE VI. LAW SCHOOLS THAT HAVE CONFERRED DEGREES, CONT'D.

Knoxville College of Law, Knoxville	1923-1925
Hamilton College of Law, Chattanooga	1924-1928
(also known as Chattanooga Branch of Knoxville College of Law)	
Y. M. C. A. Night Law School, Nashville	1927--
(In existence without power to confer degrees since 1912).	
Lebanon School of Law, Lebanon	1931-32 (orn1933)
Keystone College of Technology (colored), Memphis	1932-1933
Southeastern University, Memphis	1932-1933
Southern Law University, Memphis	1932--
Andrew Jackson Business University, Nashville	1932--
East Tennessee Law School, Johnson City	1933--
(In existence without power to confer degrees since 1931).	
Kent College of Law (colored), Nashville	1933--
Midsouth College of Law, Paris	1933-1934
Knoxville Business College, Knoxville	1935 (or 1936)*-

6 W. Raymond Blackard, "Law Schools In Tennessee," in Faculty and Students of the University of Tennessee College of Law (editors), Tennessee Law Review, Vol. XIV, p. 269.

* Note: This does not include the schools operated by William Farr about 1900.

APPENDIX

TABLE VII. LAW STUDENTS AND LL. B. DEGREES CONFERRED ANNUALLY
SINCE THE FOUNDING OF THE LAW COLLEGE, UNIVERSITY
OF TENNESSEE

Year	No. Students Enrolled*	LL. B. Degrees Conferred**
1889-1890	8	None
1890-1891	14	7
1891-1892	12	6
1892-1893	7	3
1893-1894	19	7
1894-1895	23	9
1895-1896	38	12
1896-1897	34	10
1897-1898	53	12
1898-1899	45	18
1899-1900	56	22
1900-1901	61	27
1901-1902	47	13
1902-1903	46	14
1903-1904	34	12
1904-1905	49	11
1905-1906	57	19
1906-1907	63	15

APPENDIX

TABLE VII. LAW STUDENTS AND LL. B. DEGREES CONFERRED ANNUALLY
SINCE THE FOUNDING OF THE THE LAW COLLEGE, UNIVERSITY
OF TENNESSEE, CONT'D.

Year	No. Students Enrolled*	LL. B. Degrees Conferred**
1907-1908	49	20
1908-1909	58	11
1909-1910	49	28
1910-1911	41	13
1911-1912	32	20
1912-1913	27	10
1913-1914	33	None
1914-1915	39	10
1915-1916	40	11
1916-1917	41	9
1917-1918	39	6
1918-1919	45	6
1919-1920	89	15
1920-1921	71	8
1921-1922	59	13
1922-1923	57	8
1923-1924	58	13
1924-1925	66	10
1925-1926	50	19

APPENDIX

TABLE VII. LAW STUDENTS AND LL. B. DEGREES CONFERRED ANNUALLY
SINCE THE FOUNDING OF THE LAW COLLEGE, UNIVERSITY
OF TENNESSEE, CONT'D.

Year	No. Students Enrolled*	LL. B. Degrees Conferred**
1926-1927	57	16
1927-1928	50	6
1928-1929	60	15
1929-1930	52	12
1930-1931	60	15
1931-1932	67	10
1932-1933	73	16
1933-1934	73	14
1934-1935	77	16
1935-1936	81	24
1936-1937	84	19
1937-1938	89	13
1938-1939	98	26
1939-1940	100	

⁷ Taken from The University of Tennessee Record for years 1889-1940.

* Note: Graduate students enrolled in the third year, when only two years were required, are included.

** Note: Graduates of Summer Sessions (when held) are included.

APPENDIX

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TABLE VIII. VANDERBILT LAW SCHOOL REGISTRATIONS

Academic Year	Number of Students
1875-1876	25
1876-1877	26
1877-1878	31
1878-1879	39
1879-1880	44
1880-1881	53
1881-1882	35
1882-1883	37
1883-1884	28
1884-1885	35
1885-1886	28
1886-1887	34
1887-1888	27
1888-1889	37
1889-1890	50
1890-1891	44
1891-1892	37
1892-1893	34
1893-1894	30

APPENDIX

TABLE VIII. VANDERBILT LAW SCHOOL REGISTRATIONS, CONT'D.

Academic Year	Number of Students
1894-1895	37
1895-1896	50
1896-1897	36
1897-1898	49
1898-1899	51
1899-1900	36
1900-1901	55
1901-1902	46
1902-1903	48
1903-1904	51
1904-1905	48
1905-1906	56
1906-1907	68
1907-1908	77
1908-1909	80
1909-1910	75
1910-1911	60
1911-1912	71
1912-1913	73
1913-1914	79

APPENDIX

TABLE VIII. VANDERBILT LAW SCHOOL REGISTRATIONS, CONT'D.

Academic Year	Number of Students
1914-1915	57
1915-1916	55
1916-1917	58
1917-1918	34
1918-1919	72
1919-1920	137
1920-1921	134

SUMMER SESSIONS INCLUDED

1921-1922	170
1922-1923	225
1923-1924	267
1924-1925	257
1925-1926	191
1926-1927	164
1927-1928	113
1928-1929	96
1929-1930	84
1930-1931	89
1931-1932	85
1932-1933	77

APPENDIX

TABLE VIII. VANDERBILT LAW SCHOOL REGISTRATIONS, CONT'D.

Academic Year	Number of Students
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1933-1934	70
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1934-1935	66
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SUMMER SESSION ABANDONED IN 1934

1935-1936	76
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1936-1937	83
-----------------	----

1937-1938	70
-----------------	----

1938-1939	63
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APPENDIX

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TABLE IX. SURVEY BY CLASSES DURING THE PAST DECADE⁹
(Summer School Omitted)

Academic Year	1st. Yr. Class	2nd. Yr. Class	3rd. Yr. Class	Total
1930-1931	29	37	18	84
1931-1932	34	12	29	75
1932-1933	41	19	11	71
1933-1934	26	19	20	65
1934-1935	25	18	20	63
1935-1936	41	16	19	76
1936-1937	44	22	18	84
1937-1938	24	25	21	70
1938-1939	22	20	21	63
1939-1940 (to date) .	22 ,	12	20	54

⁹ Ibid.

APPENDIX

TABLE X. BACHELOR OF LAWS DEGREES CONFERRED BY THE VANDERBILT
¹⁰
 UNIVERSITY SCHOOL OF LAW

Year	No. LL. B. Degrees	Year	No. LL. B. Degrees
1875	1	1893	12
1876	10	1894	11
1877	8	1895	4
1878	9	1896	16
1879	12	1897	15
1880	10	1898	13
1881	18	1899	23
1882	11	1900	19
1883	14	1901	16
1884	12	1902	20
1885	15	1903	10
1886	11	1904	16
1887	17	1905	13
1888	15	1906	15
1889	13	1907	21
1890	29	1908	19
1891	19	(1)1909	19
1892	2	1910	27

APPENDIX

TABLE X. BACHELOR OF LAWS DEGREES CONFERRED BY THE VANDERBILT
UNIVERSITY SCHOOL OF LAW, CONT'D.

Year	No. LL. B. Degrees	Year	No. LL. B. Degrees
1911	3	1926	41
1912	11	1927	35
1913	13	1928	28
1914	14	1929	29
1915	11	1930	15
1916	18	1931	21 .
1917	10	1932	29
1918	3	1933	15
1919	5	1934	18
1920	15	1935	18
1921	22	1936	17
1922	27	1937	18
(2)1923	25	1938	20
1924	42	1939	20
(3)1925	65		
		Total	1121

10 Ibid.

(1) Catalogue 1909-1910 announces increase from a two to a three-year course.

(2) One year pre-legal work required for admission.

(3) Two years pre-legal work required for admission.

APPENDIX

TABLE XI. STATISTICS OF THE BAR EXAMINERS ON TENNESSEE
LAW SCHOOLS FROM 1933-1937¹¹

Year	No. Examined	Passed	Failed	% Passed	% First-Timers Passed
University of Tennessee					
1933	22	16	6	73	73
1934	21	18	3	85.2	93
1935	21	18	3	85.2	83
1936	28	28	0	100	100
1937	23	22	1	95.6	96
Total	115	102	13	88.7	88

Vanderbilt University					
1933	13	9	4	69.2	60
1934	13	12	1	92.3	90
1935	11	6	5	54.5	56
1936	19	17	2	89.4	90
1937	19	16	3	84.2	90
Total	75	60	15	80	78.3

Nashville Y. M. C. A.					
1933	15	6	9	40	60
1934	20	18	2	90	100
1935	23	17	6	73.9	74
1936	26	18	8	69.2	75
1937	14	10	4	71.4	75
Total	98	69	29	70.4	78.9

APPENDIX

TABLE XI. STATISTICS OF THE BAR EXAMINERS ON TENNESSEE LAW
SCHOOLS FROM 1933-1937, CONT'D.

Year	No. Examined	Passed	Failed	% Passed	% First-Timers Passed
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Southern Law University

1933...No applicants

1934...No applicants

1935	 9	 7	 2	 43.7	 75
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1936	,..... 9	 5	 4	 55.5	 60
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1937	 15	 11	 4	 73.3	 90
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Total	<u>33</u>	<u>23</u>	<u>10</u>	<u>69.7</u>	<u>77</u>
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University of Memphis

1933	 29	 17	 12	 58.6	 64
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1934	 24	 21	 7	 75	 95
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1935	 20	 14	 6	 70	 82
------	----------	----------	---------	----------	----------

1936	 39	 21	 18	 53.8	 60
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1937	 44	 34	 10	 77.2	 85
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Total	<u>160</u>	<u>107</u>	<u>53</u>	<u>66.9</u>	<u>75.9</u>
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Cumberland University

1933	 229	 110	 119	 48	 37
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1934	 217	 102	 115	 47	 45
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1935	 49	 15	 34	 30.6	 0
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1936	 76	 37	 39	 48.4	 65
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Total	<u>631</u>	<u>292</u>	<u>339</u>	<u>46.3</u>	<u>45.1</u>
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APPENDIX

TABLE XI. STATISTICS OF THE BAR EXAMINERS ON TENNESSEE LAW
SCHOOLS FROM 1933-1937, CONT'D.

Year	No. Examined	Passed	Failed	% Passed	% First-timers Passed
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Chattanooga College of Law

1933	35	11	24	31.4	21
1934	16	10	6	62.5	64
1935	24	5	19	20.8	22
1936	27	10	17	37	66.67
1937	5	4	1	80	100
Total	107	40	67	37.4	36.5

John Randolph Neal College of Law

1933	55	16	35	29.9	33.3
1934	37	16	21	43.2	42
1935	14	4	10	28.5	30
1936	26	6	20	23	30
1937	32	10	22	31.2	34
Total	164	52	108	31.7	34.1

Kent College of Law

1933 ...No.applicants

1934	3	1	2	33.3	33.3
1935	3	0	3	0	0
1936	1	1	0	100	0
1937	0	0	0	0	0
Total	7	2	5	28.6	25

APPENDIX

TABLE XI. STATISTICS OF THE BAR EXAMINERS ON TENNESSEE LAW
SCHOOLS FROM 1933-1937, CONT'D.

Year	No. Examined	Passed	Failed	% Passed	% First-timers Passed
------	--------------	--------	--------	----------	--------------------------

East Tennessee Law School

1933	7	0	7	0	0
1934	22	9	13	40.9	38
1935	6	1	5	14.2	0
1936	9	1	8	10	0
1937	7	3	4	42.8	0
Total	51	14	37	27.5	22.2

Andrew Jackson Law School

1933 ... No applicants

1934	5	1	4	20	20
1935	20	4	16	20	8.3
1936	21	5	16	23.8	12.5
1937	14	2	12	14.2	0
Total	60	12	48	20	10.7

11 Ibid., pp. 322-324.

APPENDIX

TABLE XII. PRESIDENTS, SECRETARIES, AND TREASURERS OF THE BAR
ASSOCIATION OF TENNESSEE FROM ITS BEGINNING
12
TO THE PRESENT

Year	Presidents	Secretaries & Treasurers
1881-1882	W. F. Cooper	James C. Bradford
1882-1883	B. M. Estes	" " "
1883-1884	Andrew Allison	" " "
1884-1885	Zenophone Wheeler	James W. Bonner
1885-1886	W. C. Folkes	" " "
1886-1887	J. W. Judd	" " "
1887-1888	H. H. Ingersoll	" " "
1888-1889	L. B. McFarland	" " "
1889-1890	J. M. Dickinson	" " "
1890-1891	G. W. Pickle	Albert D. Marks
1891-1892	M. M. Neil	" " "
1892-1893	Ed Baxter	Claude Waller
1893-1894	W. A. Henderson	" " "
1894-1895	James H. Malone	" " "
1895-1896	Albert D. Marks	Charles N. Burch
1896-1897 ,,,,,,,	W. B. Swanay	" " "
1897-1898	C. W. Metcalf	" " "

APPENDIX

TABLE XII. PRESIDENTS, SECRETARIES, AND TREASURERS OF THE BAR
ASSOCIATION OF TENNESSEE FROM ITS BEGINNING
TO THE PRESENT, CONT'D.

Year	Presidents	Secretaries & Treasurers
1898-1899	J. W. Bonner	Charles N. Burch
1899-1900	W. L. Welcker	" " "
1900-1901	George Gillham	R. Lee Bartels
1901-1902	J. H. Acklen	" " "
1902-1903	R. E. L. Mountcastle	Robert Lusk
1903-1904	John E. Wells	" "
1903-1904	Edward T. Sanford	" "
1904-1905	John H. Henderson	" "
1905-1906	Edward T. Sanford	" "
1906-1907	F. H. Heiskell	R. H. Sansom
1907-1908	M. T. Bryan	" "
1908-1909	Foster V. Brown	Charles H. Smith
1909-1910	Harry B. Anderson	" " "
1910-1911	Percy B. Maddin	" " "
1911-1912	L. D. Smith	" " "
1912-1913	Albert W. Biggs	" " "
1913-1914	John Bell Keeble	" " "

APPENDIX

TABLE XII. PRESIDENTS, SECRETARIES, AND TREASURERS OF THE BAR
ASSOCIATION OF TENNESSEE FROM ITS BEGINNING
TO THE PRESENT, CONT'D.

Year	Presidents	Secretaries & Treasurers
1914-1915	H. H. Shelton	Charles H. Smith
1915-1916	C. N. Burch	" " "
1916-1917	Jos. C. Higgins	Lee Winchester
1917-1918	E. Watkins	" " "
1918-1919	Julian C. Wilson	" " "
1919-1920	Giles L. Evans	" " "
1920-1921	Malcom McDermott	Byrd Douglas
1921-1922	Elias Gates	C. Raleigh Harrison
1922-1923	Thomas H. Malone	Walter Chandler, Sec. W. L. Owen, Treas.
1923-1924	William F. Frierson	" " " "
1924-1925	Lovick P. Miles	" " " "
1925-1926	Frank M. Bass	" " " "
1926-1927	Thad A. Cox	" " " "
1927-1928	Walter Chandler	A. L. Heiskell, Sec.
1928-1929	William E. Norvelle, Jr. ...	" " " "
1929-1930	S. Barton Strang	" " " "
1930-1931	Wardlow Steele	" " " "

APPENDIX

TABLE XII. PRESIDENTS, SECRETARIES, AND TREASURERS OF THE BAR
ASSOCIATION OF TENNESSEE FROM ITS BEGINNING
TO THE PRESENT, CONT'D.

Year	Presidents	Secretaries & Treasurers
1931-1932	Charles C. Trabue	A. L. Heiskell, Sec.
1932-1933	Harley G. Fowler	" " " "
1933- 1934	Earl King	J. E. Atkins, Jr., (Treas.)
1934-1935	Louis Leftwich	" " " "
1935-1936	Joe V. Williams	Thomas O. Smith, Sec.
1936-1937	Walter P. Armstrong	Will A. Wilkerson, (Treas.)
1937-1938	George H. Armistead	Thomas H. Smith
1938-1939	R. A. Davis	" " "
1939-1940	John T. Shea	" " "

APPENDIX

TABLE XIII. GENERAL EDUCATION AND LEGAL TRAINING OF STUDENTS
 IN TEN TENNESSEE BAR EXAMINATIONS FROM 1932-1937¹³

Amount of General Education	No. Passed	No. Failed	% Passed
General Education-- All Students			

High school graduation or equivalent	408.....	722.....	36%
2 years of college	172.....	75.....	70%
3 years of college	103.....	36.....	74%
4 years of college	216.....	105.....	64%

Students With Three Years of Law School Study

High school graduation or equivalent	164.....	117.....	58%
2 years of college	63.....	16.....	80%
3 years of college	62.....	14.....	83%
4 years of college	117.....	23.....	84%

Legal Training-- All Students

Office study	60.....	162.....	27%
1 year law school study	303.....	476.....	39%
2 years law school study	173.....	188.....	48%
3 years law school study	427.....	174.....	71%

APPENDIX

TABLE XIII. GENERAL EDUCATION AND LEGAL TRAINING OF STUDENTS IN
TEN TENNESSEE BAR EXAMINATIONS FROM 1932-1937, CONT'D.

Amount of General Education	No. Passed	No. Failed	% Passed
Students With No More Than High School Education			
Office study	33	132	20%
1 year law school study	159	356	31%
2 years of law school study	58	123	32%
3 years of law school study	164	117	58%

13 Faculty and Students of the University of Tennessee College
of Law (editors), Tennessee Law Review, Vol. XV, p. 321.

APPENDIX

TABLE XIV. TENNESSEE BAR EXAMINATION RESULTS FROM 1929 TO
¹⁴
 1937 INCLUSIVE

Year	No. Taking Examination	Passed	Failed	Percent Passed
1929	332	246	86	74%
1930	302	228	74	75%
1931	117	55	62	47%
1932	371	166	205	44%
1933	412	161	251	39%
1934	511	277	234	54%
1935	273	120	153	44%
1936	341	185	156	54%
1937	309	173	136	56%

14 Ibid., p. 320.