Legal Education and Admission to the Bar: The Illinois Experience

James D. Heiple*

The Situation Today

The decision to become a lawyer today entails an onerous commitment. It is a commitment of time, of wealth and of labor. It requires a heavy intellectual effort. Most of all, however, it demands a dogged persistence and a willingness to overcome burdensome institutional obstacles that lie in the path of anyone seeking the license of attorney and counselor at law.

Presently, and with rare exceptions, anyone becoming a lawyer will have first graduated from a four-year college or university and will have gone on to graduate from one of the 175 law schools approved by the American Bar Association.[1] The normal time for completing this undergraduate and law school experience will be seven years. The typical law school graduate today will be from twenty-four to thirty years of age. Approximately one out of three will be a woman.[2]

Again, with rare exceptions, prior to licensure, each will have taken and passed a rigorous bar examination. While each of the states of the union controls its own particular licensing requirements, it is fair to say that the similarities overwhelmingly outweigh the differences.[3]

---

* Justice of Illinois Appellate Court 1980 to date; Circuit Judge (1970-80); private practice at Pekin, Illinois (1958-70); President, Illinois Judges Association (1979); Chairman, Committee on Legal Education and Admission to the Bar, ISBA (1972-74); Chairman Judical Council, ISBA (1976-77); Chairman, Bench & Bar Council, ISBA (1984-85); B.S., Bradley University (1955); J.D., University of Louisville (1957); member of Illinois, Kentucky and U.S. Supreme Court bars. This thesis was written in conjunction with the author's current participation in the LL.M. program for Appellate Judges at the University of Virginia School of Law.

1. "To practice law, every lawyer must be admitted to a state bar. Standards for admission to the bar are regulated by each state and differ from state to state. Most states require candidates for admission to the bar to have graduated from an ABA-approved law school and to show evidence of sound character, fitness to practice law, and an understanding of legal ethics. Candidates also must pass examinations testing their knowledge of the law, skill in legal reasoning, and understanding of legal ethics and professional responsibility." Law School Admission Council/Law School Admission Services, The Official Guide to U.S. Law Schools 10 (1986) [hereinafter The Official Guide to U.S. Law Schools].

2. *Id.* at 13.

3. *See*, West Publishing Co., Rules for Admission to the Bar in the United States and Territories (1982).

For its part, Illinois, by supreme court rule, requires a high school diploma, ninety semester hours of acceptable college work, and a first degree in law from a law school approved by the American Bar Association.[4] Beyond that, the applicant must take and pass both a bar examination and an ethics examination and receive a certificate from the Supreme Court Committee on Character and Fitness stating that the applicant is of good moral character and general fitness to practice law. He must be at least twenty-one years of age.[5] A person who has previously been admitted to practice in another state or territory of the United States or the District of Columbia may be admitted on motion and without examination provided equivalent educational requirements have been met along with certain minimum practice requirements.[6]

Although Illinois requires ninety hours of acceptable college work and not a college degree, only sixteen of the nations's 175 law schools approved by the American Bar Association regularly accept students lacking a college degree.[7] Of the nine law schools in Illinois, four will waive the college degree only with exceptional qualifications and after completion of three-fourths of undergraduate work.[8]

Each of the 175 law schools approved by the American Bar Association has its own unique set of traits and conditions, it is true. Yet, for all of their differences, the law schools are essentially the same, offering similar courses, taught in a similar manner from similar books over a similar period of time. All are patterned after the Harvard model.[9]

Early History

The standards for admission to the Illinois bar were not always as they are today. And astounding though it may be to some, requirements for admission to the bar have ranged from virtually nil

---

4. Ill. Rev. Stat. ch. 110A, ¶ 703 (1985).

5. *Id.* at ¶ 704.

6. *Id.* at ¶ 705. Such applicant must have practiced law in such other jurisdiction for at least five years of the preceeding seven years. Passage of professional responsibility (ethics) examination is also required. *Id.* at ¶ 705(a), (c).

7. The Official Guide to U.S. Law Schools, *supra* note 1, at 34-41.

8. *Id.* at 35-36. The schools which will waive the requirement of a college degree are the University of Chicago, IIT Chicago-Kent College of Law, John Marshall Law School, and Northern Illinois University.

9. For a historical analysis of this development, see Stevens, *Two Cheers For 1870: The American Law School*, in V Perspectives in American History 424-440 (1971).

to minimal for large periods of our history. It is also worth noting that case method law schools, as we know them today, first came into being during the tenure of Christopher Columbus Langdell as Dean of the Harvard Law School from 1870 to 1895.[10]

The Illinois experience in the admission of persons to practice law is unique in its own way, of course, but it is also representative and illustrative of emerging and changing national trends. When Illinois entered the union on December 3, 1818, as the twenty-first state, the union of states was less than forty years old. Abraham Lincoln was nine years old and living with his widowed father in Spencer County, Indiana. Florida was still owned by Spain. James Monroe was President and John Quincy Adams was Secretary of State. *McCulloch vs. Maryland*[11] had not been decided by the Supreme Court. In that year, the forty-ninth parallel was established as the border between Canada and the United States.[12] According to Illinois' petition for statehood, its population was then estimated at 40,000 while that of the nation was under ten million persons.[13]

In 1820, with a population of 55,211,[14] the roll of attorneys listed twenty-one names.[15] The growth of the bar in relative terms surged ahead of the booming growth of the state. By 1830, Illinois

---

10. *Id.* "Dean" was a created title. The position Langdell accepted was basically secretary of the faculty. Langdell's counterpart at Columbia, Theodore Dwight, had the title of Warden of the Law School. James Hurst describes Langdell and the case method in the following words: "He did not invent the idea that the student should learn law from critical analysis of selected reported opinions of courts; some before him had stressed study from this kind of raw material, instead of from the predigested summaries of treatises. Langdell's contribution was to translate the idea into the prevailing method of a whole law curriculum. . . . The case method relied not on the lecture, but on class discussion of successive court opinions, arranged to unfold the basic doctrine in the field; the instructor was simply the discussion leader." J. HURST, THE GROWTH OF AMERICAN LAW, 264-265 (1950).

11. 17 U.S. (4 Wheat.) 316 (1819).

12. B. GRUN, THE TIMETABLES OF HISTORY (1982).

13. R. HOWARD, ILLINOIS: A HISTORY OF THE PRAIRIE STATE 99 (1972). The United States population for 1820 was 9,638,453. U.S. BUREAU OF THE CENSUS (1820). It is startling to contemplate, considering present day population figures, that in 1818 with a mere 40,000 people, Illinois obtained representation in Congress with two United States senators and one representative. They were, respectively, Ninian Edwards, Jesse B. Thomas, and John McLean. From this same 40,000 population base also came the governor, all lesser state officers, four supreme court justices, 29 state representatives, 14 state senators, all officers of the various counties and all municipal officials. HOWARD, *supra*, at 104, 114-177.

14. U.S. BUREAU OF THE CENSUS (1820).

15. 3 Ill. (2 Scam.) vii (1841). This equals approximately one attorney for each 2,629 citizens.

had a population of 157,445[16] and seventy-one lawyers.[17] By 1840, the relative figures were 476,183[18] and 439.[19] Sometime in the early 1850's, Illinois passed the one million mark in population. Before it was forty years old, the state that had entered the union with 40,000 residents became the fourth largest state in the nation.[20]

First Licensure Rule

One of the seminal acts of the new Illinois legislature was to pass a law which prohibited a person from practicing law unless he was enrolled with the clerk of the Illinois Supreme Court. Enrollment required taking an oath to support the state and federal constitutions and being licensed by "some two of the justices of the Supreme Court." The legislation further provided that "no person shall be entitled to receive a license . . . until he shall have obtained a certificate from the court of some county of his good moral character."[21] "Some two of the justices" meant half of the supreme court since the supreme court consisted of but four judges.[22]

The act of the legislature was the plenary authority for the licensure of attorneys at law until 1840 when a short-lived rule was

---

16. U.S. Bureau of the Census (1830).

17. 3 Ill. (2 Scam.) vii-viii (1841). This equals approximately one attorney for each 2,217 citizens.

18. U.S. Bureau of the Census (1840).

19. 3 Ill. (2 Scam.) vii-xii (1841) and 4 Ill. (3 Scam.) v (1880). This meant there was one attorney for each 1,085 persons, approximately. As deaths were irregularly and incompletely noted on the rolls, the actual number of attorneys by 1840 was certainly less than the listed number of 439. However, of that number, 368 had joined the rolls since 1830, with 85 being enrolled in the year 1837 alone. Interestingly, the first five of the justices of the supreme court never bothered to add their own names to the roll of attorneys. The first four judges appointed by the legislature on October 9, 1818, were Chief Justice Joseph Philips, Thomas C. Browne, John Reynolds, and William P. Foster who "[r]esigned 22d June, 1819, never having taken his seat on the Bench." 1 Ill. (Breese) xvi (1861). From Breese's Reports, it does not appear that any term of the supreme court was held before December 1819. Foster, it was claimed, "was not a lawyer even, and perhaps never studied law at all." J. Scott, Supreme Court of Illinois, 1818: Its First Judges and Lawyers 11 (1896). Given the requirements for licensure at that time, however, Foster's deficit, if such it was, was at best a pure technicality. However, it was also said that Foster collected his salary of one thousand dollars and then resigned rather than demonstrate incompetence by holding court. Howard, *supra* note 13, at 117.

20. Howard, *supra* note 13, at 255. The 1850 Illinois population was 851,470. U.S. Bureau of the Census (1850). In 1860, the population reached 1,711,951. U.S. Bureau of the Census (1860).

21. 1819 Ill. Laws 9.

22. Ill. Const. of 1818, art. IV, § 3. The individual members of the supreme court were also designated by the constitution to hold circuit courts in the several counties. *Id.* § 4.

adopted by the supreme court requiring an examination in open court.[23] This rule was rescinded less than two years later.[24] The court did not again assert itself in this regard until 1858 when it adopted three short rules regulating admission to the bar.[25] Thus, from 1818 until 1858, the legislature, and not the supreme court, furnished the underlying authority to control the licensing of attorneys.

The legislative act requiring licensure by the supreme court did not furnish guidelines or otherwise restrict the court. One may presume a legislative intent that the justices of the supreme court exercise some discretion in the admission of qualified persons as attorneys. Otherwise there would have been no reason to require "some two of the four justices" to act in the matter. If it were purely ministerial, licensure could have been handled by the clerk of the court. It is not an unreasonable assumption that some evidence of legal knowledge was expected and would have been required by the judges.

Early Bar Examinations

That the requirements were small indeed is indicated by anecdotal accounts of persons so involved. John Dean Caton, who himself later became a member of the supreme court in 1842, described his own examination before Justice Samuel D. Lockwood. Justice Lockwood had been a member of the supreme court for some eight years, and was at the time also holding circuit court at Pekin, Tazewell County, Illinois. Caton appeared before Justice Lockwood in 1833 for examination and licensure. He described his experience as follows:

> I first saw [Justice Lockwood] on the bench, and after court adjourned for the day, I introduced myself to him, and explained that I was already practicing law in Chicago, but had not yet received a license, which I wished to procure from him should he, upon examination, find me qualifed to commence the practice of the profession . . . .
>
> After supper he invited me to take a walk. It was a beautiful moonlit night; we strolled down to the bank of the [Illinois] river, he leading the conversation on various subjects, and when we arrived at a large oak stump, on either side of which we stood, he rather

23. Sup. Ct. R. XXX, 3 Ill. (2 Scam.) xiv (1841).
24. 4 Ill. (3 Scam.) x (1843).
25. Sup. Ct. R. XLI-XLIII, 19 Ill. xx (1858).

abruptly commenced the examination by inquiring with whom I had read law and how long, what books I had read, and then inquired of the different forms of action, and the objects of each, some questions about criminal law, and the law of the administration of estates, and especially of the provisions of our statutes on these subjects.

I was surprised and somewhat embarrassed to find myself so unexpectedly undergoing the examination, and bungled considerably at the first when he inquired about the different forms of action, but he kindly helped me out by more specific questions, which directed my attention to the points about which he wished to test my knowledge, when I got along more satisfactorily.

I do not think that the examination occupied more than thirty minutes, but it had the effect of starting a pretty free perspiration. I think I would have got along much better had it commenced in a more formal way. However, at the close he said he would give me a license, although I had much to learn to make me a good lawyer, and said I had better adopt some other pursuit, unless I was determined to work hard, to read much and to think strongly of what I did read; that good strong thinking was as indispensable to success in the profession as industrious reading; but that both were absolutely important to enable a man to attain eminence as a lawyer, or even respectability.[26]

Usher F. Linder, who became Attorney General of Illinois in 1837, described the examination of Alexander Botkin of Alton, Illinois, in 1836. The examination was conducted by Justice Thomas C. Browne. Browne was one of the original legislative appointees to the supreme court in 1818 and served continuously on the supreme court until December of 1848. General Linder (who misspelled Browne as *Brown* and Botkin as *Bodkin*) described the process as follows:

I desired to have a Colonel Bodkin, of Alton, admitted to the bar as a lawyer. Knowing that his qualifications were rather slim, I hinted as much to Brown, and got him to go to my room to examine him. Bodkin had been a butcher. He had twinkling grey eyes and a nose like Bardolph's. I said to Judge Brown, "Let me introduce to your acquaintance Colonel Bodkin, who desires to be admitted to the bar, to practice law; will you please examine him touching his qualifications?" Turning to Bodkin, he said: "Colonel, are you a judge of good brandy?" Bodkin took the hint in a moment, rang the bell, and a servant making his appearance, he directed him to bring up a bottle of the best cognac and some loaf

26. J. Caton, Early Bench & Bar of Illinois 170-71 (1893).

sugar which was quickly forthcoming, and Judge Brown having partaken thereof, with the rest of us, turned to the Colonel, and said:

"Colonel, have you read Blackstone and Chitty?"

"O! yes, sir," says the Colonel.

"What do you think of them as authors?" said the Judge.

"I think very highly of them," said the Colonel.

"Have you read Shakespeare?" asks the Judge.

"Oh, yes," says the Colonel.

"You greatly admire him, Colonel?" says the Judge.

"Oh, beyond all the power of language to express!" says the Colonel.

"Do you know there was no such person as Shakespeare?" said the Judge.

"Indeed I did not," said the Colonel.

"It is true," said the Judge. "Then you don't know, Colonel, who wrote the work entitled 'The Plays of Shakespeare?'"

"If he did not write them I do not know," replied the Colonel.

"Would you like to know?" said the Judge.

"I certainly should," answered the Colonel.

"Then," said the Judge, "as you have shown in this examination the highest qualifications to be admitted to the bar, I will say to you, in the strictest confidence, what I have never said to any one before, that *I* am the author of the plays! Mr. Bodkin, write out your license, and I will sign it."[27]

First Bar Examiners

It was in 1858 that the supreme court by rule first appointed bar examiners.[28] The rule provided for the creation of an examining

27. U. Linder, Reminiscences of the Early Bench and Bar of Illinois 74 (1879). Justice John Dean Caton, who served on the supreme court with Justice Browne for several years, remembers Browne as, "really a remarkable man in several respects. If he ever read a law book it was so long ago that he must have forgotten it . . . . he never wrote an opinion. . . . In the conference room I never heard him attempt to argue any question, for he did not seem to be able to express his views in a sustained or logical form, and yet he was a man of very considerable ability, and had very distinct views of his own on questions that came before him for decision." Caton, *supra* note 26, at 173. Caton was a Democrat added to the supreme court in 1843 following the court packing bill of 1841. *See infra* note 28. Browne was a Whig. Caton's report that Browne never authored an opinion is a canard. Most of the early court opinions (which averaged only 30 per year) were *per curiam*. However, at least 43 opinions in the early years report that "Browne, justice, delivered the opinion of the Court." Scott says of him: "It was never claimed for Judge Browne that he was a man of any very great literary attainments or that he was a very profound lawyer. But . . . he was a good judge on account of his integrity of character and his valuable practical sense in all matters of business. . . . [I]t must not be understood he was not a man of fair legal attainments. In that respect he was superior to many of the lawyers of his day then resident in the State." Scott, *supra* note 19, at 80-81.

28. Sup. Ct. R. XLI, XLII, 19 Ill. xx (1858). In 1848, Illinois had adopted a new

board in the third grand division of the supreme court. And even more significantly, for the first time of record, educational prerequisites were specified. Applicants from the northernmost district which included Chicago were required to furnish "a certificate, to the effect that the applicant for examination has studied two years continuously, one year of which must have been with an attorney in this State."[29] An applicant for admission could present himself to the court or the examining board.[30] Examinations of applicants were oral, informal, and similar to those conducted by judges.[31] In 1871, applicants from the entire state were required to "have pursued a regular course of law studies in the office of some lawyer in general practice for at least two years." This rule further provided that "the time employed at any law school as a law student, shall be considered as part of the two years" of law office study.[32]

Lincoln was an original appointee to the second grand division examining board in 1858, was head of the board in 1860, and held the office until his election to the presidency of the United States in 1860. Woldman reports that Lincoln was very lenient with applicants to the bar, writing on one occasion to the presiding judge of a circuit, "Your honor, I think this young man knows as much about law as I did when I began to practice, and I recommend his admission to the bar."[33] Woldman further reports that:

> Hiram W. Beckwith, who studied law in the Danville office of Lincoln and Lamon, presented himself for examination to a committee consisting of the Springfield lawyer and Lawrence Swett. Another student by the name of George W. Lawrence was tested the same day. After examining them, Lincoln wrote out but one recommendation of admission for the two applicants, and after Swett signed it, handed it to the young men. It read: "We have examined Hiram W. Beckwith and George W. Lawrence touching

---

constitution dividing the state into three grand divisions and providing for the election of a single supreme court judge from each of the three divisions. ILL. CONST. OF 1848, art. V, §§ 1-3. The supreme court sat in each of the three divisions - at Mt. Vernon for the first division, at Springfield for the second division, and at Ottawa for the third division. *Id.* at § 31. Previously, in 1841, in a classical court packing scheme, the Democrats, holding the governorship and control of the General Assembly, increased the size of the supreme court from four to nine and added five new Democrats. Political control of the court was thereby shifted from three to one Whig, to six to three Democrat. A fascinating account of this development is related in G. FIEDLER, THE ILLINOIS LAW COURTS IN THREE CENTURIES 199-204 (1973).

29. Sup. Ct. R. XLII, 19 Ill. xx note (1858).

30. Sup. Ct. R. XLI, 19 Ill. xx (1858).

31. A. WOLDMAN, LAWYER LINCOLN 152-155 (1936).

32. Sup. Ct. R. 85, 53 Ill. xvii (1871).

33. WOLDMAN, *supra* note 31, at 153.

their qualifications to practice law; and find them sufficiently qualified to commence the practice, and therefore recommend that Licenses be allowed them."

Only a few months before the Republican Party named him as its candidate for the Presidency, Lincoln found time to serve with L. W. Ross and O. H. Browning in examining Henry S. Greene at Springfield. January 28, 1860, they questioned the young man as to his knowledge of the law and handed him a note reading: "We, the undersigned, report that we have examined Henry S. Greene and find him well qualified to practice as an attorney and counsellor at law. We, therefore, recommend that he be licensed as such." Lincoln, being the head of the examining board, signed first.[34]

One of Lincoln's examinations was poignantly described in the following words:

Probably typical of the examination imposed upon students is the one described by Jonathan Birch, of Bloomington, who had arranged with Lincoln to examine him for admission to the bar. After adjournment of the circuit court at Bloomington, Birch went to Lincoln's hotel room.

"I knocked at the door of his room, and was admitted," he related, "but I was hardly prepared for the rather unusual sight that met my gaze. Instead of finding my examiner in the midst of books and papers, as I had anticipated, he was partly undressed, and, so far as the meager accommodations of the room permitted, leisurely taking a bath! I shall never forget the queer feeling that came over me as his lank, half-nude figure moved to and fro between me and the window on the opposite side of the room. Motioning me to be seated, he began his interrogatories at once, without looking at me a second time to be sure of the identity of his caller.

"How long have you been studying?" he asked. "Almost two years," was my response. "By this time, it seems to me," he said laughingly, "you ought to be able to determine whether you have in you the kind of stuff out of which a good lawyer can be made. What books have you read?" I told him, and he said it was more than he read before he was admitted to the bar.

He then told me a story of something that befell him in a county in Southern Illinois where he once tried a case in which he was pitted against a college-bred lawyer. "This lawyer was highly accomplished and the court and all the lawyers were greatly impressed by his erudition, but it was all lost on the jury and they were the fellows I was aiming at," laughed Lincoln.

---

34. *Id.* at 154-55 (footnote omitted).

> Then he resumed the examination. He asked me in a desultory way the definition of a contract, and two or three fundamental questions, all of which I answered readily, and I thought correctly. Beyond these meager inquiries, as I now recall the incident, he asked nothing more.
>
> As he continued his toilet, he entertained me with recollections— many of them characteristically vivid and racy—of his early practice and the various incidents and adventures that attended his start in the profession. The whole proceeding was so unusual and queer, if not grotesque, that I was at a loss to determine whether I was really being examined at all or not. After he had dressed we went down-stairs and over to the clerk's office in the courthouse, where he wrote a few lines on a sheet of paper, and, inclosing it in an envelope, directed me to report with it to Judge Logan, another member of the examining committee, at Springfield. The next day I went to Springfield, where I delivered the letter as directed. On reading it, Judge Logan smiled, and, much to my surprise, gave me the required certificate without asking a question beyond my age and residence, and the correct way of spelling my name. The note from Lincoln read:
>
> "My dear Judge: - The bearer of this is a young man who thinks he can be a lawyer. Examine him, if you want to. I have done so, and am satisfied. He's a good deal smarter than he looks to be."[35]

Lincoln himself received his license in the fall of 1836 and was entered on the supreme court roll of attorneys the following year.[36] He was then twenty-eight years of age. Lincoln's legal education was self-taught. He began by reading Blackstone's Commentaries on the Laws of England shortly after losing his first bid for the Illinois General Assembly in 1832.[37] After losing the election, he went into the grocery business in New Salem with William F. Berry under the firm name of Berry & Lincoln. A mover came by on his way west

---

35. *Id.* at 153-54 (footnote omitted).

36. P. ANGLE, LINCOLN FOR THE AGES 61 (1960). There was often a delay between being licensed and having one's name placed on the supreme court's roll of attorneys. CATON, *supra* note 26, at 170. Formal enrollment, however, was the only formal criterion for determining who could practice law. 1833 Ill. Laws 99, § 4; *see also In re* Fellows, 3 Ill. 369 (1840). Fellows obtained a license in 1835, was sworn in as an attorney in 1837, but was not enrolled until 1840. The court said: "If he has incurred any liability by practicing as an attorney and receiving fees before his name was enrolled, or if he seeks to recover for services performed as an attorney before his name was entered on the Roll, this court cannot aid him by permitting the clerk to make the entry *nunc pro tunc*." *Id.*

37. 1 C. SANDBURG, THE PRAIRIE YEARS 161-63 (1926). On election day, August 6, 1832, Lincoln finished seventh in a field of 12. In his own neighborhood, the New Salem precinct, he received 277 of the 300 votes cast.

in a covered wagon and offered to sell Lincoln a barrel. Lincoln explained, "I did not want it, but to oblige him I bought it, and paid him half a dollar for it." Later, emptying out the barrel, he found books at the bottom including Blackstone's Commentaries, which he read.[38]

He borrowed other books from John T. Stuart, a Springfield lawyer with whom Lincoln had served in the Black Hawk War. Lincoln discussed the law at length with Stuart and others including Bowling Green, a justice of the peace at New Salem. Prior to being licensed and while working as a land surveyor, Lincoln represented a girl in a bastardy case before a justice of the peace. In sum, that was Lincoln's training for the practice of law.[39]

Never having attended high school, college or law school and never having apprenticed himself to a lawyer, Abraham Lincoln's name was formally entered on the supreme court's roll of attorneys on March 1, 1837. He was, at that time, completing his second two-year term in the Illinois General Assembly. His friend, Stuart, invited Lincoln to join him in the practice of law. Lincoln's entry into the practice was heralded with a newspaper notice which announced: "J.T. Stuart and A. Lincoln, Attorneys and Counsellors at Law, will practice cojointly in the courts of this Judicial Circuit. Office No. 4 Hoffman's Row upstairs. Springfield, April 12, 1837."[40]

In 1865, the supreme court discharged the bar examining committees and reverted to the former system of the court or a judge conducting the examination.[41] The next year, however, a new rule was adopted which provided that the applicant could either be examined in open court or could present a certificate signed by the circuit judge and state's attorney of the applicant's residence stating that the applicant had been examined and found qualified.[42]

In 1870, the results of a constitutional convention were submitted to the voters and ratified. A new Illinois constitution and with it, a new judicial article, took effect on August 8, 1870.[43] This new constitution provided for a seven-judge supreme court with a single

---

38. *Id.* at 163.

39. *Id.* at 159-201.

40. ANGLE, *supra* note 36, at 61-62.

41. Sup. Ct. R. 71, 32 Ill. x (1865).

42. Sup. Ct. R. 76, 38 Ill. iii, iii-iv (1867). In Chicago, superior and recorder's court judges were given equivalent responsibility with the judges of the circuit court. *Id.*

43. ILL. CONST. OF 1870, art. VI. The judicial article in the 1870 constitution remained in force for 94 years until January 1, 1964. ILL. CONST. OF 1870, art. VI, § 4 (1962).

judge to be elected from each of seven districts.[44] It also provided that the General Assembly could establish appellate courts.[45] Implementing legislation establishing the Illinois Appellate Court took effect on July 1, 1877.[46]

In 1878, the supreme court adopted an order providing that an applicant for admission to the bar could be examined concerning his qualifications in open court in either the appellate court or the supreme court.[47] In 1888, the supreme court directed that the appellate court should have sole power to examine applicants in open court.[48]

Neither citizenship, nor residency, nor age requirements were stipulated until, in 1878, an applicant was required to be twenty-one years of age and a citizen of the state.[49] In 1897, Illinois residence along with United States citizenship or a declaration of becoming a citizen were required.[50]

By 1890, Illinois' population had reached 3,826,352, making it the third largest state in the union, ranking behind only New York and Pennsylvania.[51]

Records in the office of the clerk of the supreme court do not indicate either the total number of attorneys at that period in history nor the number of attorneys being added to the roll each year. It is

---

44. ILL. CONST. OF 1870, art. VI, § 5, found in ILL. ANN. STAT., *Constitution*, p. 446 (Smith-Hurd 1985).

45. *Id.* § 11, found in ILL. ANN. STAT., *Constitution*, p. 448 (Smith-Hurd 1985).

46. 1877 Ill. Laws 69. The new Illinois Appellate Court was divided into four districts sitting at Chicago, Ottawa, Springfield, and Mt. Vernon. *Id.* The latter three cities were where the supreme court then sat in its three grand divisions. The supreme court would continue to sit there until 1897. The appellate court was staffed by sitting judges of the circuit courts and the Superior Court of Cook County who were assigned to the appellate court by the supreme court. They served without additional compensation. FIEDLER, *supra* note 28, at 345-351.

47. 82 Ill. xi (1878). This order was later adopted as Sup. Ct. R. 46, 93 Ill. 12, 12-13 (1880).

48. Sup. Ct. R. 46, 123 Ill. viii (1889).

49. 82 Ill. xi (1878). The 21 year age requirement has been in effect continuously from 1878 to the present time.

50. Sup. Ct. R. 39, 168 Ill. 20, 21 (1898). In 1923, additional language was added requiring that the applicant "must be able to speak and write readily and intelligently the English language, and must give evidence to the committee on character and fitness that he understands and believes in the righteousness of the principles underlying the constitutions of the State and of the United States . . . ." Sup. Ct. R. 39, 310 Ill. v, ix (1924). Rules regarding residency and citizenship have fluctuated. The 1937 rule took residency out but left in United States citizenship. Sup. Ct. R. 58, 368 Ill. xxiv, xxiv (1938). The 1949 amendment put residency back in for applicants on foreign license and retained the citizenship requirement for all persons. Sup. Ct. R. 58, 402 Ill. x (1949). Since the 1966 revision (Sup. Ct. R. 701, 36 Ill. 2d 183, 183-84 (1967)), neither residency nor citizenship have been required for licensure in Illinois. ILL. ANN. STAT. ch. 110A, ¶ 701(a) (Smith-Hurd 1985) (Historical and Practice Notes).

51. U.S. BUREAU OF THE CENSUS (1900).

estimated,however, that by 1884, with nearly three and a half million people in Illinois, the state's lawyer population exceeded 5,000.[52] One hundred and two years later, in 1986, with a state population of approximately eleven and a half million,[53] the roll of living registered attorneys in Illinois passed the fifty thousand mark.[54]

As already noted, the first educational and training prerequisites for licensure were established in 1858 when applicants from the northernmost district which included Chicago were required to furnish "a certificate to the effect that the applicant for examination has studied two years continuously, one year of which must have been with an attorney in this state." And slightly modified, this rule was extended to applicants from the entire state in 1871, they being required to "have pursued a course of law studies in the office of some lawyer in general practice for at least two years." This rule further provided that "the time employed at any law school as a law student shall be considered as part of the two years" of law office study.[55]

THE 1897 RULES

In 1896, and for some time previous, the Illinois State Bar Association and the Chicago Bar Association had been working jointly to influence the supreme court to raise the standards for admission to the bar.[56] These efforts met with success in 1897 when

---

52. Kogan, *The Illinois State Bar Association: Its First Fifty Years*, 65 ILL. B.J. 270, 275 (1977). (This is approximately one attorney for each 700 citizens. *Compare* the relative numbers calculated *supra* in notes 15, 17 and 19). At the annual meeting of the Illinois State Bar Association in Springfield on January 3, 1884, the outgoing President, William L. Gross, bemoaned the fact that only 279 of the state's 5,000 lawyers belonged to the association. The Illinois State Bar Association had been formed seven years earlier with 88 founding members from 37 counties. While its membership had tripled in the seven years of its existence, this state-wide organization then represented but a miniscule minority of the state's lawyers. Bar association membership was not then and never has been compulsory. *Id.* at 275-76.

53. The 1980 Illinois population was 11,427,409 (U.S. BUREAU OF THE CENSUS (1980)) and projected for 1984 to be 11,663,080. STATISTICAL ABSTRACT OF THE U.S. 7 (1986). This equals approximately one attorney for each 230 citizens. *Compare* the figures calculated *supra* in notes 15, 17, 19 and 52.

54. Mark David Seibert, who graduated from the University of Illinois College of Law in May 1986, holds the distinction of being the 50,000th attorney to be so registered. The Bar News, Feb. 1987, at 7, col. 1.

55. Sup. Ct. R. 85, 53 Ill. xvii (1871).

56. PROCEEDINGS OF THE ILLINOS STATE BAR ASSOCIATION 29-31 (1896). A stenographer's report of this meeting, however, recorded the comments of Mr. Bradwell who addressed himself to the chair as follows: "Mr. President, on this question the bar throughout the State is not a unit. Some lawyers are in favor of the two years' course, and some of them are in

the supreme court adopted a major and thorough revision of its rule relating to admission to the bar.[57]

In 1897, a central State Board of Law Examiners financed from applicants' fees was created and given the sole authority to conduct bar examinations.[58] For the first time, "written or printed" bar examinations came into being in Illinois.[59] When the State Board of Law Examiners was created in 1897, it was the sixth such central board of that type to be created in the United States.[60] Since 1897 and to the current day, all bar examinations in Illinois have been administered by the State Board of Law Examiners.[61]

Also in 1897, along with the creation of a central board of law examiners, the law study requirement was increased from two to three years "in an established law school considered by the board to be in good standing, or under the tuition of one or more licensed lawyers." Subjects required for examination were "real and personal property, personal rights, contracts, evidence, common law and equity pleading, partnerships, bailments, negotiable instruments, principal and agent, principal and surety, domestic relations, wills, corporations, equity jurisprudence, criminal law, and upon the principles of the constitutions of the State and of the United States, and legal ethics."[62]

Also in that year, pre-legal education was addressed for the first time by a rule which mandated that applicants possess a "preliminary

---

favor of a three years' course. In the last few years the standard of admission has been advanced a good deal, and a better and more thorough examination is required than was exacted a number of years ago. I can remember the time when it was necessary only for somebody to say to the Supreme Court that his friend, John Jones, wanted to be admitted to the bar; the court would name three men to examine the applicant, and he would send in his papers and get his license. But that was a good many years ago. It is different now. . . . Whether a man should be allowed to commence the practice of the law after two years of careful study, or whether three years of preparaton should be required, is a question on which members of the bar throughout the State are not at all united."

57. Sup. Ct. R. 39, 168 Ill. 20 (1898).

58. *Id.*

59. *Id.*

60. Sprecher, *Admissions to Practice Law in Illinois*, 46 ILL. L. REV. OF NW. U. 821 (1952). The other states where similar public boards had been established as of that time were New Hampshire (1880), Ohio (1882), Wisconsin (1885), Connecticut (1890), and New York (1894). Less structured and simpler boards of the previous type, however, were in existence in many states. A. REED, TRAINING FOR THE PUBLIC PROFESSION OF THE LAW 102 (1921).

61. Sprecher, *supra* note 60, at 821.

62. Sup. Ct. R. 39, 168 Ill. 20, 20-21 (1898). The three year office study requirement was increased to four years by a rule adopted in 1923. The rule required that those persons beginning the study of law after July 1, 1924, who chose to satisfy their educational requirements by law office rather than law school study, must spend four years in law office or combined law office/law school study. Sup. Ct. R. 39, 310 Ill. v, vii (1924).

general education equivalent to that of a graduate of a high school in this State. . . ."[63] Until 1913, a two-year high school curriculum pursued concurrently with the applicant's law study was regarded as satisfying the rule.[64]

In 1913, the rule was amended to require "a preliminary general education . . . equivalent to that of a graduate of a four-year high school in this State" and that such pre-legal education shall have been acquired "prior to beginning the study of law."[65] In 1917, the rule was further amended to require "a diploma showing the completion of a four-year course in a high school in this State. . . ."[66]

In 1923, "seventy-two weeks [two years] of general college work" was added to the high school diploma requirement. However, a comprehensive examination on general college subjects could be taken and passed in lieu of college attendance.[67] Nearly thirty years later, in 1952, the general college prerequisite was increased to at least ninety semester hours. The applicant, in lieu of the college work, was still permitted to take an examination to demonstrate that he had acquired knowledge equivalent to such college work or a portion thereof.[68] In 1967, the alternative test was eliminated as a means of satisfying the required ninety semester hours of acceptable college work.[69]

In 1962, the Illinois Supreme Court abolished its long standing recognition of law office study and combined law office/law school study as a satisfaction of its educational requirements. What remained was. the requirement of a first degree in law from a law school approved by the State Board of Law Examiners.[70] In 1977, the law degree was required to be "from a law school approved by the American Bar Association."[71]

---

63. Sup. Ct. R. 39, 168 Ill. 20, 21 (1898).

64. Sprecher, *supra* note 60, at 843.

65. Sup. Ct. R. 39, 259 Ill. v, vi (1914). As to legal studies, the rule further provided that the applicant shall have pursued a three year course of law studies in an established law school considered by the board to be in good standing, or under the personal tuition of one or more licensed lawyers. *Id.*

66. Sup. Ct. R. 39, 281 Ill. v, vi (1918).

67. Sup. Ct. R. 39, 310 Ill. v, vi-vii (1924).

68. Sup. Ct. R. 59, 413 Ill. xxx, xxx (1953).

69. Sup. Ct. R. 703, 36 Ill. 2d 184, 185 (1967).

70. Sup Ct. R. 58, 25 Ill. 2d xi, xiii (1963).

71. Sup. Ct. R. 703, 67 Ill. 2d xiii, xiii (1977). Historical and practice notes to this rule in the annotated statutes state that: "The American Bar Association has an extensive system to monitor law schools, and the Board of Law Examiners was not equipped to perform a comparable task, in practice relying instead on the work of the Association in this regard." ILL. ANN. STAT. ch. 110A, ¶ 703 (Smith-Hurd 1985) (Historical and Practice Notes).

Admission on Foreign License

Since 1819, it has been possible to be admitted to the Illinois bar without examination upon proof of licensure in another state.[72] Between 1819 and 1872, any person licensed in any court of record in the United States who possessed good moral character was entitled to be licensed in Illinois without examination.[73]

In 1872, the supreme court provided by rule that a person could be admitted on foreign license[74] if: (1) the issuing state required two years of law study, or (2) the applicant had been engaged in active practice[75] for two years under the foreign license.[76]

After 1897, applicants for admission on foreign license would be admitted in Illinois if: (1) the issuing state required a high school education and three years of law study, or (2) the applicant had been engaged in active practice for five years under his foreign license.[77] These provisions were in force until 1923 when the rule was amended to provide that where the requirements for admission to the bar in the foreign jurisdiction were equivalent to those of Illinois (two years of general college work and three years of law study), the applicant could be admitted in Illinois. If the educational requirements were less in the issuing state, however, the applicant had to satisfy a five-year practice requirement, or eight years if the issuing state required less than two years of law study.[78]

---

72. The first pronouncement on this subject was an act of the Illinois General Assembly in 1819. 1819 Ill. Laws 9.

73. *Id.*; 1833 Ill. Laws 99, § 8; Ill. Rev. Stat. ch. xi, § 10 (1845).

74. Foreign license means the license of another jurisdiction. Between 1897 and 1977, Illinois expressly recognized foreign licensure not only in states and territories of the United States and the District of Columbia but in foreign countries as well. Sup. Ct. R. 39, 168 Ill. 20, 21 (1898). A limitation on the recognition of foreign country licensure came in 1937 when the supreme court amended the rule to limit that recognition to countries "whose jurisprudence is based upon the principles of the English Common Law." Sup. Ct. R. 58, 368 Ill. xxiv, xxix (1938). A 1977 amendment eliminated foreign country licensure as a means of obtaining licensure in Illinois. Thenceforth, and at the present time, the only recognized foreign licenses are those of the states and territories of the United States and the District of Columbia. Sup. Ct. R. 705, 67 Ill. 2d xiv (1977).

75. "Practice" has been broadly interpreted. It includes, for instance, service as a judge, law professor, and some types of legal work as a government lawyer. *See generally* Farley, *Admission of Attorneys from Other Jurisdictions*, 19 Bar Examiner 227 (1950).

76. Sup. Ct. R. 44, 55 Ill. xxviii (1872).

77. Sup. Ct. R. 39, 168 Ill. 20, 21 (1898).

78. The rule is curiously written. It opens with the five-year practice requirement and leads the less than careful reader to conclude that the practice requirements are mandatory. It ends, however, with the language that: "Where the requirements for admission to the bar in such State or country at the time of the applicant's admission therein are equivalent to the

In 1947, the rule was again amended, this time to require three years of practice in the foreign jurisdiction and equivalent educational requirements.[79] In 1977, the foreign practice requirement was increased to five years and remains in force to this day.[80]

Traditionally, admission to the Illinois bar on foreign license has been a popular loophole for circumventing Illinois' ever increasing licensure requirements including a tough bar examination. As other jurisdictions lagged in strengthening their requirements for licensure or their bar examinations, the key for resourceful applicants was to search out a jurisdiction with more lenient requirements. Since 1977, however, that loophole has been practically closed.[81]

In 1922, my father, Rae Crane Heiple, who had left high school in 1914 without receiving a diploma, became interested in pursuing a professional career. In the eight year interim since high school, he had worked five years as a tenant farmer and had sold securities for the Central Illinois Light Company.

Undecided between medicine and law, he visited his brother, Edward Crane Heiple, a practicing physician in St. Louis. During that visit, he assisted with the treatment of his brother's patients, went on hospital rounds with him and scrubbed in for surgeries. The blood and gore turned his stomach. His decision was made. He would become a lawyer.

Requirements for admission to the Illinois bar at that time were a high school diploma and three years of law study either under the tutelage of a lawyer or in a law school. Law office study, however, had lost its previously preferred status as a route to the bar. As of 1921, Illinois had a total of eleven law schools with eight being in Chicago and three downstate.[82] The minimum time to complete the course and graduate at any of the Illinois law schools was three

---

requirements in this State in effect at the time of the application for admission here, the board may recommend for admission to the bar of this State an attorney licensed in such other State or country." Sup. Ct. R. 39, 310 Ill. v, viii-ix (1924). This rule was reworded and amended in 1937 to the same effect. Sup. Ct. R. 58, 368 Ill. xxiv, xxix-xxx (1938).

79. Sup. Ct. R. 58, 399 Ill. x (1948).

80. Sup. Ct. R. 705, 67 Ill. 2d xiv (1977). Along with other pre-conditions, this stringent rule also requires the applicant to have met Illinois' educational requirements, and to certify that upon his admission to the bar, "he will actively and continuously engage in the practice of law in this jurisdiction." *Id.*

81. *Id.*

82. Chicago law schools were: Chicago-Kent, Chicago Law School, De Paul, John Marshall, Loyola, Northwestern, University of Chicago and Webster College of Law. The downstate law schools were: Illinois Wesleyan at Bloomington, Lincoln College of Law at Springfield and the University of Illinois at Urbana.

years, four years in the case of evening schools. Their pre-legal requirements varied.

Six of the Chicago law schools required only a high school education for admission, namely: Chicago-Kent, Chicago Law School, De Paul University, John Marshall, Loyola University and Webster College of Law. Only two of the Chicago schools required general college work prior to matriculation. Northwestern required a college degree but would accept three years of college if the person had met his degree requirements in such three year period. The University of Chicago required three years of general college.[83]

Of the downstate law schools, Illinois Wesleyan and Lincoln College of Law required only a high school education for matriculation. The University of Illinois required two years of general college.[84]

For the academic year ending in 1921, there were 142 law schools in operation in the United States. The overwhelming majority required a three year course of study for graduation; fifteen required two years; and one, one year.[85]

Cumberland Law School of Lebanon, Tennessee, offered a one-year resident course of instruction leading to the LL. B. degree. Its graduates were authorized to sit for the Tennessee bar examination. In earlier periods, its graduates had been granted the so-called diploma privilege by the state of Tennessee. That is to say, the receipt of a diploma entitled the graduate to his license to practice law without further examination.

Cumberland Law School was an old and venerable institution. Organized in 1847, it was well-known throughout the country. In 1858, with 158 law students, it was the largest law school in the United States. By 1922, its hundreds of graduates included justices of the United States Supreme Court, many justices including chief justices of state supreme courts, governors, United States senators and scores of lesser officials.[86]

---

83. REED, *supra* note 60, at 436.

84. *Id.*

85. *Id.* at 441.

86. For a full account of Cumberland's history, consult K. FULLER, A HISTORY OF THE CUMBERLAND UNIVERSITY SCHOOL OF LAW (1962) (thesis on file with the Cumberland School of Law at Samford University). Cordell Hull, a Cumberland graduate, former United States Congressman and Secretary of State from 1933-44, described his alma mater in the following words:

> Cumberland Law School was a famous institution which had turned out many Senators and Congressmen—in fact, one of the greatest second-category schools in the country.

Dad chose Cumberland for his legal education. Here he could study law, receive the LL.B. degree, take the Tennessee bar exam, and receive his license to practice law, all within the course of a single year. For whatever the academically inclined might think of this compressed program (others were spending six and seven years at places like Northwestern and Harvard), it had a certain practical appeal to a twenty-six year old man who wanted to get on with his life.

First, however, he had to satisfy Cumberland's entrance requirements. He needed a high school diploma. Taking the path of least resistance, he appeared before the Washington, Illinois, school board, explained that he needed a diploma to get into law school, and was given a diploma.

Notwithstanding the popularity of the case method of instruction, Cumberland's courses were still taught by the traditional textbook and lecture or didactic method.[87] Indeed, it could not have been done any other way in the allotted time. The textbook method was efficient, quick and to the point. Legal principles could be stated as propositions without the tedious and time-consuming chore of digesting hundreds of cases. For all of its supposed virtues, the case method did not lend itself to a comprehensive exposition and understanding of the law in the span of a single year.

In 1923, Dad received the LL.B. degree (later exchanged for a J.D. degree), took and passed the Tennessee bar exam and received his Tennessee license to practice law. He and a classmate, John Will, opened and continued to maintain a law office in Nashville under the name of Will & Heiple. Dad then returned to Illinois and resumed his profitable career of selling securities for the Central Illinois Light Company. He also entered into the general insurance business in his home town.

In 1933, ten years after being licensed in Tennessee, he moved the Illinois Supreme Court for admission to the bar on foreign license. Although his educational accomplishments fell far short of the then required two years of general college work and three years of law study, he was able to qualify according to the foreign license

---

> There I enjoyed the teaching of three of the finest law instructors I have ever known at any institution of learning. . . . When I went to Congress . . . I found in Washington four or five Senators, one Justice of the Supreme Court and twelve to fifteen Congressmen who were graduates of Cumberland University.

1 C. HULL, THE MEMOIRS OF CORDELL HULL 26-27 (1948).

87. Also, subjects were taught to completion one at a time. That is to say, the student completed contracts before moving on to torts, etc. FULLER, *supra* note 86, at 62.

and practice rule by claiming ten years of practice in Tenessee.[88] His ten years of practice were certified by the Honorable Grafton Green, Chief Justice of the Supreme Court of Tennessee. The extent of that practice was never an issue.[89] After licensure in Illinois in 1933, Dad began the active practice of law and continued to so practice for the next forty-three years until his death in 1976 at age eighty.

Dad was born in Washington, Tazewell County, Illinois, on March 22, 1896. Two months earlier and twenty-two miles away, Everett McKinley Dirksen was born in the county seat of Pekin on January 4. As contemporaries in Tazewell County Republican politics, they were destined to become political friends. Dad was to make his career in banking, insurance, and law. Dirksen, in politics, reached his political pinnacle as Minority Leader of the United States Senate. He was also a lawyer.[90]

Dirksen's education included graduation from Pekin High School in 1913 and, commencing in 1914, three years of attendance at the University of Minnesota prior to his enlistment in the army in 1917. His first two years at Minnesota were in the college of liberal arts and science. His third year was in the law school. He never returned to college following service in World War I and did not graduate.

In 1927, while earning his living as a baker, Dirksen was elected to the Pekin City Council. Three years later, in the only election he ever lost, Dirksen failed in a primary bid to take the sixteenth district congressional seat away from the incumbent Republican, William Edgar Hull. By 1932, however, he was able to beat Hull in the primary election and go on to trounce his Democratic opponent in what was otherwise a Democratic landslide. He even ran 1,000 votes ahead of presidential candidate Franklin D. Roosevelt, who was carrying the sixteenth congressional district for the Democrats. The Peoria Star attributed Dirksen's political success to his "almost Machiavellian strategy."[91]

Shortly after Dirksen's election to Congress, he became actively interested in obtaining a license to practice law. In November of 1933, he paid the fee to take the Illinois bar exam.[92]

---

88. Sup. Ct. R. 39, 310 Ill. v, viii-ix (1924).

89. 8 Records of the Illinois State Board of Law Examiners 62 (1933) (on file in Springfield, Illinois).

90. For an account of Dirksen's early life, see E. SCHAPSMEIER AND F. SCHAPSMEIER, DIRKSEN OF ILLINOIS 1-24 (1985).

91. *Id.*; Peoria Star, March 12, 1933, reprint in Glee Gomien Collection, Everett McKinley Dirksen Congressional Leadership Research Center, Pekin, Illinois.

92. 9 Records of the Illinois State Board of Law Examiners 44 (1937) (on file in Springfield, Illinois).

At that time, he asked Pekin attorney Conn Luther Conder to sign an affidavit that Dirksen had studied law in Conder's office under his tutelage. Although Dirksen knew Conder well and although Dirksen was possessed of an uncanny judgment of human nature, he missed the mark with Conder. Conn Luther Conder was a native Virginia, of the old school. He had been born in Rockingham County, Virginia, in 1876, graduated from the John Marshall Law School in Chicago and moved to Pekin, Illinois, to practice law near the turn of the century. He was highly principled, ethical, and regarded personal honor as among man's highest callings. Conder was shocked to find that Dirksen would be willing to proceed under false colors and he was outraged and insulted to learn that Dirksen considered Conder as a person who would be a party to such a practice. Conder declined to offer his affidavit. Dirksen did not take the Illinois bar examination.[93]

Dirksen had learned, however, that what was true for high school geometry was not necessarily true for life. The shortest distance between two points is not always a straight line. Another lawyer could be found who would attest to Dirksen's study and Dirksen would apply for the District of Columbia bar examination.

In 1935, while still in Congress, Dirksen took a cram course from an attorney in Washington, D.C., who specialized in getting students past the D.C. bar examination. Dirksen took the D.C. bar exam that summer and, to his chagrin, he flunked it.[94] Neil MacNeil reports that:

> Some months later, as a member of Congress, not as an aspiring law student, Dirksen met one of the members of the board of law examiners, and he inquired not too discreetly about what had gone wrong. The examiner's reply suggested to Dirksen that there was a world of reality he had not imagined behind the formality of the bar examination. Dirksen, the examiner suggested, had made two basic mistakes: he had handwritten his answers instead of typing them, and he had written long answers. The examiners simply had no patience with either type of examination paper.[95]

MacNeil's account is believable. Dirksen's penchant for loquaciousness and verbosity is legend, and I have seen examples of his cribbed and scrawling handwriting.

---

93. *Id.* The account of this incident between Dirksen and Conder was personally related to the author by Conn Luther Conder (1876-1959). Conder, a practicing Pekin attorney for over 50 years, was a longtime personal and professional friend of the author and the author's family.

94. N. MacNeil, Dirksen: Portrait of a Public Man 55 (1970).

95. *Id.*

Dirksen took the District of Columbia bar examination a second time on June 18-20, 1936. This time he condensed his answers and used a typewriter to record them. He passed. Dirksen became a member of the District of Columbia bar by examination on December 14, 1936.[96]

The next month, on January 20, 1937, Dirksen moved for admission to the Illinois bar on foreign license. He claimed as his educational background: graduation from Pekin High School on June 11, 1913; sixty semester hours of general college credit at the University of Minnesota (1914-16); one and a half years at the University of Minnesota Law School (1916-18); and law study in a law office (1927-29).[97]

Dirksen's application for admission on foreign license without examination was granted. On March 2, 1937, he was admitted to the Illinois bar less than three months after being licensed in the District of Columbia.[98]

In 1947, Dirksen joined the Peoria law firm of Baer, Davis & Witherell, now Davis and Morgan, an association which Dirksen maintained from 1947 until his death on September 7, 1969, at the age of seventy-three.[99]

Rise of Law Schools

From the organization of Illinois as a state in 1818 until sometime near the turn of the century, law office study was the traditional route to a legal education. As already noted, that route to the bar

---

96. Records of the United States District Court for the District of Columbia (1936).

97. 9 Records of the Illinois State Board of Law Examiners 44 (1937) (on file in Springfield, Illinois). The name of the attorney who was willing to certify Dirksen's law office tutoring is unknown. Documents in such matters are not retained by the State Board of Law Examiners. A search of extant biographical writings on Dirksen gives no indication that he ever studied law in a lawyer's office. The period claimed (1927-29) was during Dirksen's tenure as Pekin City Councilman while he was working as a baker. Additionally, the claim of one and a half years of law study at the University of Minnesota Law School (1916-18) is overstated. Dirksen enlisted in the U.S. Army in 1917. His college transcript at Minnesota indicates a single year at the law school (1916-17) where he took courses in contracts, torts, property, criminal law, carriers, agency and domestic relations. With a plurality of D's, he fell below a C average. College transcript on file with Everett McKinley Dirksen Congressional Leadership Research Center, Pekin, Illinois.

98. 9 Records of Illinois State Board of Law Examiners 44 (1937) (on file in Springfield, Illinois).

99. Martindale-Hubbell Law Directories (79th ed. 1947 through 102d ed. 1970).

was eliminated in 1962. Long before 1962, however, it had withered on the vine.[100]

Throughout Illinois history and from its inception, the possibility of a law school education always existed. Law schools could be found in other parts of the country in the early days and some colleges had law departments. The Litchfield Law School in Connecticut, for instance, was a private law school, not conferring degrees, which operated from 1774 until 1833. It had graduated over 1,000 students by the time it closed, including three justices of the United States Supreme Court, sixteen chief justices of state supreme courts, twenty-eight U.S. senators, and fourteen governors, as well as numerous other prominent governmental figures.[101] A student usually completed the whole course at the Litchfield school in fourteen months, including two vacations of a month each. Instruction by the lecture method covered the entire field of law under forty-eight titles.[102]

Because of its success, the Litchfield private law school had many imitators. During the life of the Litchfield school, more than a dozen such competing ventures were started in seven states ranging from Massachusetts to North Carolina. In 1833, law schools were opened in Georgia and Ohio. Due to the lack of solid definitive guidelines as to what constituted a law school, thoroughly reliable figures are impossible to come by. However, Reed notes over twenty such schools prior to 1850 and comments that the number was probably much higher.[103]

Beginning in the 1820's, general colleges and universities began to absorb the private law schools. Yale acquired a local private law school in 1824 by listing its thirteen students in its catalog and appointing the owner of the school to its vacant professorship of law.[104] Eight years earlier, in 1816, Harvard had appropriated $400 for the support of a professorship of law. The Chief Justice of Massachusetts was appointed to the position and was required to

---

100. For the March 1951 Illinois bar examination, there were 587 applicants. Only four of the 587 were products of law office study. The rest were law school graduates. SPRECHER, *supra* note 60, at 838.

101. M. MCKENNA, TAPPING REEVE AND THE LITCHFIELD LAW SCHOOL xvi (1986). The starting date of the Litchfield Law School is debatable. As noted by Reed, "[d]oubtless it was never born - it simply grew." The school was founded by Tapping Reeve, a Princeton graduate, who had been admitted to the bar in 1772. REED, *supra* note 60, at 129 n.3.

102. HURST, *supra* note 10, at 258.

103. REED, *supra* note 60, at 132. John J. Brown's law school in Chicago is not listed. *See infra*, note 110 and accompanying text.

104. *Id.* at 140-41

deliver, primarily for the benefit of the senior class, a course of not less than fifteen lectures covering specified legal topics.[105]

Prior to 1850, twenty-two law schools offering residential instruction and conferring law degrees were in operation. The first was William and Mary (1779), followed by the University of Pennsylvania (1790), Columbia (1794), Transylvania (1799), Harvard (1817), University of Maryland (1823), Yale (1824), University of Virginia (1826), George Washington University (1826), University of Cincinnati (1833), Dickinson College (1834), New York University (1838), Lafayette College (1841), Indiana University (1842), St. Louis University (1842), University of Georgia (1843), University of North Carolina (1843), University of Alabama (1845), University of Louisville (1846), Princeton University (1846), Tulane (1847), and Cumberland University (1847). Fourteen of these schools maintained continuous operation from their inception. The others had varying periods of operations, closings, and re-openings.[106]

When Illinois joined the union in 1818, there were four degree granting law schools operating in the country, to-wit: William and Mary, the University of Pennsylvania, Transylvania and Harvard. The Litchfield private law school and several similar schools were also in operation. For the school year 1818-1819, Litchfield had thirty-four students; Harvard, nine.[107]

By 1840, there were seven degree granting law schools in operation. Of these seven, four offered a one-year course of instruction; one, one and a half years; one, two years; and the length of course for one (Dickinson) is unknown. In numbers of students for the school year 1839-40, Harvard was high with eighty-six, followed by Transylvania and Virginia with seventy-one each, Yale with forty-five, Cincinnati with thirty-two, William and Mary with thirty and Dickinson, thirteen.[108]

The number of law schools in the country doubled every twenty years between 1830 and 1910. The figures are six in 1830, fifteen in 1850, thirty-one in 1870, sixty-one in 1890, and 124 in 1910.[109]

The first law school in Illinois was a private school started by John J. Brown in Chicago in 1847. It lasted about ten years before

---

105. *Id.* at 137.
106. *Id.* app. at 423-24.
107. *Id.* app. at 423, 431, 450.
108. *Id.* app. at 423, 450-51.
109. *Id.* at 193 n.2.

it closed.[110] A number of other Illinois law schools opened, operated for a time, and then closed. Although some of the colleges that spawned law schools are still alive and well, their law schools are gone and probably forgotten. Among them, McKendree College at Lebanon, 1860-1901 and at East St. Louis, 1891-95; Illinois Wesleyan at Bloomington, 1874-1927;[111] Lincoln College of James Milliken University at Lincoln, 1874-76; Chaddock College at Quincy, 1880-86 and 1887-1900 and operated as Gem City Law School of the Gem City Business College, 1904-07; Northern Illinois College of Law of Northern Illinois Normal Institute at Dixon, 1889-1910;[112] Chicago

---

110. E. WARD, STORY OF NORTHWESTERN UNIVERSITY 306 (1924). John J. Brown was a capable, consummate lawyer and an accomplished speaker. Brown came to Illinois from the state of Virginia, settling first in Danville, Illinois, and moving later to Chicago. He was admitted to the Illinois bar in 1838. 3 Ill. (2 Scam.) x (1841); LINDER, *supra* note 27, at 134-37.

111. The law school of Illinois Wesleyan passed out of existence on June 7, 1927, with a final graduating class of 24 seniors. E. WATSON, THE ILLINOIS WESLEYAN STORY 157-58 (1950).

112. The Northern Illinois College of Law (also known as the Dixon College of Law) was a private school. The LL.B. degree was conferred after completion of a two-year course of study of 40 weeks each. Its catalog for 1894-1895 touted its program in the following words:

> The faculty are all men of legal prominence and have entered into the establishment of this school with a faithful devotion that insures its success and the fact that a more thorough knowledge of the theory and practice of law can not be obtained in any other law school. The plan of work is to be daily recitations, frequent lectures by members of the faculty, and examinations, drill speeches, debates and moot courts will be introduced as adjuncts to the study of the standard textbooks.
>
> The apparent necessity for a systematic and thorough method of obtaining a legal education at a moderate expense led to the organization of this college. The great advantages of studying law in law schools is now generally admitted. The disadvantages of study in a law office are many and the chances for success are not favorable. Students who neither know how to study, nor have the necessary mental discipline to master, alone, the intricate points of law, enter an office. The practitioners did as much as could be expected of them, when they gave the use of their libraries. Amid the interruptions and necessary confusion in the office, many, who under favorable circumstances would become successful lawyers, fail, giving up the law entirely. It is hardly reasonable to expect that the average student should master, practically unaided, the most abstruse and complicated of all sciences. Happily the law student is no longer obliged to devote three or four years of valuable time in this unsystematic way, to obtain a legal education. In two years of forty weeks each, the Dixon College of Law can fit him for practice in any court of law. Here the student pursues the subject in a systematic and logical way. He is made familiar with principles, maxims, technical phraseology, etc., inherent in law. A knowledge of those remove difficulties which otherwise would be almost insurmountable and make the subject plain and delightful to pursue. The student proceeds rapidly and understandingly. He studies leading cases and their applications to principles. He gets a broad view of law. He sees the ethical principles as its basis and the nobility of the profession. He becomes ambitious and aims for a higher goal than pettifogger. The priceless emulation in the class goads him on and he becomes a true lawyer, both in theory and practice.

Tuition was $12 per 10-week term or $40 per year. Room and board ranged from $60 to $70 per year. Students could enter at any time. Catalog of the Northern Illinois Normal School and Dixon Business College (1894-1895) (catalog and history on file with the Regional History

Law School at Chicago, 1896-1935; Aurora College at Aurora, 1896-1901; Lincoln College of Law at Springfield, 1911-53;[113] Webster College of Law at Chicago, 1912-1923; and Northern Illinois University at Chicago (not connected with the present Northern Illinois University) 1915-16.[114]

Illinois currently has nine schools of law. The oldest, Northwestern, claims 1859 as its organization date by virtue of its absorption of predecessor institutions, namely: the law department of the old University of Chicago which was organized in 1859, later the Union College of Law. On July 1, 1891, these predecessor institutions formally became Northwestern University's law school.[115]

The Chicago-Kent College of Law of the Illinois Institute of Technology is the state's second oldest law school. It is an amalgamation of the Chicago College of Law which was organized in 1887 and affiliated with Lake Forest College in 1888, and the Kent Law School, which was organized in 1900.[116]

De Paul University absorbed the Illinois College of Law in 1912 and thereby claims its organization date as of the organization of the Illinois College of Law, which was organized in 1896 and incorporated in 1897.[117]

The University of Illinois dates from 1897, John Marshall 1899, University of Chicago 1902 and Loyola 1908.[118]

The University of Illinois School of Law, which was organized at Urbana in 1897, was the only law school ever operated by the state until 1973 when the Southern Illinois University School of Law began operation at Carbondale. Then, in 1979, Northern Illinois University acquired the Lewis University College of Law and began the operation of a third state law school at DeKalb. The Lewis

---

Center of Northern Illinois University, DeKalb, Illinois). According to a brief history of the school, it was the largest law school in Illinois from 1898-1901. S. BROWN, MEMORIES OF THE NORTHERN ILLINOIS NORMAL SCHOOL 28 (1939).

113. A newspaper article describes the final graduating ceremonies scheduled for March 26, 1953, with a graduating class of 18 seniors. Springfield State Journal-Register, March 23, 1953, at 9. Catalog of the Lincoln College of Law for 1951-52 lists a faculty of 12 including the Dean and also lists its alumni from 1914 to that date. The catalog is available in the Sangamon Valley Collection of the Lincoln Library, Springfield.

114. REED, *supra* note 60, at 424-30 (1921).

115. J. RAHL & K. SCHWERIN, NORTHWESTERN UNIVERSITY SCHOOL OF LAW - A SHORT HISTORY 5-9 (1960).

116. ILLINOIS INSTITUTE OF TECHNOLOGY, CHICAGO-KENT COLLEGE OF LAW BULLETIN 5 (1970-71).

117. CATALOG OF DE PAUL UNIVERSITY COLLEGE OF LAW 4 (1912-13).

118. REED, *supra* note 60, at 427-29.

University College of Law had originally been founded in 1974 by Lewis University at Glen Ellyn. These three law schools, though institutions of the state of Illinois, are separately governed.[119]

The Diploma Privilege

In 1863, Illinois had but two law schools in operation. One was the old University of Chicago Law School, which was the predecessor institution to the Northwestern University School of Law. The other was McKendree College at Lebanon. That year, the supreme court, by rule, specifically granted the so-called diploma privilege to graduates of the old University of Chicago Law School.[120] That is to say, its diploma was accepted as "satisfactory evidence that the graduate is sufficiently learned in the law to entitle him to admission to the bar."[121] This short-lived exclusive privilege was rescinded in 1865.[122] The rule was of negligible impact in any event since, as already noted, the informal oral examination process then in operation for other applicants was *de minimis*.

By 1880, Illinois had three law schools in operation. They were the Union College of Law, which was successor to the old University of Chicago Law School and was then operated jointly by the old University of Chicago and Northwestern University. The other two were McKendree College at Lebanon and Illinois Wesleyan University at Bloomington. A fourth law school was to join these three when Chaddock College at Quincy also began law school operations in 1880.

Once again, in 1880, the supreme court opted for the diploma privilege. This time, the privilege was extended to the graduates of any regularly organized Illinois law school which required a two-year course of study for graduation.[123] By the time this rule was rescinded in 1897, Illinois had ten law schools in operation.[124] Rescinded in 1897, the diploma privilege has never been renewed in Illinois.[125]

---

119. Law in the Grand Manner, A Popular History of the College of Law at the University of Illinois 1897-1967 54 (1967); Bulletin of the Southern Illinois University School of Law iv (Sept. 1985); Bulletin of the Northern Illinois University School of Law 40 (May 1986).

120. Sup. Ct. R. 61, 31 Ill. xxiii (1864).

121. *Id.*

122. Sup. Ct. R. 69, 40 Ill. xxii (1868).

123. Sup. Ct. R. 47, 93 Ill. 13 (1880).

124. Four law schools survive today from that 1897 list of 10, to-wit: Northwestern, Chicago-Kent as successor to Chicago College of Law, De Paul as successor to Illinois Law School, and the University of Illinois.

125. Sup. Ct. R. 39, 168 Ill. 20, 20-21 (1898).

Conclusion

When Illinois joined the union in 1818 and well into that century, apprenticeship in a lawyer's office was the preferred method of legal education. Self-directed reading was another.

Unlike the deluge today, law books in the early days were few and far between. Important works included the annotated edition of Blackstone with American authorities by St. George Tucker, which was published in 1803. The publication of the lectures of James Kent as Kent's Commentaries in 1826, which continued to be published and brought out as repeated editions through the nineteenth century, was another. Story's treatises on bailments, the constitution, conflicts of laws, equity, agency, partnership and bills of exchange, all of which were published before 1850, were others. Mastery of these few works conferred a solid grasp of what the law most generally was, not only in Illinois, but in other states as well.

The Illinois legislature was then, in reality, a part-time body, in adjournment more often than in session, and relative to today, legislated sparsely. Federal legislation and federal court decisions had limited and minimal impact on Illinois law.

All reports of the Illinois Supreme Court from 1818 to 1838, a span of twenty years, are contained in two slim volumes easily held in one hand. The most recent twenty year period in Illinois produced some 284 volumes of supreme and appellate court reports exceeding forty feet of shelf space.

The history of legal education and admission to the bar in Illinois has paralleled, in many respects, that of the nation as a whole. It began with law office apprenticeship and self-directed reading. It saw the rise of proprietary law schools in the 1800's followed by the virtual dominance of the university law schools.[126] It included the revolution in law school teaching methodology from the textbook and lecture or didactic method to the case book method in use today. Law office study as a route to law licensure lost its preferred position sometime between the civil war and the turn of the century prior to fading rapidly thereafter and finally reaching utter oblivion in 1962.

For almost sixty years now, virtually all Illinois lawyers have shared a common educational experience. They are college educated and they are graduates of a three-year case method law school. For

126. Illinois today has but one law school not affiliated with a university, The John Marshall Law School in Chicago.

the first century of Illinois history, this was not the case. Earlier lawyers in Illinois did not constitute an educationally homogeneous group. Over its 170 year history, Illinois has witnessed a near total change in the form, structure and substance of legal education and admission to the bar.