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WHAT OF BAR ADMISSIONS?

By Stanley T. Wallbank of the Denver Bar

The Court: Who was the first Chief Justice of the United States Supreme Court?

Applicant: (Hesitatingly) John Marshall, I think.

The Court: What is the fundamental law of the land?

Applicant: The laws made by the Legislature.

The Court: Why do you wish to practice law?

Applicant: Because it looks like the easiest way to make money and get ahead.

Startling as the above dialogue may seem, it nevertheless is not uncommon for applicants on examination for admission to the Bar to make similar, or even more astounding, answers, all of which suggests a few considerations of the present method of admission to practice law in Colorado.

In striking contrast to the time when no written or formal examinations were held,—the applicant then merely submitting to a brief oral questioning by one member of the Court which sometimes was, although quite a delight to the Court and the applicant, very little of a test of the aspirant's qualifications—is the present day system of examination by the Committee of Law Examiners and the Bar Committee. The latter is appointed by the Court to pass upon the moral and ethical qualifications of the applicants. The Committee consists of five members, three of whom examine each applicant personally. Theirs is a most important duty although herein the work of the Law Examiners alone is considered.

The Committee of Law Examiners, known as the Law Committee, consists of nine members appointed, pursuant to rule, by the Supreme Court of Colorado, the members being largely distributed as to geographical location and being selected wholly apart from political, religious, social and similar considerations. The members serve for five years. They receive no compensation. Their responsibility obviously is to pass upon, subject to the rules, direction and supervision of the Court, the educational qualifications, general

and legal, of all persons who apply to practice law in Colorado.

As to admissions upon motion, the present Supreme Court rule is, in substance, that those applicants who are not then citizens of Colorado, but have been admitted to practice in another State, and have practiced there ten of the eleven years immediately preceding application here, comprise Class "A", and may be admitted upon motion, unless their general educational qualifications are contested, in which case proof may be required by the Law Committee, which is subject to the approval of the Court. Those who are not then citizens of Colorado, but have been admitted to practice in another State, and have practiced there five of the six years immediately preceding application here, or taught for such period in an approved law school, comprise Class "B", and may be admitted upon motion, provided the requirements for admission to practice in the State where the license was granted are equal to the requirements in Colorado; subject, of course, to the same right of contesting general educational qualifications.

The rule has its foundation very largely in comity. Under it 119 lawyers have been admitted to practice in Colorado since 1920. As a rule, it is believed that attorneys so admitted upon motion meet well the educational requirements, both general and legal, formulated by the Court.

Respecting the applicants who submit to examination, no such general satisfaction of the educational requirements is found. In fact, there appears to be a growing tendency on the part of this class of applicants to exhibit a lack of grasp of the fundamentals of legal education and of that background of history, philosophy, political science, economics and general education, all so requisite in anyone who would improve or even uphold the high standing of the profession as it has prevailed through the centuries. It is quite common for applicants to show no fundamental grasp of the English language, not to mention that a regrettable number seem quite unable to write their answers to questions in any way except to make the untangling of their undecipherable hieroglyphics a guessing contest on the part of the examiners.

A refreshing minority of the applicants, however, bring delight to both the examiners and the Court in their formulation and presentation of answers from substantive, rhetorical, grammatical, general educational and cultural aspects.

The work of the Committee is so divided that each of the nine examiners is assigned a given subject which is one of those covered from time to time in the examinations. The subjects cover the important fields in law and equity and vary from year to year. The examinations are held in July and December of each year. The assignment of a subject is made several months before the time of examination. Each examiner is required to prepare written questions upon the subject assigned.

A meeting of the Committee is then called, considerably in advance of the examination, at which time all of the written questions prepared by the examiners are carefully considered by the examiners as a committee of the whole, which results in many substitutions and amendments to questions, and removing possible ambiguities and duplications. At least a half day is required by the Committee for this consideration of the questions. The revised questions are then ready for the printer.

The present written examinations consume two full days, four subjects usually being assigned for each day. The examiner who has prepared the questions on a given subject is present when the written examination on his subject is held, to be in readiness for applicants who may make *bona fide* inquiry concerning the form or purpose of a question and generally to supervise the examination on that subject. The Secretary of the Committee presides over all written examinations and requires the printed questions to be handed in at the close of the session and prohibits the copying of these questions.

Upon commencing the examination each applicant is given a number by the Secretary of the Committee, under which number he submits his entire examination. The name or identity of an applicant never appears upon any of his papers, and the number assigned is known to no member of the Committee or Court, and only to the Secretary of the Committee who does not participate in the examination. In

this way, no member of the examining committee knows the identity or authorship of any answer until all grades are submitted and made final.

The third day of the examination is given over to oral questioning, the forenoon being devoted to oral examination by the Supreme Court sitting en banc, and the afternoon to individual oral examination of the applicants by the members of the Committee separately. Much insight is gained into the qualifications of the applicants in these oral examinations, although unfortunately they are so limited in time as to fail of their highest objectives.

After the entire examinations are completed, each examiner is given the papers in his subject, for grading. This task is proving to be somewhat extensive. An average July class of applicants may number 80 or more. It is not uncommon for a paper to require more than an hour for a careful reading and review, and in many instances a re-review. Thus many of the examiners report that oftentimes a week to two weeks of their working hours are required before they feel willing to complete their grades of one examination. In this connection, as in many others, the members of the Committee have exhibited a tireless and genuine interest in this all important task assigned to them.

The grades and papers are forwarded by each examiner to the Secretary of the Committee, who then compiles the grades and averages. Thereupon, a meeting of the entire Committee is called to authorize the return to the Court of the individual and average grades of each applicant. Only after the Committee's recommendations are completed and ordered certified to the Court does the examiner know for the first time the authorship of the papers he has graded. Approximately 45% of the applicants in the most recent bar examination in Colorado failed of admission. Since 1920 there have been 632 applicants recommended by the Committee for admission to practice law in Colorado upon examination.

The Committee in these meetings also gives serious consideration to the entire field of the examinations, to recommended improvements and to bar examination matters in general. In devising the form and character of examination the

Committee is constantly giving serious thought to the changing educational conditions and to the type of examination that most fairly tests the ability of the applicant.

It is conceded that if the old type of bar examinations were strictly adhered to, many unqualified applicants, who may have mastered printed quiz books in the various subjects, might with facility pass the examination, so thorough and comprehensive are such quiz books now prepared with full answers to the questions propounded. The practice of coaching students primarily for the purpose of enabling them to pass the examination has, of course, been rightly condemned by all authorities and law schools of high standing. The Advisor to the Council of Legal Education of the American Bar Association says, "Very few bar examinations have ever been devised that a bright young man who crams intensely for three months cannot pass." The Association thus refuses to approve any school that "as a part of its regular course conducts instruction in law designed to coach students for bar examinations." The problem is thus one of concentrated cramming against proper and adequate training.

In this connection, much attention is being directed to some of the newer tests which seek *inter alia* a knowledge of the salient principles, the ability to apply a definite principle of law to a given state of facts, the knowledge of technical words and phrases, facility of proper expression, orally and in writing, and a knowledge that is not born of memorizing words which have little meaning to the memorizer. Many of the leading law educators of the country, in order to meet the above requirements, are recommending the long question and short answer type of examination, also called the true-false and new type system, whereunder the applicant must answer a greater number of questions, his answers consisting of "yes", "no", or the insertion of a few words, or the naming of a legal principle. The questions are so designed as to search fundamentally his grasp and knowledge, and cover a larger field. Under this system the applicant is warned not to guess, that each mistake counts as a penalty, that omitted answers count less than penalties, and that each statement must be taken in disregard of every other statement.

Another most promising investigation concerns the new and elaborate Pennsylvania system of admission to practice,

which has been eagerly analyzed and will be as eagerly watched to determine its practicability and efficiency.

The Committee is conscious of the two schools of thought, the liberal and the conservative, on the subject of admissions but, of course, is guided at all times by the direction and supervision of the Court. It is no pleasant contemplation to picture an applicant who has completed a high school course, two years of general college studies, and three years of approved law school courses, who fails two or three times in his attempts at bar examinations. But the Court in fixing standards from time to time is not oblivious of the fact that its solemn responsibility in regulating admissions cannot be lightly regarded. It recognizes that responsibility both toward the profession and the public. In this connection, it may be recalled that the number of law school students in the United States in 1926 had increased more than 80% over those in 1920, whereas the corresponding increase in population was approximately 10%. During this same six-year period, the number of lawyers increased over 30%.

The above fragmentary and uncorrelated data is offered in the hope that there may be inspired on the part of the Bar generally a greater interest in the matter of admissions to practice, and the forwarding to the Court by individuals, committees and Bar Associations of recommendations, constructive criticisms and suggestions for improvements. For do we not as lawyers have a grave responsibility to those invited and permitted to enter the portals of our loved profession which for so many centuries has signified to the world leadership, integrity and a sound administration of justice?