

see things that make people's mouths water. We ought to have them, but if it is a twelve volume set and costs \$125.00, I just do not put that in.

I can imagine a person being selfish enough and indiscriminate enough to put a set of books like that down on the list. I do not see why it should not be put on the list but it should be put there with the thought that maybe that set of books will run over the proportion that is decently allowable in that particular school for that particular branch of knowledge.

So, my ideal suggestions, then, are: that each member of the faculty should consider that he has a solemn bibliographical duty to the library; that the librarian should be left in complete final ordering control of the increase of books, and that he should make an annual report and have an annual topical budget, in the light of which the needs of the library can be kept up with a certain consistency.

Thank you. (Applause.)

CHAIRMAN THORNE: I am sure we are all very grateful to Dean Wigmore for speaking to us this afternoon and I know from personal experience that he practices what he preaches. Every month the librarian gets a long list of books, all marked "I need these at once" but never marked "We may get this sometime if we have the money."

We turn now to our second speaker and in introducing him I would say this: that ever since the founding of the Association of American Law Schools he has been concerned with investigating the schools seeking admission to the ranks of the Association of American Law Schools. In this work he has naturally examined scores of smaller schools and, of course, not only the school but the library as well. During these years he has made a great many observations about how schools are run, particularly the smaller schools and the smaller law libraries, and it is that to which he is going to direct his attention today.

I take pleasure in presenting Dean H. Claude Horack of Duke University.

THE SMALL LAW LIBRARY AND THE LIBRARIAN

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In the development of legal education for which the Association of American Law Schools has been so largely responsible, the growth in the use of the law library seems to have lagged far behind.

It is difficult to realize that at the formation of this Association in 1900 the only library requirement was that the library should contain "the reports of the state in which the school is located and of the United States Supreme Court." That this very modest requirement was considered inadequate by those who were interested in the development of law schools was shown in the attempt five years later to include "the *recent* and *current* reports of the federal courts of the United States and of the courts of last resort in all the states; the revised statutes of the United States, the English Chancery and Common Law Reports and at least three hundred volumes of standard textbooks." The provision met with much opposition and was referred back to the committee proposing it. The following year it was recom-

mended that the provision "pertaining to law school libraries shall for the present remain unchanged." It is to be noted that the suggested requirement did not call for full sets of the reports of the federal courts and the courts of last resort, but only the "recent and current" ones.

After this attempt to provide for better libraries for law schools the original provision requiring only the "reports of the state in which the school was located and of the United States Supreme Court," stood as the only library requirement of the Association until 1912, when it was provided that a school "shall own a law library of not less than 5,000 volumes." There was much objection to this requirement, the main point of the objection being that convenient access to a library was sufficient.

An interesting argument much pressed was that a requirement of a definite number of volumes was one which considered the letter and not the spirit of a library requirement in that any kind of books could be secured thereby fulfilling the requirement by procuring shelf fillers at 25 cents per volume. This objection was made, not for the purpose of forcing schools to buy books of the right type, but to bolster the argument that schools ought not to be required to have books of their own if they were located in cities where local bar association libraries might be used. The arguments seemed to have been directed almost entirely to the proposition that schools should not be required to get their own books but should send the students to near-by bar libraries if they so desired. The provision, however, was finally adopted with the understanding that the requirement was to be applied to schools thereafter admitted but that schools already admitted would be given a reasonable time with which to comply. As it is always more pleasant to put requirements on others than on ourselves, the resolution secured sufficient support to insure its adoption.

What was considered a reasonable length of time does not appear either in the original discussion or in any action later taken by the Association. However, in the course of a few years, at least by the time of the resumption of law school activities following the World War, it seems to have been taken for granted that the requirement of 5,000 volumes was to be fulfilled by all schools. It appears, however, that very little attention was given to schools that were already members of the Association, as there were then very few inspections of such schools, but the rule was applied with more or less strictness, dependent upon the particular inspector sent to examine an applicant for admission.

Whether applicants for membership had taken the cue from earlier discussions, that 5,000 volumes might be fulfilled with shelf fillers, or whether they arrived at this conclusion by independent thought, it appears that up to about 1924 no decision had been made as to what was meant by a "volume." In a number of cases there was strong reason to believe that applicants borrowed books from friends of the school to meet the ordeal of an inspection, and some bought up at bargain prices books of little or no value, and many schools had large quantities of worthless material which had been received as gifts.

Such gifts were not only easy to secure but many a library trying to build up its collection has had difficulty in avoiding them. Perhaps every school has had

the experience and the embarrassment of being presented with a library by some lawyer's widow. These gifts have all been dictated by much the same formula. A widow faced with the disposition of her husband's library has in mind that "poor John" put almost everything he earned into books during his lifetime, and she remembers hearing him say that his investment in this matter was fifteen or twenty thousand dollars. To be sure in recent years he had not kept up his expenditures for library purposes, but certainly it ought to be a great bargain to buy this library at one-half price. Great was her shock when she received an offer from some book concern of three or four hundred dollars or less for the whole lot. Rather than accept such a sum, her generosity dictated that she make a fifteen or twenty thousand dollar gift to the law library in memory of her departed husband.

The result was a large collection of obsolete textbooks, old digests, encyclopedias, and broken sets of reports. I have seen small law school libraries having as many as ten or a dozen sets of the first edition of the American and English Encyclopedia of Law, three or four sets of obsolete United States digests, and other equally valueless material in like proportions.

The high spot in checking the library requirement took place in the early twenties when a school that had been an applicant for admission for several years, announced that it had finally fulfilled the library requirement of "5,000 volumes." In addition to such material as I have already mentioned, they had, by careful count supplied the necessary number of volumes by separately binding single numbers of the advance sheets of the reporter system, proudly exhibiting long rows of these separately bound weekly pamphlets into which they had put real money in order to show 5,000 volumes. This experience led to an addition to the library requirement, and at the meeting in 1924 it was stated that a school's library should be "well selected and properly housed and administered for the use of its students."

It is to be noted that the change made in the library requirement in 1924 not only provided that the books should be "well selected" but also that they should be "properly housed and administered for the use of its students." This requirement, like many others now contained in the Articles was the result of the experience of inspectors in visiting schools. A number of schools felt that they had fulfilled the library requirement by having the required number of volumes of published material and that their obligation did not go beyond this. It was not unusual for an inspector to have pointed out to him a number of boxes which presumably contained law books. Often these were stored in the basement, and if under any supervision, only that of the janitor.

In one school many hundred volumes which the school asked to have counted as library material were stored in an attic of one of the university buildings where they could not be reached except by some nimble and slender person who might secure a ladder and crawl through a small hole in the ceiling into the pitch dark regions above. In other schools books were piled on shelves, two deep, and in a number of libraries, shelving extended to the top of a fifteen or twenty foot ceiling where books could be reached only by ladder, usually with no ladder available.

Often books were on the shelves in no fixed order and such a thing as a catalog or even a list of books or sets of books was unheard of. In a vast number of schools

the only record kept was an accession book in which books were listed and given a number as received. Seldom could such a library find any book which might be called for and it was conclusively presumed that a book once received was still in the school's possession and entitled to be counted to make up the required total.

The answers of such schools, if objection was made as to the fulfillment of the library requirement, was, almost uniformly, that the books were not in use anyhow, and so it was very technical to insist that they be placed or cataloged so that students might have access to them when no such access was actually desired and the books were never called for. The change in the wording in the Article requiring the books to be "properly housed and administered for the use of its students," merely put into the Article what had been insisted upon for several years by snoopy persons who had been making frequent inspections for the Association. But up to this time no one had had the temerity to require that the books be so cataloged and arranged that they could be located by any meddlesome person wishing to use them, and no efficient library management had been enforced.

At the meeting in 1924 attention was called to the fact that the number of volumes, 5,000, had been fixed "twenty years ago or more," (though actually it had been in effect only twelve years), and it was suggested that the Executive Committee consider the advisability of raising the number of required books, as the material had almost doubled in that time. At the meeting in 1925 the Article was changed to read "Commencing Sept. 1, 1927 it [the school] shall own . . . not less than 7,500 volumes, which shall be so housed and administered as to be readily available for use by students and faculty." It is to be noted that the books are now to be "readily available for use" not only by the students but finally by "the faculty." In this year it was also required that "for additions to the library in the way of continuations and otherwise there shall be spent over any period of five years at least \$7,500, of which at least \$1,000 shall be expended each year." In 1925 there had been proposed also as an amendment to the Article, the requirement that each library should contain certain specified books, but this amendment was withdrawn before it was submitted to vote. However, without the guidance of a real librarian, many schools were at a loss to know what books should be secured, and to satisfy this demand in 1927 there was approved a recommendation of the Executive Committee stating certain sets which should be included in the library of each member school.

These recommendations covered seven items, the most important of which were that it should contain the published reports and decisions of the courts of last resort in at least one-half of the states in the United States with reasonably up-to-date editions of statutes, the National Reporter System complete, at least six complete legal periodicals, and the English reports. The Executive Committee soon became quite insistent that each library should contain approximately the materials which it had recommended.

About this time, also, Miss Helen S. Moylan, Law Librarian at the University of Iowa, read a paper before the American Association of Law Libraries¹ entitled,

¹ Presented at the Twenty-Third Annual Meeting of the American Association of Law Libraries, French Lick, Indiana, May 29-30, 1928. Published in *L. LIB. J.* 21:85 (October,

Fundamental Material for the Law School Library with Particular Reference to the Library of 7,500 to 15,000 Volumes. This paper was later published in the AMERICAN LAW SCHOOL REVIEW for May, 1930,² and was practically used as a guide by many of the smaller schools. It was significant that many schools that were ready to spend the necessary money had but little idea of what to buy and Miss Moylan's article came as a godsend to those who had felt no need for books but were required to fulfill the minimum requirement.

In 1930 there was adopted the present requirement that commencing Sept. 1, 1932, each school shall own a library of not less than 10,000 volumes, and that at least \$10,000 shall be spent over any period of five years of which at least \$1,500 shall be expended annually.

This in brief is the history of the growth of the minimum library requirement of the Association of American Law Schools. It is interesting to note that though the number of unapproved school still far exceeds approved schools and have a considerably larger attendance, very few meet our present library requirement.

It should not be supposed that forcing schools to secure books of the number and kind required has meant that they are being used; and it is not unusual today for an inspector to be met with the criticism that the Association has placed upon the schools unreasonable and unnecessary expense in order to fulfill a technical requirement.

Few seemed to consider that the fact that the libraries were not being made use of was a reflection upon the school concerned and upon its faculty and the type of training it was giving to its students. A professor was considered as being scholarly if he referred occasionally to Shakespeare and quoted Latin expressions or the Bible. If it isn't a maxim, it should be,—that you can lead a student to knowledge but you cannot make him drink (that is, of knowledge), and this is particularly true when none of the faculty are anxious to partake. In many schools, it may be stated with considerable accuracy that the library has remained a closed book.

The great need of the small library is a competent librarian. By competent, I do not mean to require an expert as judged by the larger law libraries of the country, but I do mean that there is need of more than the occasional suggestion of some faculty member, or the supervision of a mere custodian whose duty it is to see that no one goes off with the books in wheelbarrow lots.

Has not the time arrived when the statement in the Articles that the library should be "administered" be interpreted as meaning that it be in charge of a fairly competent person whose business it is to see not only that sets are complete and maintained, and that new materials are secured as published within the limits of the school's resources; but that they are made "readily available for use of students and faculty." I would say that it is the librarian's business to see that the books *are used by students and faculty*. How this is to be done I gladly leave to the experts on this subject—the law librarians! Someone must have had a clear insight into law school affairs when he suggested that the library should be available for use by *faculty* as well as by *students!*

1928).

² AM. LAW S. REV. 6:751 (1930).

If the library is the essential part of the modern law school which this Association has held it to be, is it not time that there should be a provision that each school should have a competent librarian? Without him, are the books readily available for students and faculty? Through him members of the faculty will become aware of the library and some may become interested enough to read a book or an article occasionally, hunt up a citation now and then and proudly refer his students to it. Perhaps we may even be able to make some of the students drink if we induce them to take a few sips.

There are now eighty-two schools that are members of this Association and at least eighty-one of them should be represented at the meeting of the Library Round Table. Not to take an extreme position, we should be lenient enough to be willing to permit the librarian of the University of the Philippines to be absent on occasion.

Yet there is a proposal before the Association that the Round Table on Library Problems be discontinued! But perhaps I am performing as the typical college professor who scolds those who are present, because of the ones who are absent. If schools are not represented at this Round Table, is the solution of the library problem that the Round Table be discontinued? By the same type of reasoning, if what I have said about small law libraries is true, the proper solution would seem to be to dispense with the law libraries.

I believe that with the present requirement as to the number of volumes and the amount of money to be expended annually, it is not unreasonable to require that each library be in charge of someone who is more than a custodian of the books, someone who can help the student who is seeking to make use of the books that should be available to him, someone who is making this his main interest, someone who will attend a Round Table on Library Problems. The library requirement is not solved by having only a so-called student librarian, one who has no particular knowledge of library materials and whose only duty is to clear up the tables at the end of the day or hand out some particular book that may be called for,—if he can find it. Neither does it satisfy the needs of the situation merely to have a member of the full time faculty hold the title of librarian. I remember one occasion when a faculty of five full time men was asked to submit a list of books for a library then containing presumably 5,000 volumes and the total suggestions made called for about twenty additional books.

I do not wish to be understood as saying that a library committee of the faculty may not be very desirable and helpful, but I do wish to emphasize that the use of the library is such an important part of a student's legal education that it is not unfair to ask that someone be placed in charge of it who can be of real help to students and faculty alike, not only in the selection of materials for this essential part of legal education, but who can be of real help to those who are anxious to use the facilities which the rules of this Association require—someone of sufficient interest in library problems to attend such meetings as this in order to carry back to his school such thoughts as he may have acquired through interchange of ideas with others vitally concerned in library problems as their main interest.

The figures as to the training of librarians quoted from the report of a committee of the American Association of Law Libraries are significant.³ Though relating to all American law libraries of over 10,000 volumes, and not limited to the libraries of member schools, I doubt if figures so limited would show any better situation. With 25% failing to report on this point, 43% of the total number had no law training; and with only 69% answering, 48% had no library training. With so large a proportion giving no information, it is a conservative guess that over 50% of the law libraries are conducted by persons without either law or library training.

From what I have seen of the small law libraries in member and non-member law schools, I would heartily endorse the recommendation of the American Association of Law Libraries "that the Association of American Law Schools in line with its rigid requirements as to the number of volumes in the library of a law school as one of the qualifications for membership of such school in the Association, should also require each member school to have a librarian whose major interest is the library itself and whose principal activities are devoted to management and operation of the law library."

I would be tempted to add that such person be required to attend the meetings of the Association and particularly of this Round Table.

I know of no other way to make the law library the vital influence in legal education which those who have been responsible for the library requirement over the years of the development of this Association have intended it to be. I venture to suggest that those who have been active in this movement have never dreamed that in some schools today the situation is such as to library management that, as has been suggested by a number of schools, the library requirement is considered a useless formality, placing an undue burden of expenditure upon small schools for books which are never used.

Have we made much progress by merely requiring that the given number of books owned by the school be taken from the boxes in the basement and from the dark recesses of the attic, even though they have been put where even the fattest or least nimble member of the faculty can reach them? We need someone who is a salesman of these wares so that they will be called for to the end that the law library will actually be the essential part of legal education which we have assumed that it is. The trouble is that the members of the better schools do not know about the library situation in the poorer schools, and the members from such schools do not care.

Improvement in this matter should be the next major problem of this Association, and this improvement is to be effected through a requirement as to the law librarian. It is a condition and not a theory that confronts us. (Applause.)

CHAIRMAN THORNE: Thank you very much, Dean Horack, for your very interesting and illuminating paper. I am sure it comes at a most opportune time, especially at this meeting of the Association.

I am now going to call on our next speaker who is somewhat of a newcomer

³ PROGRAM AND REPORTS OF COMMITTEES, ASSOCIATION OF AMERICAN LAW SCHOOLS, THIRTY-FOURTH ANNUAL MEETING (1936) p. 129, at p. 131. Quoted from the *Report of the Committee on Education for Law Librarianship*, American Association of Law Libraries, L. LIB. J. 29:199, at pp. 201-202.