Admissions to the Bar in Indiana - A Survey

Richard P. Tinkham
Tinkham & Galvin

Follow this and additional works at: https://www.repository.law.indiana.edu/ilj

Recommended Citation
Available at: https://www.repository.law.indiana.edu/ilj/vol5/iss9/3

This Article is brought to you for free and open access by the Law School Journals at Digital Repository @ Maurer Law. It has been accepted for inclusion in Indiana Law Journal by an authorized editor of Digital Repository @ Maurer Law. For more information, please contact rvaughan@indiana.edu.
ADMISSIONS TO THE BAR IN INDIANA—
A SURVEY

RICHARD P. TINKHAM*

Anent the interest of the Indiana State Bar Association in promoting higher requirements for admission to the bar, the Indiana Law Journal recently undertook a survey of present admission requirements, of which this article is a report.¹

Under our present constitutional restraint² the duty of weeding the garden of applicants for admission has fallen upon each county. The actual work in this regard has been assumed by the county courts, committees appointed by those courts, or committees of local bar associations. These courts or committees function, for the most part, in a desultory and heteromorphic fashion. The standard of admission requirements varies with each county, and the requirements themselves are as kaleidoscopic as the personalities and prejudices of the courts and lawyers who impose them. Thus an applicant who would certainly fail an examination imposed by A county, is able to be admitted in B county on motion. Further, as a general rule, there is nothing to prevent that applicant's return to A county as a licensed attorney and there to hold himself out to the public as a competent practitioner. Uniform state requirements would prevent situations of this character.

The replies to the questionnaires reveal that the requirements in any county depend largely upon the view taken by the county court or County Bar Association of Article VII, Section 21, of our Constitution. Those counties which have adopted a literal interpretation of this section³ admit an applicant whose moral character has been unimpeached without regard to the adequacy of his legal training. In direct contrast are a number of counties which place a broader meaning on this section of the Constitution.⁴ These counties impose requirements designed to test the applicant's knowledge of the law, in addition to the proof of his good moral character. At least two of these counties have adopted a construction of Article VII, Section 21, which enables

---

¹ See p. 622 for biographical note.
² Article VII, Section 21, Constitution of Indiana.
³ Boone, Clinton, Decatur, Greene, Steuben and perhaps Hendricks counties are members of this group. The writer has no doubt that there are others but since this point was not raised by the questionnaire, only a few voluntary opinions were received.
⁴ Allen, Dekalb, Elkhart, Huntington, Knox, Lake, Madison, Marion, Orange, Porter, Tipton and Vigo.

620A
them to reject an applicant whose legal training is inadequate. The reply of Lake County on this question, it is submitted, is an irrefutable argument in favor of this construction:

"We deem that good moral character requires one who seeks to be admitted to the bar and to practice law, to show that he or she possesses fairly adequate training and knowledge of the law. In other words, we consider that one who seeks to practice law without having made some preparation therefor and who seeks to obtain money from prospective clients as a remuneration for the practice of law, is not of good moral character, if he has no qualifications as a lawyer. We believe that it does not require much straining of the phrase, "Good moral character" to arrive at this conclusion. For instance: One who has no knowledge of medicine or surgery yet who takes money from the public pretending to have such knowledge, surely is immoral. One who seeks to repair your automobile and takes money from you on the theory that he knows what he is about and who knows nothing about the construction or performance of automobiles is surely not of good moral character. Examples along this line can be multiplied indefinitely and it seems clear to us that there is no magic in the phrase, "Good moral character."4

Between these two extremes we find a variety of oral and written tests, most of which are perfunctory and formal in nature. It is submitted that a number of counties make a pretense of an examination merely as a matter of procedural habit, and not as a sincere effort to determine the fitness of applicants. Too often the applicant or his parents are acquainted with the examiners. Too often busy practitioners have not the time to prepare a comprehensive but fair examination. Too often the examiners are influenced by sympathy for the applicant. One county very frankly reports finding "Gross ignorance of the law even among holders of diplomas from small law schools." Another reports "Admissions entirely too easy." Others candidly admit that they either impose no examination at all, or that the one given is very elementary and a mere formality.5 Yet another county reports that it is now host to a number of undesirable attorneys who have been driven out of a sister county by an active bar association. And another complains of an influx of applicants of foreign birth who have been unsuccessful in other counties, and who have sought the aid of this county for admission only, with no intention of practicing there.

One of the principal purposes of this survey was to ascertain what degree of uniformity had been obtained by the activity of

4 Professor Bernard C. Gavit has made a special study of the proceedings of the Constitutional Convention and concludes that it was not the intention of the convention to exclude professional or scholastic tests for admission.

5 Benton, Clark, Clinton, Daviess, Dearborn, Dubois, Fountain, Greene, Hendricks, Jennings, Johnson, LaGrange, Martin, Montgomery, Owen, Parke, Posey, Ripley, Spencer, Steuben, Switzerland, Warrick, Wayne, Washington, Whitley and Wabash.
the State Bar Association in preparing standard examinations to be given by each county. We find that the efforts of the association have been almost in vain. Only eleven of the sixty-eight counties avail themselves of this service. The great majority of counties were not aware that such examinations could be obtained. Others expressed the opinion that the examinations were far too difficult for beginners.6 And one county hesitated to use the examinations because of the fear that the questions furnished might have become known to certain applicants. This last, under our present system, is a valid objection. Fifty-five of the sixty-eight counties admit applicants at any time, i. e., whenever an application is made. It is certain that the State Bar Association could not furnish each of these counties with a fresh examination for each applicant.

Almost all of the counties in which urban centers are located complain of the great number of attorneys. Unofficial data in one of the largely populated counties reveals the proportion at one attorney for every five hundred persons. The professions, other than the law, and the trades have been hedged about with barriers so difficult to surmount that we find persons entering the field of law as a course of least resistance. Physicians, architects, undertakers, dentists, nurses, engineers, veterinary surgeons and numerous others must now be adequately prepared before they are able to hold themselves out to the public as competent. In by far the greater majority of our counties any one of "Good moral character" may practice law. We find an anomalous situation; the profession, known for centuries as the one requiring the most learning, and the most preparation and training, is, in this age of progress, open to all who apply.

A deduction that may be fairly drawn from the answers to the questionnaires is that it is the urban counties which are most in need of more stringent regulation of admissions.7 It is generally true that the examiners in these counties are not acquainted with the applicants or their capabilities, while in the rural counties it is almost always true that the applicants, their characters and capabilities, are well known to the examiners. Centralization of the power to admit and raising the standard of admission requirements, would, however, not benefit the urban centers alone. It will relieve the smaller counties of the constant influx of unfit applicants from counties where difficult admission requirements prevail, and relieve the examiners in those counties of the distasteful duty of rejecting perhaps the incompetent son or daughter of a friend or brother attorney. Moreover, uniformity in admission requirements will eventually make for equality among members of the profession. At the present time, an attorney who transfers his business from a county

6 Clay, Montgomery and Jefferson.
7 Of the two hundred and eighty-two persons who applied for admission in 1929, one hundred and forty-three made application in Allen, Lake and Marion counties.
where bar admission requirements are lax to a county which
prides itself on the stringency of its requirements, is not always
well received.\(^8\)

It is to be regretted that replies were not received from all
counties,\(^9\) but it is believed that the returns present an accurate
cross-section of conditions existing over the state in regard to
admissions to the bar. It is submitted that these returns show
a definite need for uniformity and a necessity for a material in-
crease in the standards of admission requirements.

**APPENDIX**

I

**REGULATION OF ADMITTISSIONS**

<table>
<thead>
<tr>
<th>Description</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of counties having no Bar Associations</td>
<td>6</td>
</tr>
<tr>
<td>Number of counties not regulating admissions</td>
<td>14</td>
</tr>
<tr>
<td>Number of Bar Associations regulating admissions</td>
<td>37</td>
</tr>
<tr>
<td>Number of Courts regulating admissions by committee</td>
<td>17</td>
</tr>
</tbody>
</table>

II

**REQUIREMENTS**

<table>
<thead>
<tr>
<th>Description</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of counties requiring filling out of printed applications</td>
<td>28</td>
</tr>
<tr>
<td>Number of counties requiring applicant to apply in own writing</td>
<td>3</td>
</tr>
<tr>
<td>Number of counties requiring attorney to fill out application</td>
<td>1</td>
</tr>
<tr>
<td>Number of counties in which Good Moral Character is sufficient</td>
<td>14</td>
</tr>
<tr>
<td>Number of counties requiring oral examination</td>
<td>32</td>
</tr>
<tr>
<td>Number of counties requiring written examination</td>
<td>20</td>
</tr>
<tr>
<td>Number of counties requiring both oral and written examinations</td>
<td>6</td>
</tr>
<tr>
<td>Number of counties requiring no examination of any kind</td>
<td>16</td>
</tr>
<tr>
<td>Number of counties in which the examination is a mere formality</td>
<td>6</td>
</tr>
<tr>
<td>Number of counties in which, from the questionnaires, it appears that the examination is given with the sincere purpose of determining fitness of applicant</td>
<td>13</td>
</tr>
<tr>
<td>Number of counties admitting some applicants on mere motion (this is exclusive of those who are graduates of Class A Law Schools)</td>
<td>16</td>
</tr>
<tr>
<td>Number of counties using questions prepared and sent out by State Bar Association</td>
<td>11</td>
</tr>
<tr>
<td>Number of counties admitting applicants at any time</td>
<td>55</td>
</tr>
</tbody>
</table>

III

**APPLICATIONS IN 1929**

<table>
<thead>
<tr>
<th>Description</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of applicants</td>
<td>282</td>
</tr>
<tr>
<td>Number of counties having no applicants</td>
<td>13</td>
</tr>
<tr>
<td>Number of applicants admitted</td>
<td>132</td>
</tr>
<tr>
<td>Number of applicants examined</td>
<td>228</td>
</tr>
<tr>
<td>Number of failures</td>
<td>65</td>
</tr>
<tr>
<td>Number of applicants with three years of Law School work</td>
<td>74</td>
</tr>
<tr>
<td>Number of applicants with two years of Law School work</td>
<td>85</td>
</tr>
<tr>
<td>Number of applicants with at least two years of Liberal Arts</td>
<td>49</td>
</tr>
<tr>
<td>Number of applicants with High School work alone</td>
<td>40</td>
</tr>
</tbody>
</table>

\(^8\) A recent example of the existence of this feeling occurred when a county bar association served notice on attorneys who had been admitted in other counties, but were practicing within this certain county, that each one would be subjected to an examination on a stated day. The examination was given.

\(^9\) Counties which did not reply to the questionnaire are as follows: Brown, Blackford, Crawford, Floyd, Franklin, Grant, Jackson, Jay, Lawrence, Monroe, Morgan, Noble, Pike, Perry, Putnam, Pulaski, Randolph, Rush, Scott, Sullivan, Tippecanoe, Union Warren and White.
The complete management of the Indiana Law Journal is exercised by The Indiana State Bar Association through its officers. The Editor, Editorial Boards and other officers of The Journal are appointed by the President of The Indiana State Bar Association with the advice and approval of the Board of Managers. The Indiana State Bar Association founded the Indiana Law Journal and retains full responsibility and control in its publication. The participation of Indiana University School of Law is editorial.

OFFICERS AND BOARD OF DIRECTORS OF THE INDIANA STATE BAR ASSOCIATION

JAMES M. OGDEN, President----------------------------Indianapolis
W. W. MILLER, Vice-President-------------------------------Gary
JOEL A. BAKER, Secretary-Treasurer---------------------Indianapolis

1st District
Henry B. Walker, Evansville
2nd District
Wm. H. Hill, Vincennes
3rd District
Wm. H. Brooks, Bedford
4th District
Frank N. Richman, Columbus
5th District
John M. Fitzgerald, Terre Haute
6th District
Wm. C. Yarling, Shelbyville
7th District
Fred C. Gause, Indianapolis

8th District
Alonzo L. Nichols, Winchester
9th District
Franklin D. Davidson, Crawfordsville
10th District
Addison K. Sills, Lafayette
11th District
Milo N. Feightner, Huntington
12th District
Phil M. McNagney, Fort Wayne
13th District
Robert E. Proctor, Elkhart

WALTER E. TREANOR, Editor
JOEL A. BAKER, Business Manager

Faculty Board of Editors

PAUL V. MCNUTT, Chairman

Milo J. Bowman
Robert C. Brown
Alfred Evens
Bernard C. Gavit
Vincent F. Harper

James J. Robinson
Paul L. Sayre
Walter E. Treanor
Hugh E. Willis

Student Board of Editors

THEODORE R. DANN, Chairman

John A. Barr
Robert R. David
Harold N. Fields
Thomas H. Finn
John S. Grimes

Russell C. Hanna
Joseph V. Heffernan
Joseph K. Miles
James W. Sutton
Charles W. White

The Indiana State Bar Association does not assume collective responsibility for matter signed or unsigned in this issue.

621