Raising and Leveling the Bar: Standards, Access, and the YMCA Evening Law Schools, 1890–1940

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Toward the end of the nineteenth century, the expansion and heightened complexity of commerce and industry in the United States and the concomitant swell of state and interstate laws generated a potential for increased litigation, contractual negotiation, and general commercial law. In turn the law profession began to undergo a profound change in its practice and its gatekeeping processes. For a traditional profession of client advocacy, essential traits were rhetoric and logic, declamations and persuasion. Gradually, through the late nineteenth century, client counseling to avoid litigation displaced the traditional mode of practice. Law firms, as opposed to offices, gained prominence only after the Civil War when attorneys began to represent corporate interests. Simultaneously, within college and university law schools, viewed before the 1870s as supplemental to the age-old apprenticeship, faculty developed a more systematic and theoretical curriculum to educate students. Formal education gradually supplanted the progressively less viable system of reading with a practicing attorney. As the opportunities to practice law increased in the burgeoning industrial cities across the nation, the profession attracted more aspirants.¹

The Progressive Era became the Golden Age for law school establishment. The number of law schools grew from 61 in 1890 to 124 by 1910. Many of the

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¹ Wayne K. Hobson, The American Legal Profession and the Organizational Society, 1890–1930 at 100, 114 (New York, 1986); Robert Stevens, Law School: Legal Education in America from the 1850s to the 1980s 22 (Chapel Hill, 1983); William R. Johnson, Schooled Lawyers: A Study in the Clash of Professional Cultures (New York, 1978).

existing and newly established schools were associated with colleges and universities and operated as day programs for full-time students. Some universities were urban, but many were situated in less populated areas. When part-time law schools sprang up like weeds along city sidewalks, holding evening classes for working adults, they filled the temporal and geographic hole. Although only a sprinkling of part-time law schools operated in 1890, by the turn of the century 21 existed. Ten years later 41 evening law schools provided part-time legal education. The effect was twofold.

First, the establishment of law schools, whether university based or proprietary, full-time or evening, extended the number of lawyers trained within institutional walls. "In 1870, only one-fourth of those admitted to the bar were law school graduates and in 1910 two-thirds were." In 1919 less than three percent of those taking the bar examination in New York had no law school training. As the schools of law displaced the apprentice system, the informal methods of monitoring entry into the profession declined. No longer were local attorneys selecting suitable candidates, and few formal mechanisms for limiting entry were in place.

Second, by 1920–21 only 42.4 percent of the law schools in the country operated as full-time institutions, and they enrolled 43.2 percent of the law students; part-time and mixed law schools constituted 44.4 percent of the schools and served 34.7 percent. Nine years later, the part-time schools taught 65.2 percent of the law students and accounted for 51.4 percent of the law schools. The proliferation of schools, especially those open to the working class and immigrants, changed the mien of the profession. Law schools themselves displaced the informal methods of policing the character and background of trainees. Although the elite full-time law schools could curb working-class and ethnic incursions into their student bodies, the structure and the schedules of the part-time schools guaranteed a shift in the socioeconomic makeup of the legal profession.

It was within this context that at least nineteen urban Young Men's Christian Associations established, or at least housed, evening law schools. Of the pre-1910 part-time and mixed law schools, at least seven evening programs were established by or associated with the YMCA. Another twelve YMCA evening law schools joined the ranks by 1927.

2. Alfred Z. Reed, Review of Legal Education in the United States and Canada for the Year 1930 at 54 tbl.1 (New York, 1931). Reed authored several Reviews from 1928 to 1935. Hereinafter noted as Reed, Review of Legal Education.


4. Reed, supra note 2, at 54 tbl.1; Young B. Smith, The Overcrowding of the Bar and What Can Be Done About It, 7 Am. L. Sch. Rev. 565–76 (1932); Hobson, supra note 1, at 138–40, 388.

5. Mixed law schools held classes in the late afternoon or early morning as well as in the evening.

6. I count 19 YMCA schools of law although the Toledo school was affiliated with its founding Y for only two years. Bahls, who provided the first descriptive overview of the Y evening law schools, includes the University of Akron in her list, but Akron was never associated with the YMCA. Jane Bahls, The Law and the YMCA, Student Law., Sept. 1995, at 26–30.
The YMCA evening law schools reflected the spectrum of part-time law schools. Among the nineteen Y schools were law programs established as one of several professional educational programs in an association's educational offerings; quasi-proprietary programs run by independent contractors and housed at the YMCA; programs that transferred either into or out of the YMCA; and branches of a university evening law school. The common ingredients of all of these programs were their general purpose and form, and their ramifications for the legal profession.

The evening law schools enabled many young and not-so-young adults to attain a higher socioeconomic status by entering a profession even though the path through the collegiate system was barred to them. Simultaneously the evening schools modernized the apprenticeship model by uniting a cadre of practicing lawyers with a continuous stream of aspirants in a classroom rather than in an office. Mentors and their "readers" were now engaged in a focused and specialized conversation, an essential pedagogy for the more complicated legal world; the old method of capturing the breadth of common law under the tutelage of one master would no longer suffice.

By reducing the barrier for the working class, the evening schools integrated the profession socioeconomically but made it somewhat stratified. University law schools produced professionals attuned to national and international law, as the issues and specializations became structurally more complicated and legal expertise became increasingly indispensable to the emerging national corporations. Meanwhile the evening schools fashioned lawyers who practiced in local firms, taking care of local and quotidian litigation and services and, within the civic arenas of their cities, providing public and social control services. In other words, the evening schools helped to ensure that all levels of society had access to the legal profession and legal services.

Many of the Y law schools survived the competition from local nonprofit evening schools and succeeded where countless proprietary schools did not. Others, unable to sustain their programs in the face of competition or rising standards, closed down. This paper describes the establishment, mission, membership, and outcomes of the YMCA law schools within their individual and collective contexts vis-à-vis the promotion of standards by the American Bar Association and within the larger part-time legal education movement. I hope it also renews the professional memory of the contributions that part-time schools made to the field of law.

The Law Profession and Legal Education, 1890–1940

As early as 1890 the ABA Section of Legal Education (SLE) expressed concern about "great defects" in the current methods of law education. Yet almost four decades elapsed before a significant number of law schools and


8. Those that survived eventually disengaged from the YMCA, primarily because of accreditation issues.
state bar associations adapted their admission requirements to the standards formulated by the SLE and endorsed by the ABA. Until the 1920s, entrants into legal education (and often the profession) through an institutional route had few hurdles to clear.  

By 1890 sixty full-time law schools existed, mostly housed in universities. Focused on the need to upgrade the judiciary gatekeeping function across the states, the SLE was not yet troubled with the prelaw education of its aspirants. It advised that law schools should be “open to all who had a good English education. . . . The schools should be open to all who have sufficient education and intelligence to go through their course without delaying or embarrassing their fellow students.” Absent regulations requiring collegiate preparation, law schools accepted applicants with a range of educational experiences. In fact, according to the 1890 Bureau of Education Report on Legal Education, only “15 in every 100 students in 26 schools . . . had obtained a degree in letters or science.”

Through much of the 1890s, minimal admission requirements did little to discourage aspiring students and indirectly encouraged the establishment of full-time and part-time law schools. The ABA, established only in 1878 along with its nascent committee on legal education, was slow to gain influence. Not until 1896 did the ABA ratify a SLE recommendation of a minimum entrance requirement of a high school course. At that point only 7 of the 74 existing schools of law required even a secondary education for admission. Recommendations were the only tactic open to the ABA to effect change; its leverage on the profession took decades to build. It gained the involvement of state bars in a piecemeal fashion; by 1902 only 29 state bar associations participated in its annual meetings. Many state and local bar associations and schools of law were loath to abandon their local custom and bend to the control of a national organization. 

The SLE’s formation of the Association of American Law Schools in 1900 enabled full-time law school faculty and administrators to consider common interests. Within a decade the AALS severed its ties to the ABA, while seeking “to upgrade and standardize educational requirements and to eliminate unworthy competitors, such as part-time and night law schools.” Although standards were yet to be uniform, the organization served as a platform to chal-

9. American Bar Association, Section of Legal Education and Admissions to the Bar, Report of the Committee on Legal Education presented at the meeting in Boston, August 26, 1891, 3 [hereinafter CLE Report]. I will refer to the ABA group as the Section on Legal Education (SLE) even though it began as the Committee on Legal Education and Admissions to the Bar at the founding of the ABA and was not renamed until 1899. George Harris Smith, History of the Activity of the American Bar Association in Relation to Legal Education and Admission to the Bar, 7 Am. L. Sch. Rev. 1, 4 (1930).

10. CLE Report, supra note 9, at 33.


lenge the operations of the evening schools. As early as 1918 Henry Winthrop Ballantine, dean of the College of Law of the University of Illinois, called for inspections of evening law schools to ensure proper educational standards "under the stimulus of outside pressure." Nevertheless, inspections did not occur for several years.\(^\text{13}\)

The SLE initiated two major reform proposals to regulate entrance into the legal profession. Its 1914 plan included examination by state panels of bar examiners, the termination of diploma rights (whereby a law school diploma entitled admission to the bar without examination), national and state citizenship before bar admission, evidence of moral character and qualification for admission to the collegiate department of the state university (or an equivalent examination), requirement of at least a three-year course of study for day programs and four years for evening programs, and the publication of the candidates' names for bar certification after passage of the bar examination. The ABA accepted all but the program length requirement. The 1921 resolutions incorporated the principal elements of the 1914 rules and added an admission requirement of two years of college work. These resolutions became the ABA's criteria for the approval of law schools. Within three years, 67 of the 80 full-time law schools, but only 7 of the 98 part-time schools, had received ABA approval. The ABA gained significant influence and authority with its new imprimatur for schools and its lobbying efforts with state and local bar associations. By 1927, 100 (of 176) law schools required two years of collegiate work before admission, and 166 law schools provided LL.B. programs of three or more years. Only in 1940, however, did 41 states finally require two years of collegiate education prior to law school and then three years of law study.\(^\text{14}\)

Finally, the administration of inspections and the approval process necessitated the ABA's appointment of a full-time adviser on legal education in 1927. This action also permitted state bars to request surveys of the law schools in their jurisdictions that would provide data, information, and artillery to begin reform. Eventually individual law schools sought guidance from the adviser in their quest for accreditation or during negotiations in a merger.\(^\text{15}\)

Not until the late 1920s did the ABA make extensive progress in raising the standards addressing the quality of legal education and in raising requirements for admission to the bar. Until the ABA gained the leverage of the approval process, its forward movement was slowed by its having to negotiate with 48 different jurisdictions, each with its own laws and culture.

13. Sutherland, supra note 12; Bloomfield, supra note 7, at 43; Henry Winthrop Ballantine, The Place in Legal Education of Evening and Correspondence Law Schools 8. Read before the Section of Legal Education of the American Bar Association at Cleveland, Ohio, August 27, 1918.

14. Sutherland, supra note 12, at 140–47; Reed, supra note 2, at 25.

15. For example, the California and the Tennessee state bars both requested surveys of their law schools, the former in 1933 and the latter in 1938. Later, both Houston's South Texas School of Law and the Dallas YMCA used the services of the ABA-SLE adviser, the former for advice on the approval process and the latter for advice in negotiating with Southern Methodist University before the merger of the two institutions. For discussions of that merger, see Notes and Personals, 8 Am. L. Sch. Rev. 1312 (1938), and 9 Am. L. Sch. Rev. 125 (1938).
Evening Law Schools

Part-time law schools apparently began with the establishment of the Iowa Law School in Des Moines, which was incorporated in 1866 as an independent evening law school awarding the bachelor of laws degree. Two years later “the faculty was annexed and removed to Iowa City under a contract whereby the [University of Iowa] agreed to recognize degrees already conferred by the school as its own.” The school “had shown a way by which self-supporting students might study law and it had broken the degree-conferring monopoly of the universities.”

Several evening law schools quickly followed on the heels of the Iowa school. In the District of Columbia, Columbian College (George Washington University) in 1865 and the Georgetown and National universities in 1870 began evening and early-morning law classes to entice government employees. Howard University began its evening law school in 1868 for African-American men and women. Few part-time schools held early-morning classes; late-afternoon and early-evening classes were the norm. The Columbian College law school, cognizant of the ABA standards, expanded its two-year LL.B. program to three years in 1898; then two years after becoming a charter member of the AALS (1900) it disbanded its night school in favor of morning and afternoon classes.

Across the nation the concept of the evening law school caught on. Northwestern College of Law was established in Portland, Oregon, in 1884. Four years later the Metropolitan School of Law of New York City (absorbed by New York University), the Chicago College of Law (eventually the Chicago-Kent College of Law), and the University of Minnesota evening law department (dissolved in 1911) joined the ranks of schools offering evening classes. In the following year the law school of Baltimore University (absorbed by the University of Maryland) was founded.

Several Catholic colleges, especially ones operated by Jesuits, also opened evening law schools early in the twentieth century. In 1908 Marquette purchased the Milwaukee Law School, a nonprofit evening school begun twelve years earlier by law readers. St. Xavier Law College in Cincinnati, perhaps a reaction to the Young school in that city, was established in 1919 but held its last commencement only fifteen years later. At the Jesuits’ San Francisco institution, the University of St. Ignatius (1855), the evening law school (1912)

18. Reed, supra note 7, at 397; William Sprague, The Law Student’s Helper, Mar. 1893, at 38.
steadily expanded, reaching 279 students in 1927. Perhaps in an effort to augment its plummeting Depression-era enrollments, the school (now the University of San Francisco) instituted a day law program in 1933. The Knights of Columbus opened an evening law school in the District of Columbia in 1922, adding a second Catholic institution to the Jesuits’ Georgetown.

Another format for the study of law appeared toward the end of the nineteenth century: correspondence schools. The Sprague Correspondence School of Law, operating in Detroit, opened its doors—or rather its mailbox—in 1889, claiming to be the first of its kind. It never offered degrees. An entrepreneur to the bone, its founder William C. Sprague also conducted correspondence schools of journalism, shorthand, Latin, and Greek. In January 1893 Sprague published the first issue of The Law Student’s Helper, a monthly serial that continued until 1915. By August 1893 Sprague advertised that his law school offered 56 correspondence law classes and that 4,276 subscribers read The Law Student’s Helper. He even ran a Chautauqua summer law school in the same year.

The New York Law School is sometimes erroneously said to be the first evening law school and cited as a YMCA school. It was neither. It did, however, affirm a mission similar to that of YMCA schools. It “was established in 1891 as a protest by the faculty, students, and alumni of Columbia College Law School against interference in legal education by the College’s trustees.” Theodore Dwight, founder of Columbia University’s law school in 1858, was known for his lecture method of teaching. In 1890, after the school expanded, the faculty became embroiled in controversy over the instructional methods. Harvard’s case system prevailed. When Dwight retired, four other faculty members resigned, leaving William A. Keener, the champion of the case method, alone in the school. The newly formed Dwight Alumni Association established the New York Law School, receiving a charter from the New York Board of Regents in June 1891. The NYLS, a day school that enjoyed immediate success, was open to the poor as well as the wealthy from its inception. Within three years it opened an evening session that has continued through the years. Such was the field into which the YMCA law schools emerged.


23. The Law Student’s Helper, Sept. 1893, at 230; The Law Student’s Helper, Jan. 1895, at 23.

The Pioneer YMCA Schools

Depending on the definition, one of three programs can claim to be the first YMCA law school. The University of Michigan, some fifty miles from Detroit, operated the only law school in the state. Five of the thirty-five law "readers" from various firms in Detroit decided in the fall of 1891 that their Cooley Law Club should be more than a social organization and encompass a more serious study of the law. A proposal to use quiz books to direct members' attention to particular topics of law met with some resistance from the club's social contingent, but the seed was planted. Within weeks the group of five enlisted the assistance of Floyd R. Mechem, a practicing attorney in Detroit. Mechem agreed to become the college's first dean after the men presented him with a mockup of the law school's initial catalog. The five young men then signed a compact on December 7, 1891, to create the Detroit College of Law (DCL). Thirty students enrolled to begin their study of law on January 2, and more joined the ranks within the next weeks. "Of the 61 students who registered during the first year, 25 graduated at the first Commencement in June, 1893."25

The college remained independent until 1915. It operated with a part-time faculty of practicing Detroit lawyers and offered only evening courses until classes beginning at three-thirty were added in 1910. At first it met in rented rooms in the Detroit College of Medicine building. By 1913, however, the medical school needed more space. After moving to leased space at the downtown branch of the YMCA, the DCL had either to secure its own space or relinquish its independence. Without sufficient resources, the board chose the latter route, and DCL became a YMCA college in 1915.26

Two years after the Cooley Law Club readers embarked on their enterprise, Robert M. Ochiltree, a young 1892 graduate of the Cincinnati Law School (CLS), took steps that led to the establishment of what would become the Cincinnati YMCA Night Law School. Asked by another lawyer about opportunities for his son to prepare for the CLS advanced standing examination, Ochiltree organized a summer refresher class for young law students in 1893. The success of the informal class led Ochiltree to propose a continuing law course to the Cincinnati YMCA, which had been offering evening classes for young men since 1885. Even though the enrollment in 1895 surpassed 100 and Ochiltree taught four nights and five mornings (seven to eight o'clock) a week, the Y board "regarded the work as an experiment." Therefore, for the first seven years of the "school," Ochiltree served by contractual agreement and graduates were admitted to the bar examination under his certificate as

25. Gwenn Bashara Samuel, The First Hundred Years Are the Hardest: A Centennial History of the Detroit College of Law (Detroit, 1992). The college has been associated with and housed at Michigan State University since 1995. City College Graduates 267, Detroit Free Press, June 18, 1924. Mechem left DCL in August 1892 to become the Tappan professor of law at the University of Michigan, where he wrote several legal textbooks, primarily on agency. In 1903 he was called to the University of Chicago to serve in its new law school. Elizabeth Gaspar Brown, Legal Education at Michigan 1859–1959 (Ann Arbor, 1959).

an attorney. In other words, the school operated as an organized apprenticeship. Abiding by the requirements of the state, Ochiltree offered a two-year program until 1895, when he extended the course to three years. Two years later, as the popularity of the course grew, he hired other lawyers to teach; at first they too served "without appointment or confirmation of the Board." Not until 1900 did the Y secure incorporation from the state of Ohio.27

When Frank Palmer Speare, the twenty-seven-year-old educational director of the Boston YMCA, established what would become the Northeastern University Law School, Ochiltree's law school had been operating at the Cincinnati Y for five years.28 Beginning in 1898 the Boston YMCA Department of Law offered a first-year law program consisting of contracts, torts, property, criminal law, and pleading. Tuition was $30 a year and included YMCA membership. Students attended classes on Monday, Tuesday, Thursday, and Saturday during the first year, but Speare must have had complaints about this rigorous schedule. The second year's catalog announced that "three evenings per week have been scheduled in order to give the student the alternate evenings for the all-important study and supplemental readings." The school added courses each year until 1901-02, when its four-year program was complete. The program's popularity is reflected in the rapid tuition increases: students paid $40 the second year and $50 the third.29 By 1903 the Boston Y Evening Law School had already enrolled more than 662 men and graduated 32, of whom all but two had been admitted to the bar. A year later the school petitioned the Commonwealth of Massachusetts for incorporation and the right to grant the LL.B. Successful in attracting large numbers of students, the evening school had to find additional space outside the YMCA building and "the Sophomore and Junior classes [were held] in the Rogers Building of the Massachusetts Institute of Technology" in 1905.30

These three YMCA schools of law represent the different ways in which evening law programs came into being. The Detroit College of Law became part of the Y after operating independently for more than two decades. The Cincinnati school was housed at the YMCA but operated autonomously until the Y's administration realized that an incorporated school not only was possible but would be successful. Finally, Speare, one of the Y's most successful and resolute turn-of-the-century entrepreneurs, recognized and filled a hole in the educational system—professional and technical education for a "class of students appealed to by no other agency." The remaining sixteen Y law schools resulted both from a recognized need within a major urban setting for evening legal education and from the growing recognition among local YMCA education directors that legal education was a viable—and on occasion

30. Everett C. Marston, Origin and Development of Northeastern University 1898–1960 (Boston, 1961); School of Law, 1918–1919 (catalog), 44–56, Northeastern University Law School Records, Early History, 1900–22, Box 1, Folder 5.
lucrative—evening program. Most often the Y law schools employed one of these three establishment patterns.  

The exception was the establishment of what were called divisions of Northeastern College at Springfield (1919), Worcester (1917), and Providence (1921). All three divisions housed law schools. Speare, ever cognizant of opportunities, realized that a market for evening educational programs existed in these communities and the local associations were not in a position to mount their own programs. He initiated these satellites toward the end of World War I after his own educational program had been incorporated (1916) as Northeastern College of the Boston Young Men’s Christian Association—the first YMCA college.  

A Profile of the YMCA Law Schools

Just who were the students who attended and were graduated from these schools? Who were the faculty who taught the courses? What sort of curriculum and instructional methods were used? Documents from various schools permit the creation of a general profile of the Y schools. Such a profile is complicated by the fact that each school resided in a particular state and city, which meant that the laws governing their operation and relation to the state bar and bench were as different as the competition they faced within their metropolitan settings. Therefore, this discussion situates some of the Y law schools within their judicial environments. Their competitive environment is beyond the scope of this paper.

The Mission(s) of the YMCA Evening Law Schools

In 1931 Alfred Z. Reed, a researcher at the Carnegie Foundation for the Advancement of Teaching and arguably the most prolific early scholar on the state of affairs of law schools, explained to an audience at the Association of Urban Universities that “the mission of an evening or part-time law school is to enable young men and women, who cannot afford to attend a better school, to prepare themselves for legal practice.”  

The Boston Y law school’s first announcement asserted that the success of the casual courses in law provided by the association during the previous year (1897–98) and the “marked success” of evening law schools in various American cities “have proven conclusively that an evening law school is called for in Massachusetts.” Thus the first year’s course began. “The work has been carefully planned, and young men who are unable to attend during the day a regular law school will find the courses here announced worthy of their time and energy.” The next year’s catalog proclaimed the success of the school’s first year and its intention to develop a four-year program, one that would not


53. Alfred Z. Reed, Social Desirability of Evening or Part-Time Law School, 7 Am. L. Sch. Rev. 198 (1931).
merely enable men to pass the bar examination. "To avoid this tendency toward superficiality ... we have cut wholly adrift from what might be termed a policy involving brief courses, etc., and have outlined work which will prepare any intelligent man, with proper application and attendance, in such a way as to prove satisfactory to both the institution and the individual." The 1908–09 catalog proclaimed that "the object of the Evening Law School is to provide employed men, unable to attend university law schools, the best possible equivalent. Its aim is to supplement the work of other schools in this manner, and the relation[s] are those of mutual helpfulness."

A few years later, in his inauguration address in 1916, Speare amplified the sustained objectives of the newly incorporated institution that he had built.

The purposes of Northeastern College are to give every ambitious man who is willing to sacrifice for the achievement of an educational ideal, an opportunity to do so under the most favorable conditions, to provide a school program especially adapted to his peculiar needs during his hours of leisure and at a price he can afford to pay, and to carry the work of the school into the home, office, and society.34

According to the Detroit YMCA Administrative Annual Report of 1920, the YMCA educational programs generally were dedicated
to meet the practical everyday needs of men to whom the regular channels of education are closed, or are not immediately available. These schools offer to men who are already at work in trades, in business, or in professions, as well as to young men just planning their life work the opportunity to train for better positions and bigger salaries.

The Y law school announcements often left their missions unstated. Perhaps because of criticism of the part-time schools, the statements of purpose most often emphasized the school's "aim to maintain a high standard of scholarship and to give a thorough course of instruction in both theory and the practice of law" or its "intent to fit the student for the successful practice of law in any common law jurisdiction." Other writings made it clear that these schools operated within the mission of the YMCA educational programs, which aimed to help the young urban man to raise his horizons. At the 1911 commencement exercises for the night law school of the McDonald Educational Institute, YMCA, Cincinnati, Ohio, James Johnson Jr. explained that "any night school is an object lesson in determination and self-denial. A night law school shows the desire of young men to engage in a calling that will determine throughout life undivided devotion to work."35

The evening law schools not only served a multitude of professional needs, but were also convenient for local adults who could not afford to enroll in a university program. Obviously, some students did not have credentials accept-

34. Speare, supra note 31, at 19.
35. The Fifty-fifth Annual Report, Detroit Young Men's Christian Association, October 1, 1920, 10, 11, The Bentley Historical Library, YMCA Metro Detroit Collection, Box 1, Folder 2; Official Bulletin of Columbus YMCA Schools, The Columbus College of Law, 1929–30, 7; James Johnson Jr., The Legal Profession, The Bulwark of Democratic Institutions, 9 Ohio Rep., 654 (1912).
able to the day law programs. But some YMCAs sponsored the only law school in town. The Detroit College of Law, the South Texas School of Law in Houston, the Toledo YMCA Law School (acquired quickly by the University of Toledo), the St. Joseph (Missouri) Law School, and the three branch campuses of the Northeastern College of Law fit this category. Part-time or not, these schools were for many the only pathway to a legal career.

The Students of the YMCA Law Schools

The enrollment in part-time law schools in the academic year 1889–90 was 108 students or 2.4 percent of law school registrations. Forty years later, in 1929, the part-time enrollment peaked at 31,898 or 65.1 percent of the total law school enrollment. As the part-time programs’ enrollments escalated, so did the concern for quality among the faculty of the full-time schools and the leaders of the ABA and the AALS.36

Although the nineteen YMCA law schools constituted only a small proportion of the part-time schools, they accounted for at least 3,200 students in 1928. Their student bodies averaged about 85. As the Depression deepened in the 1930s, enrollments slipped in many of the schools, contributing to the closing of the Providence, Minneapolis, and St. Joseph schools and the sale of the Dayton Y school to the University of Dayton. The more ambitious Y schools steadily grew during the 1920s and through the 1930s. Beginning around 1924, the Boston campus of Northeastern University educated 1,000 to 1,200 law students each year with only a modest dip in the early 1930s. Including the registrations at Northeastern’s Springfield, Worcester, and Providence divisions, the university served approximately 1,400 law students each year. The law school at Southeastern University in the District of Columbia actually doubled its registrations during the Depression and gradually increased to 845 in 1939. The Detroit College of Law fluctuated between 500 and 600 until the mid-1930s, and the South Texas School of Law in Houston generally enrolled between 200 and 300.37

The students across the Y law schools shared some basic characteristics. The schools all began as evening programs for working adults. At the YMCA in Columbus, Ohio, the law program attracted “middle-class managers, government employees, blue-collar workers, and others who all were willing to struggle to combine an education with full-time employment.” The Boston Y law school’s 1908–09 catalog boasted that over the first decade

eleven hundred and eighty-eight students have been enrolled, including clerks from the offices of leading attorneys, clerks and officers from every court in Boston, State, city and government officials, teachers, and students from other Law Schools, in addition to a large number of able men engaged in different lines of business. In particular, the school tended to serve a lower-class, immigrant, urban clientele.

36. Reed, Review of Legal Education 1931 at 54 (New York, 1932). By 1938 the enrollment in part-time schools amounted to 69.2 percent of the law school enrollment with 88 percent of these students studying in non-AALS schools. Dunbar, supra note 12, at 545.

Almost a decade later, President Speare explained that “the students of Northeastern College are an unusual group, ranging from the young man of small salary and limited experience to the employer of labor and the bank president.”

Sponsored by a men’s association, many of the YMCA evening law schools limited access to men at first, eventually opening their classrooms to women. The later its establishment, the more likely an evening school was to accept women. Most often the decision to become coeducational was deliberate. The Columbus School of Law opened its doors to women in 1918, presumably to augment the dwindling numbers of male students due to enlistment in the war. At Youngstown the law school finally admitted women in 1920.

Coeducation did not always evolve from a policy change, however. Northeastern and its divisions at Springfield, Worcester, and Providence, driven by the Boston YMCA policies, were adamantly single-gender until President Speare realized in the early 1920s that

a lady [was] attending the Springfield division in the Law School. I met her once and asked the assistant dean, “How come?” He said that she was the wife of a lawyer and a teacher in the public schools, and had a family of children; but she was determined to become a lawyer. I felt fearful about the women in a man’s school, and I asked why they had admitted her. They said they knew the case, and she registered under her married name, using initials rather than her first name. So she proved the entering wedge for Northeastern as a co-educational institution, and I signed her diploma with great glee because I always wanted to train women.

Schools established after World War I, such as the South Texas School of Law (1923), tended to begin as coeducational institutions or accept women shortly after their founding.

Some Y schools attracted special populations. When the Detroit College of Law opened, its announcement declared that “the college opens its doors to all classes, without regard to sex, color, or citizenship.” Sixty-nine students presented themselves for study in January 1892. Reflecting the progressive approach to admissions, the first class included one woman, six practicing lawyers, one of whom “was an African American (who was graduated in 1895),


41. Frank Palmer Speare, Why the Boston Y.M.C.A. Sought to Have a Different Corporation in Charge of Northeastern University Affairs. Unpublished manuscript, Northeastern University Archives, Office of the President (Speare) Records, 1896–1951, AG1, Box 4, folder 44, p. 4. Not until its second graduating class in 1928 did a woman receive a degree from STSL. South Texas School of Law Yearbook, 1928–1929, 6. The educational directors of the YMCA organized a national supercommittee in 1919 to standardize much of the curriculum across the programs. Although these annual meetings did not directly affect the law schools, the educational directors to whom the law school deans reported were able to discuss their programs, problems, and advancements. Coeducation probably spread as a result.

The Columbus School of Law also permitted black students to study. Among its 1932–33 students were at least two African-Americans, both former students at Wilberforce University, one of the four Northern and pre–Civil War historically black colleges. The School of Law graduated one of the first black lawyers to practice in Columbus.\footnote{Official Bulletin of Franklin University, The Columbus College of Law, 1983–1984, 18, 24; Bahls & Jackson, supra note 38, at 237.}

In the South the situation of course was different. At Nashville the Y law school could not legally admit black applicants; Tennessee enacted a school segregation statute in 1901 that prohibited integrated classes, even within private schools. Two black law schools in Nashville attributed their genesis to the Y law school's segregation policy. One, established in 1933 and lasting only eight years, trained 88 law students, many of whom passed the bar. The other was organized in 1955 after its founder tried unsuccessfully four times to gain admission to the Y school.\footnote{Lewis L. Laska, A History of African-American lawyers in Nashville, in Bench and Bar II, 2003, Nashville, Davidson County, Tennessee (rev. ed.), ed. David C. Rutherford, 271–73 (Nashville, 2003). Finally, after applying twice, a black applicant was admitted in 1962 to the Nashville YMCA night law school and four years later became its first African-American graduate.}

Finally, in terms of demographics, the schools attracted students from their locales, but some served a wider area. At Boston, by 1917, students came “from over 100 towns and cities of New England, the Southern and Western states and foreign countries, many obtaining employment in Boston in order that they may attend the college.” At least one student commuted three nights a week to the Detroit College of Law from Toledo in 1893–94. By 1917, 70 percent of the DCL graduating class, which numbered 46, came from Detroit and its surrounding towns, but 11 traveled from states as close as Indiana and as far away as Utah; three international students came from Canada, England, and Ireland. The number and geographic diversity of the graduating class of 1924 was three times as large as in 1917. Only 37 percent of the class came from Detroit itself, while another 22 percent resided in other Michigan cities and towns. Students came from 18 states, from Vermont down to South Carolina, from New Jersey out to Texas. Eleven of the 29 students who were non-Americans were immigrants, born in other countries, who had attended American or nearby Canadian high schools. Many were from Poland, Jugoslavia [sic], and Russia, but some were from the Philippine Islands, Cuba, Scandinavia, and Northern Ireland. The students had attended a wide range of colleges before enrolling in DCL, including the Michigan, Chicago, South-
ern Illinois, Notre Dame, and McGill universities and the Williams, Simmons, Detroit Junior, Morehouse, and Paw Paw colleges.\textsuperscript{45}

The motives for matriculation were as diverse as the students' backgrounds. Orville Snyder, a 1929 graduate of and, by 1931, dean of the Columbus College of Law, Franklin University, explained that adults came to the evening law program to supplement their professional knowledge in specialized fields, such as accounting and chemistry; to assist their financial and personnel relations in business; to prepare for a shift away from unsuitable work to a "more congenial vocation"; to expand their knowledge in government affairs for teaching; and finally, because they "are financially handicapped." Snyder's summary resonates with Frank Palmer Speare's explanation of the Northeastern school.\textsuperscript{46}

The entrance requirements for the Y law schools varied. Like most law schools in the 1890s, the Detroit College of Law explained in its 1891–92 announcement that applicants should present a "diploma from any college, high-school or grammar-school" or a teaching certificate or be subject to an examination of general knowledge by the faculty. Although the ABA and the AALS began calling for two years of college as preparation for admission in 1921, ten years later 29 states still had no entrance requirements and another 4 required only a high school diploma. Before the 1930s students apparently were not "evaluated at the front door. [They were] evaluated in the classroom."\textsuperscript{47}

The schools increased their admission requirements as needed to meet the requirements of their state bar or bench and then as the ABA and AALS gained prominence in accreditation. By the end of the 1930s, the surviving Y law schools raised their admissions requirements. As of 1932 Golden Gate College's law school required two years of college before admission, but even four years later the school admitted a few students without these credentials. Although many of the YMCA colleges focused on technical education—engineering, commerce, automobiles—almost all of the associations that sponsored law schools developed liberal arts programs (junior colleges) when it became apparent that admissions requirements had to be elevated. Like its peers, the Cincinnati YMCA night law school experienced a lower enrollment in the mid- to late 1930s, but its registration "show[ed] a definite trend toward better pre-legal training. Forty-two colleges [were] represented in [the 1938] enrollment." Cincinnati's boost in quality was related to the establishment in

\textsuperscript{45} Speare, supra note 31, at 15; The Forum, 1917, and The Forum, 1924, Detroit College of Law Archives. Data compiled by author from both yearbooks. The influx of students from other states and nations, at least at DCL, declined by the end of the decade. Undoubtedly, as more law schools were established across the country, students no longer needed to travel.

\textsuperscript{46} Graduate Students, Official Bulletin of Columbus YMCA Schools, Columbus College of Law, 1929–1930, 15; Orville C. Snyder, The Function of the Night Law School, 7 Am. L. Sch. Rev. 831 (1933).

\textsuperscript{47} Alfred Zantzinger Reed, Minimum Requirements for Admission to Legal Practice in the United States, Canada and Newfoundland at the Beginning of the Academic Year 1931–32, insert in Reed, Review of Legal Education 1931 and 1932 (New York, 1933); Bahls & Jackson, supra note 38, at 236.
1934 of the League of Ohio Law Schools by law deans aiming to raise the quality of the programs in the state. Within a year, the Ohio Supreme Court amended its Rule XIV, which set the standards for legal education and admission to the state's bar, and henceforth the league in effect became the accrediting body for Ohio's highest court.\(^{48}\)

The Faculty of the YMCA Law Schools

From the start, the faculty in the evening schools were practitioners who taught part time, most often for little money. Even the deans in the early years tended to retain their practice on the side. Four traits were shared by the administration and faculty of the Y law schools. First, the trustees recruited for the institution were always drawn from the ranks of the local elites of the bench and bar, including university law school deans when possible. Second, the dean during the early days of the evening Y schools tended to be a well-known local judge. He brought a certain amount of prestige as well as knowledge of and influence with the local and state judiciary and bar. Third, the faculty recruited were most often graduates of prestigious full-time law schools. Most of the Y schools were located in a metropolitan area that included a major university law school, and many local lawyers had law degrees from that institution. Interestingly, the number of Y faculty with Harvard law degrees was quite high during the first decades of the twentieth century. Finally, all of the schools hired some of their own graduates, but since they taught part time during the first several decades, these men always had experience and a primary source of income from a position in a local firm or within the city administration.\(^{49}\)

The three early schools followed different paths in establishing their first teaching staffs. Ochiltree at Cincinnati taught his own classes for the first two years and then hired two people to assist him in 1895. Gradually he added instructors. By 1898 he had contracted with nine part-time faculty members on his own and brought in three additional lecturers. The Cincinnati school appears to have enjoyed a special relationship with the Court of Common Pleas in the city. Faculty either came from or became part of the judiciary through the first two decades. At the Detroit school the first year's complement of faculty (1893) included the college's president, who served also as a justice of the Supreme Court of Michigan, a dean who had earned both a Ph.D. and an LL.B., three men with LL.B.s, and two with a bachelor's degree and an LL.B. Among its special lecturers and instructors were two men with law degrees and master's degrees, one with an LL.B and an A.B., one with just


an L.L.B., and five who had earned their place at the bar through an apprenticeship. Eight of the nine lecturers were also judges. At the Boston Y school, both law schools in town—Harvard and Boston University—supplied the five faculty who taught the first courses.50

At the Cincinnati YMCA night law school between 1911 and 1916, the faculty and special lecturers were equally impressive. They included three Ohio superior court judges, nine lower court judges, five city civil service professionals, five attorneys from local firms, two presidents of national commercial concerns, and several graduates of the school. At the St. Joseph Law School the 1935–36 faculty was headed by a judge of the probate court. His faculty consisted of three University of Kansas L.L.B.s, three University of Missouri L.L.B.s, a Georgetown L.L.B., and one local graduate.51

In the credentials of its faculty the Detroit College of Law was equivalent to most of the other Y schools. From just before World War I, many of the faculty had earned baccalaureate degrees prior to their law degrees, several had master’s degrees, and a few had earned an L.L.D. or a J.D. Almost the entire 1916 faculty had earned their law degrees at the University of Michigan. Seven of the ten faculty who held only the L.L.B. had been graduated from DCL, which amounted to one quarter of the complement. However, as the background of Dean William Krichbaum (1914–46) shows, what might appear as inbreeding was tempered by additional and diverse educational backgrounds. Krichbaum had received an A.B. and an M.A. from Franklin and Marshall and had served as a superintendent of schools in Washington, Pennsylvania, before enrolling at DCL. Although the number of faculty with only an L.L.B. did rise by the 1930s, the number of J.D.s increased also.52

The faculty of the 1920s was well credentialed. In the fall of 1922 the Northeastern University College of Law hired a Harvard A.B./L.L.B. cum laude, former corporation counsel in Boston and member of law firm to the Boston school; a Brown Ph.B./Harvard L.L.B. for Worcester; and a Clark A.B./Harvard L.L.B., a Williams A.B./Boston University L.L.B., and an Amherst A.B./Harvard L.L.B. for the Springfield branch. At the same time, the Minneapolis YMCA Law School lost one of its faculty to the University of Minnesota Law School and replaced him with a Beloit College A.B. (Phi Beta Kappa)/Harvard L.L.B. Two new teachers also joined the ranks; one held the A.B. and L.L.B. from the University of Minnesota, and the other was a Minnesota A.B./Harvard L.L.B. Simultaneously, the YMCA law school at Cincinnati hired eight new faculty with L.L.B.s: one honor graduate of Harvard, one Yale, one Columbia, three University of Cincinnati, and two of its own graduates. All were practicing lawyers or judges of local courts. The Cincinnati Y school explained that the teachers certainly were not going to get rich while serving the school. “The

salary is negligible; the inspiration for the work being social service and to help raise the standards of the local bar."

The South Texas School of Law (STSL) was established in 1923 by some of the most prestigious and influential lawyers and judges in Houston. The Foreword in the 1925–26 catalog begins:

Two years ago, the Board of Governors of the South Texas School of Law, sans money, sans students, and it seemed to some of us almost sans souci, launched the school, and in their foreword modestly said: "It will be the purpose of the Board of Governors of this institution to establish a curriculum along the lines of that offered by the University of Texas, and other institutions of that rank, and by the careful selection and instruction of its students, to maintain for this institution a standard which in the course of time will entitle it to rank as a school of the first class."

If any group of lawyers could make good on that promise, it would have been the first board; clearly, Houston's talented and influential gathered with the intent to establish a quality institution. The dean (1923–31) chosen to organize the school was a federal judge for the Southern District of Texas, who left the deanship in 1931 when he was named to the Fifth Circuit. Among the stockholder subscribers of the Texas Law Review, the first law review in the state (established in 1922), were the first STSL chair of the board of trustees, five members of the first board, and one of the first faculty members. Board members also served as chairs and members of various committees of the Texas Bar Association in 1924–25. Four board members served on the Judicial Administration and Remedial Procedure Committee, including the committee chair. Other committees on which board members and faculty served included Criminal Jurisprudence, Membership, and the Special Committee on Legislation. Seven of the thirteen STSL board members, the dean, and a faculty member were members of the Texas Bar Association, a voluntary bar until 1938. On top of their activities within the state and local bars, these men had active practices; among them were the general counsel of Humble Oil and Refining Company, the general counsel of Gulf Oil Company, and members of various distinguished law firms.

STSL's early faculty was as impressive and well connected as its board. The first faculty (1923–25) had received LL.B.s from Columbia (2), Michigan, Texas (2), and Harvard. The special lecturers included attorneys from three Houston firms, the presidents of the Harris County Bar Association and the local Lawyers' Club, the general counsel for Humble Oil and Refining Company, and a former criminal district attorney, author of the latest version of Branch's Criminal Law. By the end of the 1920s, twelve part-time lawyers conducted the courses for the school with no reduction in the quality of their preparation. In late 1928 the Supreme Court of Texas obviously considered

54. Foreword, South Texas School of Law 1925–26 (annual catalog), 5, Houston Public Library, Houston Metropolitan Research Center (HMRC), RG C001 Box 1, Folder 1; Stockholding Subscribers of Texas Law Review; Texas Bar Association, Officers and Committees 1924–25, 42 Tex. L. Rev. i-v (1924); Christopher Anglim, South Texas College of Law: Houston's Gateway to Opportunity in Law, 16 Houston Rev. 131-65 (1994).
the graduates of STSL to be thoroughly prepared; it approved them for admission to the bar under a diploma privilege.55

At the YMCA College in the District of Columbia in 1927 (Southeastern University), only one of the fifteen law faculty held merely the LL.B. Three had earned an A.B., another three held the A.M., six had earned an LL.M., one had an LL.D., and one held a J.D. Five of the faculty had earned one of their law degrees at Harvard; eight had earned the LL.B. from George Washington University, and the J.D. came from Stanford. Other law schools singly represented were Georgetown, Columbia, and National (another D.C. evening law school).56

The faculty at all of the Y schools were part-time teachers for most of the first four decades of the twentieth century. A former member of the Youngstown College law faculty who had earned his degree from the Cincinnati YMCA Night School of Law explained that the faculties were similar at the two institutions. They were practicing attorneys whose practice had come to specialize them pretty much in the subjects they taught. For example, both in the Cincinnati and Youngstown schools, the instructor in torts was one who was a specialist in negligence matters. In Cincinnati, he was the chief counsel for the Cincinnati Street Railway Company and knew the latest case and latest point on negligence law all over the country and most especially in Ohio.57

The Nashville YMCA School of Law was established in 1911 by four recent graduates of Vanderbilt University Law School “for the benefits of those unable to attend law classes during the day.” A retired attorney in Nashville who attended the Nashville YMCA School of Law for three months in 1947 concurred that the faculty at the Y school were all “top flight” practitioners who knew Tennessee practice and procedure. In comparison, when he transferred to Vanderbilt after realizing that he could not stay awake for the evening classes, he found that the faculty taught general legal principles, not Tennessee law.58

Since most of the faculty at the Y schools were primarily practicing attorneys and “recognized experts in the subjects that they [taught],” their orientation to the class materials was different from that of the legal scholars who taught in the full-time law schools. The acting dean of the Columbus College of Law, Orville Snyder, explained in 1933:

It is a plain fact that the practicing lawyer and the legal scholar attack the same problems, work with the same materials, in different ways. It is inevitable

55. Mark Lambert, A Houstonian and the Arab-Israeli Conflict, Houston Law, Mar-Apr. 2002, at 46-48; South Texas School of Law 1923–24 (annual catalog), 9-10; South Texas School of Law 1924–25, 9, HMRC, RG G001 Box 1, Folder 1. The diploma privilege lasted until 1937.

56. Southeastern University Bulletin, 1927.


then that they teach law in different ways. Formulation of general principles into “a scientific literature of the law” and interpretation in general constitute a different piece of work from “application of the law to specific cases,” whatever may be the agreement upon fundamentals or ultimate purposes. [They both] go about their tasks of furthering identical ends with different techniques.

Snyder then called for recognition of the division of labor. The faculty in day schools could go about “their task of developing that ‘scientific literature of the law’ and producing textbooks. On the other hand, the night schools [serve] certain groupings of students and [prepare] them with instruction in the law conceived from the more ‘practical’ and ‘local’ points of view, which are congenial to its students and its practitioner teachers.”

If the faculty in the Y schools were practicing attorneys with a practical orientation in their teaching, what sort of graduates did they produce?

The Graduates of the YMCA Law Schools

Beyond its graduation rates, the success of a collegiate institution is directly linked to the employment and accomplishments of its graduates. The YMCA evening schools were no different; they were just as proud of their successful graduates as any other college or university. In-house and alumni newsletters and magazines showcased those who accomplished, served, and defended. Profiles abound of judges on all levels of the state and federal court systems, city and federal district attorneys, and attorneys practicing in firms. The success stories repeat themselves in the publications of the various schools.

Admission to the profession of law, of course, is regulated by examination. In some states before the ABA gained influence and authority, diploma rights permitted the graduates of specified institutions to gain admittance to the bar by right of their graduation. Detroit College of Law and South Texas College of Law both enjoyed a diploma right for a short period of time. The other Y schools apparently did not. The exemption either was not implemented in many states or was reserved for the graduates of the state university. So one measure of the success of the evening schools, whether YMCA linked or not, has been the pass rate on the state bar examination.

The pass rates were most likely uneven across the various YMCA schools and also varied with time. H. Claude Horack served as the first adviser employed to conduct investigations for ABA approval (1928–30); Will Shafroth succeeded him. These men teamed to conduct surveys on the quality of the law schools in two states. In the introduction to the 1933 California survey, Shafroth and Horack expressed the ABA concern that the number and especially the uneven attributes of the state’s law schools were not conducive


60. Report of Committee on Legal Education to the American Bar Association, 1895, table A; Detroit College of Law Annual Announcement 1899–1900, 17; Harold F. Landrith, A Short History of South Texas College, unpublished manuscript, 5, HMRC, RG G001 Box 1, Folder 14.
to a quality bar. The best schools, they reported, had high admission requirements, good equipment, a large and well-paid faculty, and a tradition of vigorous study in the student body. The weakest schools—primarily the proprietary schools—were dominated by one man who made the important decisions alone. They were merely bar exam preparatory courses at best or operated to collect tuition at worst. Hardly better than correspondence schools, they provided a directed and prescribed course of study without proper development. Finally, Shafroth and Horack pointed out that California lagged behind the nineteen states that required two years of college education before admission to a law school. Given California's extensive junior college system, two years of higher education was "within the reach of everyone with character and determination."  

The Golden Gate College School of Law in San Francisco, established in 1901, was one of the first bona fide YMCA law schools. It even managed to survive the San Francisco earthquake of 1906 by holding class in tents. But under a dean who lost his enthusiasm for the endeavor, the school spiraled downward during the late 1920s. Its graduates did not perform well on the bar examination in the early 1930s; in fact, they were almost at the bottom of the pile with a pass rate of 21.1 percent in 1932. In its favor, the Y school did not employ the strategies to ensure the highest possible pass rate (and the greatest tuition revenue) that other schools purportedly used at the time, such as failing seniors who probably would not pass the bar or making a passing grade on the bar examination a prerequisite for graduation. Nonetheless, the quality of the school had slipped and no one from the law school board or the YMCA board seemed willing to do anything about the dean—until the 1933 California survey was released. The published data shocked the Y officers and the law faculty into focusing on the quality of instruction. Shafroth and Horack cited the Golden Gate law school for not dismissing students who were deficient and suggested higher admissions standards. The law school hired new faculty, primarily graduates of the University of California's Boalt Hall and the Stanford law school. To head the school, a J.D. from Stanford was named dean. Although it took ten years, the Golden Gate law school raised its pass rate to 80 percent in the 1944–46 reporting period.  

In the Tennessee report of 1938, Horack and Shafroth provided the pass rates for each law school as well as its state rank vis-à-vis the other schools. The Nashville YMCA School of Law ranked third in the state behind the University of Tennessee and Vanderbilt with a pass rate of 70.4 percent. Although a proprietary school and one that would never relinquish its corporate nature even to earn ABA approval, the Nashville Y law school produced graduates who were admitted to the bar and practiced law in Tennessee.  

61. Minor, supra note 48, at 6; Sutherland, supra note 14, at 147; Shafroth & Horack, supra note 21, at 2–3, 7.  
62. Miner, supra note 48, at 76–82. The Y school in Ohio apparently had lower pass rates than the day schools even as late as the 1940s. Stanley E. Harper Jr., 1945–1969: The Years of Change, in The Lawyer's School: A Centennial History of Salmon P. Chase College of Law, eds. C. Maxwell Dieffenbach et al. (Cincinnati, 1995).  
Between 1922 and 1939 Southeastern University's law school enrolled a total of 2,883 students, of whom more than 85 percent were men. Sixty percent of its graduates became members of the bar. Because many of the law students in Washington did not intend to become lawyers and were studying law for professional or personal enhancement, Southeastern’s pass rate was probably adequate. The school began in 1939 to upgrade itself for ABA approval, which came in 1941. It suspended operations during World War II and did not reopen.\textsuperscript{64}

By the 1930s some ABA members had become alarmed at the "overcrowding" of the profession, frequently code for disdain for the part-time schools. The number of lawyers produced by part-time law schools had surpassed those graduated from the full-time university-based schools. Although almost 84 percent of full-time students were enrolled in approved law schools, only 12 percent of the part-time schools qualified for ABA or AALS approval. Many of the states in which the YMCA schools were located had a majority of law students in unapproved schools—California, District of Columbia, Massachusetts, Minnesota, Missouri, Ohio, Tennessee, and Texas. The verbal battle between the approved/unapproved and day/evening programs escalated, often taking place in the pages of The American Law School Review and symposia and other professional venues.\textsuperscript{65}

Young Smith, dean of Columbia University's law school, addressing the issue of overcrowding, demonstrated that the profession was primarily growing in the major cities on the east coast, especially Boston, New York, Philadelphia, Newark, Jersey City, and the District of Columbia. In these cities the growth of the bar far exceeded the growth of the population. Smith, however, was no longer concerned about "overcrowding" because enrollments in both full-time and part-time schools were decreasing, especially as the Depression began to affect the entire population. The only exception to decreasing enrollments was in the District of Columbia, where Smith attributed the increased matriculation to the recent expansion of government activities. Although many critics blamed the part-time schools for overcrowding the profession, Smith argued that the part-time schools permitted what might be called a bifurcated labor market:

The law offices representing the large business interests of the country fairly well absorbed the output of the high-grade schools, with the result that there was a real demand for lawyers who could and were willing to attend to the small business of millions of inhabitants of New York and other large cities. . . . There was a genuine demand for lawyers. The social and economic conditions made it possible for large numbers of young men of limited


\textsuperscript{65} Special Committee on Non-Member Schools Report, 8 Am. L. Sch. Rev. 757 (1937). Trends in Legal Education, a symposium held on April 6, 1938, on the occasion of the dedication of Leche Hall, Louisiana State University Law School, in Baton Rouge, with lectures by Eliott E. Chestham, professor of law, Columbia University, and H. Claude Horack, dean of the Duke University School of Law.
capacity and education, with a smattering knowledge of law, to earn a competent livelihood in handling the legal business of the community which better educated and more skilled members of the profession could not or would not handle.

In support of his thesis, he shared the results of a 1931 ABA study of the employment experiences five years after graduation of 300 lawyers admitted to the bar in New York City in 1925. Those with college training who had attended the approved schools “were predominantly associated with law firms or the legal departments of large corporations. Less than one-third of them were practicing alone.” The part-time graduates were mainly in solo practice; less than a third were associated with law firms or corporate legal departments. 66

At the end of the 1930s a debate ensued in Congress that seems now to have perhaps been one of the last gasps of the nonaccredited law schools. The discussion was couched in terms of support for a stratified legal profession. In both 1938 and 1939 Senator Morris Sheppard of Texas introduced “a Bill to prevent discrimination against graduates of certain schools, and those acquiring their legal education in law offices in the making of legal appointments to government positions the qualifications of which include legal training or legal experience.” Someone in the Department of Agriculture decided that lawyers who had not been graduated from an AALS- or ABA-approved school would not be considered for any legal position. Sheppard petitioned his colleagues for democratic federal hiring practices.

When carried to its logical conclusion the practice of preventing free opportunities for those who obtained their education at home, in a law office, or a school from serving the Federal Government involves a denial of equal opportunity to those who are financially unable to obtain a prelegal education and a legal education in schools which require such training as a requisite for admission, and denies the opportunity to serve the Federal Government to those who have not been able to obtain such college training before studying law while earning their living. It has a deeper social implication, however. If there is any ideal that an American possesses, it is the belief that social stratification must be prevented and that equal opportunity must be preserved for all.

Testimony in support of the bill came from several presidents and deans of evening law schools, including two of the YMCA schools. By this time forty-one states in one form or another supported ABA or AALS approval. Since the District of Columbia still had not adopted the higher standards, Southeastern and the other evening schools in Washington suffered the brunt of such hiring policies in their own backyard. The bill finally passed the Senate, only to be defeated in the House. What appeared then to some to be covertly biased hiring practices were undoubtedly a reflection of rising standards and the harbinger of the dominance of accreditation. 67

66. Smith, supra note 4, at 569–70.
67. 84 Cong. Rec. 9675 (July 21, 1939); 86 Cong. Rec. 1624 (February 1940); Hearing Before a Subcommittee of Committee on Civil Service, United States Senate, seventy-sixth Congress, first session, on S. 1610, Senate Reports, 76th Congress, 1st Session, Miscellaneous, volume 3. Washington, DC: GPO, 1939, 3.
Regardless of negative federal policies, most of the YMCA schools could boast of a certain number of bench and bar stars among their alumni. A DCL 1893 graduate became the ambassador to Japan. A Golden Gate graduate, admitted to the bar in 1904, helped to establish the State Bar of California in 1927 and then served as its first president. Two Cincinnati graduates (1904, 1908) became U.S. congressmen; another (1908) was a judge of the Supreme Court of Ohio. More often than not, students entered the profession as local attorneys having come “from trades and vocations, with a preponderance of law clerks, clerks in commercial houses, bookkeepers, merchants, and salesmen.” Some Youngstown students had been school teachers and principals. Some Nashville students came from insurance firms and clerkships. One DCL student, born in Naples, had immigrated with his parents, who opened a fruit stand in Detroit. After graduating in 1908 he was hired as an office boy, worked his way up as an assistant to the trial attorneys, and finally started his own practice in 1914. A 1916 DCL graduate, the son of an Irish immigrant, migrated to Detroit from his family’s farm in Wisconsin. He taught at DCL from 1916 to 1944 and also served on the recorder’s bench for nineteen years before becoming a judge on the Wayne County Circuit Court. In San Francisco one young man worked in a post office from midnight until the early morning to become a successful Marin County lawyer and governor of the Rotary Club.68

The success stories vary by time, by the state and its bar requirements, and by the ability or desire of the individual school to gain approval from the ABA or AALS. The graduates of the unaccredited Nashville law school, for example, had learned Tennessee law and stayed in Tennessee for the most part, practicing locally and rarely being hired by the large corporations. Without ABA approval of their school, they were not eligible to sit for the bar examinations in other states. Nonetheless, the Y law school graduates distinguished themselves in public service and private practice.69

* * * * *

How important is it that all economic and social levels should be represented in the ranks of practicing lawyers, in somewhat like proportion? We can at best guard against a grossly disproportionate representation of a higher social or economic class as compared with the lower. . . . We have to condone a certain amount of inefficiency among our lawyers, at least in the immediate future, in order to keep the legal profession adequately representative of our varying social and economic levels. . . . What I want to call your attention to is that estimate that from 5 to 10 per cent. of the students in this full-time law school are earning all of their expenses. If the student body were representative of all social and economic levels, would the figure be 10 per cent. or 80 per


69. Rutherford interview, supra note 58; Butler interview, supra note 68.
cent.? Or would it be 90 per cent.? Is there enough money in the world available for scholarships and loan funds to help out that element in the population which cannot attend full-time law schools that have entrance requirements equivalent to two years in a full-time college?

Alfred Z. Reed, 1931

Alfred Reed was convinced that the legal profession should help the part-time evening law schools raise their standards and continue to provide access to the profession for those who had neither the money nor the time to forgo day-time work. His rationale extended beyond fairness to the imperative of ensuring democracy in the American government, which often draws its personnel from the legal profession. Further, he argued that local lawyers, produced by the evening schools, ensure that “the poor claimant has an opportunity which in many small towns he does not possess, of securing somebody to represent his interests against powerful opponents.” He also realized that among night-school students “fully one-third do not expect to make law a profession.” Rather they were “studying law for business reasons. They are insurance, banking, railway, and real estate clerks, who realize that their chances of success will be increased by some knowledge of the law.”

In bringing education to adults who did not perform well in the educational system from a lack of interest or stimulation; who did not have family resources to finish their education; who could not afford, given family responsibilities, to forgo weekly paychecks; or who lacked understanding of the educational system, the YMCA promoted the democratic leveling of the American socioeconomic class system. With the evening law schools, the Y supported the endeavors of local lawyers to grow their own local talent and to populate the profession with young men and women who were otherwise locked out of the system. Although the local lawyer/founders lent their support, prestige, time, and expertise to create and sustain the schools, the Y supported them at minimum with space (albeit often cramped), but often with money to cover annual deficits until the schools could float on their own. Most of the YMCAs also expanded or modified their educational programs to offer liberal education courses, first at the associate level and then at the baccalaureate, when the ABA or the state’s judiciary determined that prelaw education had to be extended.

The YMCA law schools were not without their problems, and the YMCA was not without its faults. The relationships between the Y boards and the law school boards often were not ideal. In fact, in a move similar to the mutiny that produced the New York Law School, the founder of the Cincinnati YMCA law school, Robert Ochiltree, unhappy with the governing authority and financial arrangements with the Y Board, tried to merge “his school” with his alma mater, the Cincinnati Law School, in 1916. And the Detroit City Law School, affiliated with Detroit City College (eventually Wayne State University), was established.

70. Reed, supra note 33, at 204.
71. Id. at 206; Edward T. Lee, The Evening Law School, 1 Am. L. Sch. Rev. 292 (1905).
72. Finnegan & Cullaty, supra note 48.
in 1927 by two former interim deans and two faculty members from DCL who “were disgruntled at the fact that the YMCA had some authority over the law school.” In Cincinnati as well as other cities, the tuition revenues from the law schools often helped to balance overspent budgets in other departments of the Y. Progress toward ABA approval ceased this practice. That the evening schools were supported by their YMCAs during their early struggling years was an asset; as the decades rolled by and the ABA increased its influence and then authority to specify governing standards, the relationship became a liability that had to be overcome in order to become approved.73

Like so many of their nonprofit competitors, the YMCA evening law schools not only operated in a distinct niche, but operated during hours convenient to their clientele. Charles Carusi, a professor of law at the National University, explained in 1903 that the administrative departments of the federal government closed at four o’clock and “an ever increasing number of [young men] utilize the employment, which they regard as temporary and have often sought for no other purpose, and the opportunities it affords in acquiring a professional education.” The class schedule there eventually was extended to a “day” session beginning at three-thirty for those whose employers permitted earlier release. The Y law schools also developed courses, both for the degree-seeking students and for the local legal community, which tackled regional issues. In 1935 STSL in Houston pioneered a continuing education lecture series on gas and oil as Houston’s oil industry was beginning to develop. At the evening law school of Golden Gate College, a course in Industrial Relations and Labor Law brought attorneys from all over San Francisco to provide a series of twelve lectures on labor relations.74

The legacy of these schools, which in many cities continues, is the education of a sizeable portion of the early local bar and bench. Among the evening law schools in general, clearly fly-by-nights and diploma schools abounded. The YMCA schools were not of that breed. Most of the shyster proprietary schools are gone. Some of the former Y schools are also gone. Some could not sustain a healthy enrollment due to local competition or were unable to produce the resources needed to meet the ABA standards of full-time faculty, an expanded library, and adequate facilities. Those that remain found the resources to measure up and to continue their mission.

73. Hutchens, supra note 48, at 21–25; Samuel, supra note 25, at 104–05.

74. Carusi, supra note 17, at 76; Mark D. Muellerweiss, Fiftieth Anniversary Salute to South Texas College of Law, 15 S. Tex. L.J. 6 (1973); Notes and Personals, 9 Am. L. Sch. Rev. 1157 (1941).