

## Diploma Privilege

Fred J. Graham

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## EDITORIAL

### THE DIPLOMA PRIVILEGE

The time was when the barber profession was a mere avocation. Not so now, with the state examining board in operation. If a candidate can't snap his towel or strop his razor with the required adroitness and dexterity he is "flunked out" and the morning mail brings the bad news: "We regret to inform you, etc.," whereupon the victim curses the state board and for another year religiously studies the works of the masters till the proper ingenuity is acquired.

We have the same situation at law. Law always was a profession, but the perplexing question regarding it was and still is who is to determine the qualifications of candidates for the bar? State Examining Boards are common in almost every state, but all candidates are not required to submit to them. The reason for this preference is hard to understand. The state itself has the right to determine the proficiency of all candidates, but many states have elected to waive this right

by extending to many schools the so-called Diploma Privilege, thereby granting the faculties of these privileged schools the sole right of determining who shall protect the rights of the people. The faculty of no school has the right to determine who shall be a doctor or pharmacist. The candidates for these professions, no matter what their qualifications or training may be, must submit to a State Examining Board. The reason is obvious—these men will do acts that vitally affect the public directly and the state rightly reasons that the public must be protected adequately. But does not the practice of Law also affect the public so vitally as to warrant state supervision? We think it does. All people have legal rights. It is the duty of the state to see to it that only men of ability protect those rights. It is not such a duty that should be delegated to anyone. If the state deems it necessary to examine and finally determine those who are capable of removing your appendix or cutting your hair, it surely should directly examine and finally determine those capable of protecting your legal rights. If the graduates of Larry's Law School are given the Diploma Privilege, why should not the graduates of Benny's Barber College or Melba's Medical School be granted the same rights? There is no apparent reason for it. It seems as though an unhealthy arbitrary custom has been established in many states in regard to the Legal Diploma Privilege which fortunately has not cursed the other professions.

The better students of any University preparing for any profession gain nothing by a Diploma Privilege. With rare exceptions they will pass the examinations anyway. It is solely for the privilege of those poorer students who fear the examinations. They are the ones who favor the privilege and they are the very ones who deserve no consideration.

As far back as 1881 The American Bar Association recommended strongly that admissions to the bar be only by written and oral examinations that satisfy both the faculty of the school and the proper authorities of the state. (15 Carnegie Foundation Bulletin 226), and in 1892 the same association recommended that the examination of candidates (for the bar) be referred to a permanent commission appointed by the Court (15 Report of American Bar Association 9). Again in 1908 the same association recommended that a Board of Law Examiners be appointed to supervise all examinations for admission to the bar and that the court of last resort be given the sole right to grant a license to practice Law. (31 Amer. Bar Ass'n. 588.) In 1921 a committee headed by the renowned Elihu Root reported that "we too, believe that such a system (i.e. admission to the bar by Diploma) is undesirable and recommend that it shall not be permitted. (46 Amer. Bar Ass'n. Report 686.)

And so we could go on and quote indefinitely, but since all recommendations are against the Diploma privilege we will go no further. All such recommendations are based on the theory that the state should not lose control of such an important function as admission to the bar and that it is unwholesome for the Law School itself not to have hanging over its students the club of the state bar examination.

We have seen that the question is not a new one. It was considered openly as far back as 1881 by the American Bar Association and still is being considered by it. The question was always a perplexing one but now many schools themselves have requested that such privilege be taken from them, and this comment is written merely to show which way the pendulum is swinging, and also to mildly state that any school that exerts influence to retain the diploma privilege or to get it, is violating the recommendations of the American Bar Association.

FRED J. GRAHAM, '32

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#### AN ANNOUNCEMENT

The annual meeting of the Wisconsin State Bar Association will be held June 25, 26 and 27 at Superior. An invitation to attend has been extended to law students. The opportunity thus afforded to become familiar with the functions of this organization, and to become better acquainted with members of the profession to which we all aspire should be welcomed. The necessity for closer relation between members of the Bar and the students of law cannot be emphasized too strongly, and effort in this behalf ought to receive the student's co-operation.