

## The Diploma Privilege Works (in Wisconsin)

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**Dean Cliff F. Thompson**

*(The following article may remind our graduates and explain to others why Wisconsin has a "diploma privilege." When I arrived in 1983, I was aware that Wisconsin was one of a small handful of states that does not require a bar exam for graduates of its accredited law schools. Like most graduates elsewhere, I had dutifully overprepared for my bar exam, and had been relieved to pass the final formality. I had never thought seriously about the special relationship created by Wisconsin's Supreme Court and its law schools. In a recent issue of Syllabus, the journal of the ABA's Section of Legal Education and Admissions to the Bar, Walter, who recently completed a two-year term as president of the national Law School Admissions Council, explained why we continue to support the diploma privilege. I think you will find it of interest.—Dean Cliff F. Thompson)*

I have come to praise the diploma privilege, not to bury it. It is alive and well, if only in darkest Wisconsin. In defending it, I confess two limitations: I have seen it work only in Wisconsin, and—thanks to it!—I have never taken a bar exam.

Graduates of the law schools at the University of Wisconsin and Marquette, if eligible in all other respects, are admitted to practice without taking the Wisconsin bar examination. For 35 years, I have observed the effects of this situation, first as a law student, then as a practicing lawyer, then for many years as a law teacher.

There are two principal effects, indirect to be sure, but both beneficial: (1) We law faculty are under no pressure to teach our courses as bar reviews. As elsewhere, many of our students press us to teach what may be useful in law practice, but we are free to respond in various ways far different from bar cramming. (2) The diploma privilege reminds us that we are not free to leave screening to the bar. We recognize reasonable, but rather special, obligations to admit only those of promise; to eliminate the few who clearly cannot perform satisfactorily; and to offer a curriculum which can prepare our students for a broad variety of law practice activity.

One test of whether we meet the obligation to be rigorous is, ironically, how our students do on bar exams in other states. Our information is incomplete but strongly indicates that they do very well.

A risk, certainly troublesome, is that the diploma privilege may cause the Supreme Court or bar admission authority to impose Draconian curriculum requirements on those who wish to avail themselves of the privilege. South Carolina and Indiana are often cited as examples, though both states do have bar exams. The Wisconsin Supreme Court has indeed imposed requirements in addition to the bare receipt of the law degree, but only very modest insistence that, in effect, two-thirds of the degree credits be from a very

broad list of "core" courses. I admit that if the requirement were made substantially more restrictive, we might think the diploma privilege more detrimental than beneficial.

In the past, the University of Wisconsin Law School required a practice experience or a special practice course, in addition to our degree, for bar admission. But we could not monitor the quality of practice experiences and abandoned the requirement. We now offer a heavily elected general practice course and a variety of clinical courses, but we do not require them. Bar exam states, of course, share with Wisconsin the problem of admitting to practice many without practical training or experience; the usual bar exam offers no solution.

I recognize that in states with a law school of questionable quality, the diploma privilege may be politically unworkable. The opening of a new and unproven school might raise questions about an existing privilege. But more new schools are unlikely in the near future, and in many states with established good law schools, the diploma privilege offers advantages worth considering.



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