

1907

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Recommended Citation

James Parker Hall, "American Law School Degrees," 6 Michigan Law Review 112 (1907).

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AMERICAN LAW SCHOOL DEGREES

LAST August, at the annual meeting of the American Bar Association held at Portland, Maine, the Committee on Legal Education made a report proposing that the Association should recommend to the various state legislatures the adoption of certain rules suggested by the committee to secure uniformity in law degrees. These rules provided that an L. B. should be conferred by law schools maintaining a two years course; an LL. B. for three years of legal study; an LL. M. for four years, of which one should be post-graduate; and a D. C. L. or J. D. for five years, of which two should be postgraduate. None of these degrees was to be conferred upon other terms than those specified. A minority of the committee dissented from the report. Consideration of it was postponed by the Association. The year before, this committee had made a substantially different report upon the same subject.¹

In the main, this latest report appears to be governed by the principle that substantial distinctions in legal education should be marked by appropriate distinctions in law degrees. Granting the excellence of this principle, it seems to the writer that the committee has departed from it in failing to approve the use of J. D. as a first degree in law by those schools that regularly require a college education for admission. The distinctions recognized in the report are all based upon the length of time spent in legal study. Another distinction, based upon the extent of preparation for legal study, is at present even more important than some of those recognized by the committee, and this the majority ignores.

Of late years the efforts of the American Bar Association to improve legal education have been directed toward two ends: first, to secure a three-year course in law schools; second, to secure an adequate educational preparation for beginning the study of law. In most of our states the first has been practically secured today, and outside of the south there are very few schools of any reputation not requiring three years for a degree. As regards the second, the attainment of what is desirable is much further away. Nearly everyone admits that a college education usually affords the best preparation for legal study, and the obstacle to its general adoption has been entirely economic, just as was the objection originally made to lengthening the law course from two to three years. It is not only that a college education is likely to make its possessor a more capable and well developed man, but no one can doubt that the

¹ 29 Am. Bar Assn. Reps. 496 (1906).

college graduate is usually far better fitted seriously to study law and to get a good legal training in three years than is the boy of 18 or 19 from the high school. The committee thinks that the differences between two, three, and four years of legal study are sufficient so that each should have a distinctive degree, L. B., LL. B., and LL. M. Surely a college graduate who has completed a three-year law course at a school where most of his fellow students are also college graduates, has had a much better preparation for practice than has a high-school boy who attends for three years at a school where most of his fellows are also high-school boys. This difference is easily greater than that between the training represented by an LL. B. and an LL. M., and is at least as great as that between an L. B. and an LL. B. Under the rules in New York, for instance, a college graduate may be admitted to the bar after two years of legal study, while three are required of all others. If a superior training due to a longer period of legal study is represented by a distinctive degree, why should not a superior training due to a college preparation be likewise recognized?

Beginning with Harvard in 1896, and followed by Stanford, Chicago, Columbia, and California in the order named, there are now five law schools in this country that require a college education for regular admission.² Believing that it would be appropriate to distinguish law graduates with such a preparation from those with a lesser education, the faculty of the Harvard Law School suggested, about 1902, that the degree of Juris Doctor (abbreviated J. D.) be used for this purpose. This is a form of degree parallel with the J. U. D. conferred in German universities, and with the doctorate in law conferred in several other continental countries. The German and continental degree is not an advanced or second degree in law. Students enter the law schools of the German universities after completing the gymnasium, which corresponds roughly to the American college, and at the completion of the law course they receive the degree of J. U. D. This doctorate represents not postgraduate work in law but the completion of the ordinary course of professional study, following the academic training obtained in the gymnasium. It is not a degree reserved for the relatively small number of men who will take really postgraduate work in law as a preparation for teaching or writing, but it is the degree taken regularly by those men who are to become the lawyers and judges of the German Empire.

It was believed that a degree like this might properly be conferred in American law schools, being distinguished on the one hand from

² Harvard alone requires a college degree. The others permit a student to count the first year of law as the fourth year of college.

the LL. B. conferred by schools not requiring a college education for admission, and on the other from a really postgraduate degree in law like the D. C. L. Accordingly the Harvard law faculty voted in favor of conferring this degree, and, though their proposal has not yet been accepted by the Harvard Corporation, the new degree of J. D. has since been established in three of the four other law schools with similar admission requirements—Chicago, Stanford, and the University of California. It is also conferred by the University of New York upon college graduates completing the three-year day course there. Since its original introduction, three other schools—George Washington, Boston University, and Northwestern—have announced it as a postgraduate degree in law, but it does not appear from their catalogues that any American college graduate has ever been a resident candidate for this degree at these schools. None of these three schools requires any college work for regular admission, and only George Washington requires that candidates for J. D. be college graduates.

If there is any advantage in a degree which shall indicate that the recipient began the study of his profession with the maturity and training afforded by a college education, instead of as a high-school boy, J. D. seems the most convenient and appropriate for this purpose. It is a new degree in this country, and was introduced and first used for resident law work solely with this significance. It is not a degree heretofore used for postgraduate work, which it would be improper to pervert to some less dignified purpose. In Germany and on the continent of Europe generally its equivalent and parallel form is used exactly as the American schools that introduced it are using it, as a first degree in law following a college preparation. The majority report of the committee not only advocates the use of this degree in a way unknown in Europe and contrary to the practice of a majority of the American schools that have adopted it, but recommends that the Bar Association urge all American state legislatures to forbid its use in the way in which the schools that introduced it have used it. Such a proposal is inconsistent with the position the Association has heretofore taken regarding the importance of a thorough preparation for legal study; it is unfair to the schools that have adopted this degree for a legitimate educational purpose; and it is an unnecessary means to achieve the object sought—an appropriate postgraduate law degree.

The principal complaint lodged against the stream of young men pouring into the legal profession is not that they have not spent enough time in law schools, and need postgraduate courses, but that their general and preparatory education is far below the demands

likely to be made upon them in practice. The recent records of the American Bar Association are eloquent of this fact. A committee of the Association has recommended—not that more than three years be spent in the law school by the young practitioner, desirable though this might be—but that at least two years of college work be required for admission to the law school. Nor will it stop there. The recommendation will soon be that a college degree be required as a prerequisite to a law degree, and to this all the principal schools in this country are certain to come. In a very few years all of the great state universities of the middle west will require at least two years of college work for admission to their law schools, and within a dozen years more we shall see most of them requiring a third year. Almost everywhere the first year of law may be counted as the fourth year of college, and the J. D. will appropriately follow as the law degree two years later. A very short look into the future shows us that this degree has a far greater field of practical usefulness before it than have postgraduate degrees, which will never be taken by more than an insignificant fraction of the well-trained men at the American bar.³

Shall the Bar Association, then, recommend legislation designed to forbid any law school from giving a J. D. degree to those students who have complied with what the Association has declared to be the most urgent need in legal education? Is the desirability of this so clear that development should be stopped at once by legislation, or should this educational experiment be permitted to go on and justify itself, or not, by the result? Wise lawyers recognize the folly of trying to codify a subject before it has fully developed. The time is not ripe to say the last word about American law degrees. High admission requirements to our law schools are too recent and still too rare. It is quite likely that a distinctive degree given by schools requiring a college education for admission will be of substantial effect, among other influences, in inducing some schools to raise

³ In addition to the five schools already mentioned that require three or four years of college work for regular admission, the following law schools now require, or will soon require, some college work either for admission or for candidacy for their ordinary degrees:

Boston University (beginning with 1908, certain specified work in logic, history, and political economy, or two years of college as an equivalent); *George Washington* (beginning with 1909, two years of college); *University of Illinois* (beginning with 1908, one year of college for degree, unless candidate obtains high grade, or is member of Illinois Bar); *University of North Carolina* (two years of college for degree); *Ohio State University* (two years of college for degree); *University of Texas* (beginning with 1909, one year of college); *Trinity* (two years of college); *University of Washington* (one year of college); *West Virginia University* (two years of college for degree); *University of Wisconsin* (two years of college); *Yale* (beginning with 1909, two years of college). It is noteworthy that four of these eleven schools are in southern states.

their admission requirements; and it is certainly reasonable that schools whose graduates have a superior preparation should be free to indicate this by their degrees if they see fit.

If some appropriate degree is to be given for two years of postgraduate law study, why should not the committee confine its recommendations to the D. C. L.? Through the usage of several American schools this degree is already somewhat familiar as an advanced degree in law, and it adequately serves this purpose. Why should the J. D. be reserved also for exactly the same purpose, if the object is to secure uniformity in law degrees? There is no need for two different degrees to indicate advanced work taken by a mere handful of men, while the vastly more important and practical distinction between a college preparation for legal study and a high-school preparation is left unmarked. Two years of postgraduate work in law could hardly be well spent without sufficient attention to the civil law to make the title Doctor of Civil Law appropriate; but, should any school think otherwise, the corresponding title—Doctor of Common Law—may be used instead. There is no good reason why the American Bar Association should approve the use of two degrees to indicate the same postgraduate work; nor why it should be asked to recommend legislation denying to any school the right to use the J. D. as nearly all of our law schools with high admission requirements wish to use it.

Last year it was urged in discussion that giving a doctor's degree as a first degree prevented a master's degree being given. Schools that wish to give a master's degree of course will not give the J. D. A number of schools, however, including most of those with high admission requirements, do not wish to give a master's degree in law at all, on the ground that it is taken by few students, seldom the best ones, and that it tends to cheapen the school's regular degree. Students who have spent the time to go through college and then have taken three years in a law school are likely wisely to think the next year can be better spent in beginning practice than in getting a master's degree in law. The number of college graduates who take master's degrees in law is very trifling. For instance, from 1901 to 1906 the total number of such degrees conferred upon college graduates at Columbia was only 4, at Michigan 1, and at Yale 4. It cannot be doubted that a college education, followed by three years at a law school, is a better preparation for practice than is a high-school education followed by four years at a law school. If the latter is deemed worthy of a distinctive degree, why not the former also? Any school that wishes to give a master's degree should be free to do it, but this is no reason for forbidding all others to give

the J. D. to the vastly larger number of college graduates who might take it as a first degree in law.

If the Committee on Legal Education renews its suggestions for uniform law degrees next year, it is to be hoped that it will recognize the useful possibilities of the J. D. degree in indicating a college preparation for legal study, and that it will adopt a more liberal attitude toward a practice that at least may claim toleration as a promising experiment. Only thus are advances made in both the form and substance of educational methods. Failing this, the Bar Association should certainly refuse to recommend legislation upon a matter relatively so unimportant and concerning which such disagreement exists among those chiefly interested. It is hardly likely that any state legislature would enact such a prohibition as is suggested, against the vigorous protest of even a single reputable law school within its borders, and the Association may wisely reserve its influence for measures promising more real benefit as well as greater prospects of success.

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