

# BAR EXAMINATIONS AND REQUIREMENTS FOR ADMISSION TO THE BAR, Reports of Consultant and the Advisory Editorial Committee. Shepard's Citations, Colorado Springs, for The Survey of the Legal Profession, 1952. Pp. xvii, 498

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### Repository Citation

A. E. Papale, *BAR EXAMINATIONS AND REQUIREMENTS FOR ADMISSION TO THE BAR, Reports of Consultant and the Advisory Editorial Committee. Shepard's Citations, Colorado Springs, for The Survey of the Legal Profession, 1952. Pp. xvii, 498*, 15 La. L. Rev. (1954)

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## Book Reviews

BAR EXAMINATIONS AND REQUIREMENTS FOR ADMISSION TO THE BAR, Reports of Consultant and the Advisory Editorial Committee. Shepard's Citations, Colorado Springs, for The Survey of the Legal Profession, 1952. Pp. xvii, 498.

This is one of a number of fine publications produced by the Survey of the Legal Profession established pursuant to a recommendation presented by the Section of Education and Admissions to the Bar of the American Bar Association to the House of Delegates of that association and adopted by the latter in 1946. It contains a wealth of information dealing with the subjects suggested by the title and related matters. It is broad in scope. It covers the topics indicated as they pertain to the United States, her territories and possessions and all other jurisdictions where the Anglo-American legal system prevails.

The vast amount of duplication is the book's only major defect. The obvious reasons for it appear in the Introduction to Chapter I. (pp. 1 and 2) The book begins with the Consultant's Report which "is a composite of the reports of the twelve members of the Advisory and Editorial Committee on Bar Examinations and Requirements for Admission to the Bar" and his "observations and comments on these subjects." (p. 1) He considered "the reports of the individual committeemen . . . of such intrinsic importance that they should be preserved in their entirety." (p. 1) He makes them an integral part of his report. Further, as these reports were released for publication through other media in the order of completion, it was made possible in most instances for one reporter to comment upon and quote from one or more of the other reports.

The arrangement of the material is good, but it is suggested that future readers of this book begin with Chapter II and leave Chapter I until the end. This is the logical starting point because it deals with the political set-up of the licensing authority in each of the forty-eight states and the District of Columbia, charged with the responsibility of determining qualifications for admission to the bar and of fixing the minimum pre-legal and legal training and other qualifications required of applicants for admission with or without an examination by the authority.

In this chapter it is revealed that the only uniformity in regard to any of these matters is that the power to pass upon the qualifications of applicants for admission to the bar originally exercised by the courts is now vested in boards of bar examiners which recommend to the courts those found to be qualified. The size of these boards, the method by which their members are appointed, and their terms of office vary from state to state. There is also a variation as to the length of service of the members, their ages, their educational background, their compensation and other pertinent matters. Specific recommendations are made for improving the personnel and efficiency of these boards.

The same lack of uniformity prevails with regard to the qualifications of the applicants for admission to the bar. The quantity and quality of the applicants' pre-legal and legal education and citizenship, age, residence and other requirements vary from state to state. Uniformity in many of these matters would be achieved if all states adopted the Standards of the American Bar Association for Legal Education.

In Chapter III the reporter discusses the requirements for admission to practice before the Federal Courts in hierarchical order. He reveals that except for the Court of Appeals of the District of Columbia, whose admission rules are more exacting, the rules for admission to practice before the other courts of appeal differ but slightly. There is considerable variation, however, in the admission rules of the district courts. While previous attempts at uniformity have been abortive, he eloquently pleads the necessity of uniformity in all federal district courts except in the cases of the District of Columbia, Hawaii, Alaska, the Canal Zone, Puerto Rico and the Virgin Islands, which present special problems.

Chapter IV deals with the admission of attorneys from other jurisdictions. Here again the requirements vary, so that classification is difficult. Generally, attorneys of good character from other jurisdictions, who have been admitted to practice for a certain number of years—usually three or five, are admitted without a bar examination. Some states require the establishment of residence of from three to six months, and some admit only on the basis of reciprocity. In his conclusion the reporter for this chapter recommends that rules which restrict admission of out-of-state attorneys for the purpose of diminishing competition should be abolished. Residence restrictions should be limited to not more than from three to six months. Five years of substan-

tial practice, law teaching in an approved law school or service on the bench within the preceding seven years should be sufficient qualifications. All out-of-state applicants should be investigated as to character by the National Conference of Bar Examiners to keep out undesirables. Rules based on reciprocity should be repealed.

Chapter V covers the requirements for admission in all the other countries in which the common law system prevails. It points up the differences and the advantages and disadvantages of the tradition of these countries and the American tradition. All of the countries discussed follow the English pattern of internship and most of them follow the English custom of division of function between the barrister and the solicitor. As the differences between the English system and the systems of other countries discussed are minor, it is submitted that too much space was allotted to them. A general statement applicable to all, except England, would have sufficed. In its stead, a comparison of the system of admission to practice in one or more of the civil law countries would have proved interesting and profitable.

Character investigation of student applicants for admission to the bar is the subject matter of Chapter VI. The lack of uniformity in other matters relating to requirements for admission to the bar is also apparent in the matter of character investigation. It ranges from little or nothing in some states to the highly publicized Pennsylvania system which is explained in detail and recommended for study in the other states. The important feature of the system is that the applicant must register with the board of bar examiners at the time he begins the study of law. This procedure, if properly administered, should certainly accomplish the desired end of keeping those deficient in character from engaging in the practice of law. This makes it possible to get rid of the undesirables before they invest a great deal of time and money in their preparation. The only *quaere* is whether the number actually found wanting justifies the time and energy consumed by those who are charged with the administrative duties and the cost involved in such a system. The estimate is that less than five percent are eliminated on character grounds, although some applications are withdrawn for fear of being rejected on those grounds. It is submitted that an equally elaborate system of self-discipline on the part of the profession would probably eliminate most of those that would have been

rejected under this pre-admission system and would rid the profession of those who might turn bad later.

Chapter VII discusses the history of standards of legal education, the efforts of the American Bar Association for the improvement of the standards and its adoption in 1921 of the rule for the accreditation of law schools and its effects. It is significant that this rule, mandatory on the law schools seeking approval, expresses also the opinion that "every candidate for admission to the bar should give evidence of graduation from a law school complying with [its] standards" (Section 1 of the standards) and "that graduation from a law school should not confer the right of admission to the bar." (Section 2 of the standards.) These two declarations of policy have probably done more to raise the pre-legal and legal standards of education than the standards for the accreditation of the law schools. All law schools not accredited by the American Bar Association have either gone out of business or have raised their standards to meet its accreditation rule in those states where this policy has been adopted. The full impact of the American Bar Association standards will, therefore, not be felt until all state accrediting agencies adopt the same rule for the accreditation of law schools. For comparative purposes a summary of the educational requirements for admission to the bar in all the states is given in Schedule A. (p. 302)

Chapter VIII, A, B, C, D and E, gives some very important information on the administrative aspects of bar examinations, the scope and content thereof, their utility as testing devices, methods for their improvement and their statistical appraisal as testing devices. The statistical studies of bar examination results illustrated by charts give an interesting picture of the correlation of these results with the general education and legal training of the applicants. The desirability of a national bar examination is also discussed here and in more detail in Chapter X. The arguments advanced in favor of such a plan seem unimpeachable but it will be hard to convince some of the state examining boards to surrender even partially their autonomy in this regard. This will be particularly true of the Louisiana board. The resistance will stem from the fact that Louisiana follows the civil law tradition and a nationally administered bar examination will have little utility.

Chapter IX deals with the utility *vel non* of a first year bar

examination. The last chapter deals with the organization, financial structure and the work of the National Conference of Bar Examiners, particularly in the field of character investigation of the migrant lawyer, with statistics as to the manner in which it is conducted, its value, the use made of the service and its costs.

Several of the reports discuss the need of cooperation between the bar examiners and the law teachers. They point to the beneficial effects of this cooperation in the states that have adopted the practice, whether on a formal or informal basis. The best results have been achieved, however, in the few states where formal advisory committees have been established. They vary in form, but all include some law teachers as members; and in some states the committee members are exclusively law teachers.

In Louisiana, the Bar Admissions Advisory Committee is composed of one member of the full-time faculty from each of the three law schools that are members of the Association of American Law Schools. It is charged with the duty of preparing a report, within sixty days following each examination, giving a critical appraisal of the examination. It must meet with the Board of Bar Admissions at least thirty days prior to each examination. It must perform whatever other services the Board of Bar Admissions may direct except the preparation or grading of the examination problems. The system has proved satisfactory. Since it has been in operation, very few graduates of the Louisiana law schools that are members of the Association of American Law Schools have failed the examination. This, probably more than anything else, inspired the Supreme Court of Louisiana to order an amendment to the rules with respect to admissions to the bar, which established the "diploma privilege" for all graduates of approved Louisiana law schools and the graduates of all out-of-state law schools that are members of the Association of American Law Schools. It requires, however, that in both instances the applicant must have earned at least sixteen units in Louisiana Civil Code and Louisiana Code of Practice subjects in an approved Louisiana law school, with grades in each subject equal to the average required for graduation in such law school. This amendment of June 2, 1953, has nullified the work of the Bar Admissions Committee, as far as graduates of approved Louisiana law schools are concerned, because all of these who previously failed the examination but

were otherwise qualified under this rule have been admitted without having to take and pass another examination. There is another possible ill effect of the amendment. Under present rules, graduates of out-of-state law schools are eligible to take the bar examination without having had law school training in Louisiana Civil Code and Louisiana Code of Practice subjects. Law office study is still permitted. This means that those best equipped to take the bar examination are excused and that only those who have had no law school training or no law school training in Louisiana subjects take the examination. Without Louisiana law graduates taking the examination, unconsciously the examiners might tend to a lowering of standards.

The amendment may be short-lived. It states that "during the existence of the present Korean conflict said examinations shall not be required of any graduate . . ." <sup>1</sup> This prompted the Standing Committee on Legal Education and Admission to the Bar of the Louisiana State Bar Association to recommend in its report to the Association at its annual meeting in May 1954 that it go on record as memorializing the Supreme Court of Louisiana to abolish the "diploma privilege." The recommendation was adopted.<sup>2</sup>

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BEYOND THIS PLACE, by A. J. Cronin. Little, Brown & Co., Boston, 1953. Pp. 316. \$3.75.

On December 21, 1908, an old lady named Marion Gilchrist was murdered in a seven-room flat on the second floor of a tenement building in Glasgow. The time was about seven o'clock in the evening, and Miss Gilchrist's maid, Helen Lambie, had gone out to buy a newspaper. A Mr. Adams, who occupied the flat below, heard a noise in Miss Gilchrist's apartment, and came upstairs and rang the bell, but was unable to obtain admittance until some minutes later, when the maid Lambie returned and

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1. Art. XII, § 7(3), Articles of Incorporation of the Louisiana State Bar Association (1953).

2. For a more detailed account of the present situation in Louisiana and for additional arguments in support of the quick demise of the diploma privilege, see Hebert, *The Work of the Louisiana Supreme Court for the 1952-1953 Term—The Legal Profession, Bar Admissions*, 14 LOUISIANA LAW REVIEW 79 (1953).

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