Diploma privilege: legal education at the University of Melbourne 1857-1946

Citations

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Date
2009

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Metadata
Show full item record

Document Type
PhD thesis

Citations

Access Status
Open Access

URI
http://hdl.handle.net/11343/35199

Linked Resource URL
http://cat.lib.unimelb.edu.au/record=b3665361

Description
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The diploma privilege in Wisconsin dates to 1870, when it was passed as part of the same legislation that established the University of Wisconsin Law School. At that time a law department was established in the State University and a course of study under able instructors was prescribed for students in the law department. It was offered to encourage future lawyers to get a formal legal education instead of simply "reading law," which was the typical legal training of the time. This has ever since been known as "diploma privilege." Graduates of out-of-state law schools, even if they are Wisconsin residents, must still take the Wisconsin bar exam to be admitted in Wisconsin.

Legal academics turned increasingly to the social sciences to maintain law's claim to be not only a professional skill, but an academic discipline. A research-based and reform-oriented theory of law appealed to the nascent academic profession, linking it to legal practice and the development of public policy but at the same time marking out for the law school a domain of its own. American ideas informed thinking about research and, in particular, pedagogy, although the university's slender financial resources, dependent on government grants, limited change until after World War II. In other ways the law school consciously departed from American models. It taught undergraduate, not graduate, students, and its curriculum included history, jurisprudence and non-legal subjects alongside legal doctrine. Its few professors specialised in public law and jurisprudence, leaving private law to a corps of part-time practitioner-teachers. The result was a distinctive model of state-certified compulsory education in both legal doctrine and the history and social meanings of law.

Keywords

history of The University of Melbourne Law School; history of Melbourne Law School; history of Law schools in Victoria; history of study and teaching of Law in Australia; history of legal education

Abstract

When Australian law teaching began in 1857, few lawyers in common-law systems had studied law at university. The University of Melbourne's new course joined the early stages of a dual transformation, of legal training into university study and of contemporary common law into an academic discipline. Victoria's Supreme Court immediately gave the law school what was known in America as 'diploma privilege': its students could enter legal practice without passing a separate admission exam. Soon university study became mandatory for locally trained lawyers, ensuring the law school's survival but placing it at the centre of disputes over the kind of education the profession should receive. Friction between practitioners and academics hinted at the negotiation of new roles as university study shifted legal training further from its apprenticeship origins. The structure of the university (linked to the judiciary through membership of its governing council) and the profession (whose organisations did not control the admission of new practitioners) aided the law school's efforts to defend both its training role and its curriculum against outside attack.

Legal academics turned increasingly to the social sciences to maintain law's claim to be not only a professional skill, but an academic discipline. A research-based and reform-oriented theory of law appealed to the nascent academic profession, linking it to legal practice and the development of public policy but at the same time marking out for the law school a domain of its own. American ideas informed thinking about research and, in particular, pedagogy, although the university's slender financial resources, dependent on government grants, limited change until after World War II. In other ways the law school consciously departed from American models. It taught undergraduate, not graduate, students, and its curriculum included history, jurisprudence and non-legal subjects alongside legal doctrine. Its few professors specialised in public law and jurisprudence, leaving private law to a corps of part-time practitioner-teachers. The result was a distinctive model of state-certified compulsory education in both legal doctrine and the history and social meanings of law.