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THE RIGHT TAKE ON HIGHER ED

Wednesday, January 13, 2010

Re: Law School Overselling [George Leef]

Matthew Yglesias is right about the labor cartel nature of bar associations. The reason why law-school graduation was initially demanded before an individual could sit for the bar exam was that the ABA wanted to reduce competition. Prior to the 1920s, most lawyers did not go to [law school](#), but studied on their own while working for law firms. The ABA realized that imposing a requirement of several years of study would act as a barrier to entry and used its clout to get nearly all states to enact laws mandating graduation from an ABA-accredited law school before taking the bar exam. I covered the history of bar association cartelization in [this Cato Policy Analysis](#) back in 1998.

The focus on the number of law [schools](#) is, I think, misplaced. The ABA has accredited a few new ones in recent years, such as Elon University's here in NC. Simply because you graduate from law school, however, does not make you a member of the legal profession. You've got to pass the state bar exam, and the level of difficulty and cut scores can be adjusted. Prof. Charles Rounds, who recently [wrote](#) about the deterioration of law-school education for the Pope Center, tells me that in Massachusetts at least, the bar exam has been eased a lot in recent years.

I'm not saying that bar exams should be very hard or very easy. I think they ought to be optional and the legal profession deregulated. State licensing does not protect consumers against bad lawyering, but it distorts the legal-services market: We may have too many lawyers, but for poorer people with low-dollar legal problems, there are not enough practitioners. The legal profession acknowledges that, but insists that the solution is government-subsidized legal help through the [Legal Services Corporation](#). A free market would be far preferable.

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