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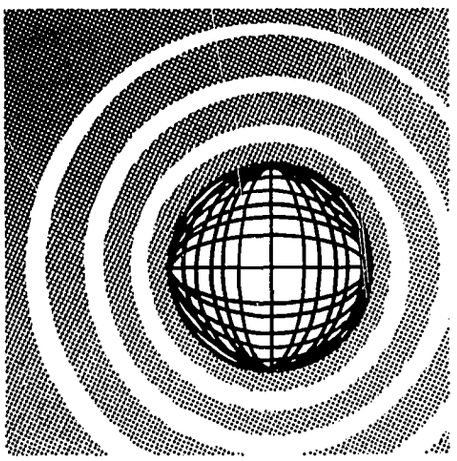
ABSTRACT

External degree programs can benefit American higher education, but they also promote the danger of fraudulent degree mills. This document offers a discussion of this potential problem that includes: (1) an historical review of degree mill activities; (2) the role of the federal government in this problem; (3) the role of the courts; (4) state statutory provisions; and (5) state agency-administrative actions. State action to remedy the problem of degree mill activity must come through stronger state laws and budgetary support for administering agencies. In addition, the Council of State Governments should work to promote uniform state legislation and a federal agency is needed to control the international dimensions of the degree mill problem. (Author/CS)

DANGER: WILL EXTERNAL DEGREES REINCARNATE BOGUS DEGREE MILLS?

A CHALLENGE TO STATE AND NATIONAL AGENCIES

By Louis V. Bender
and James A. Davis



DEPARTMENT OF HIGHER EDUCATION
FLORIDA STATE UNIVERSITY

DANGER: WILL EXTERNAL DEGREES REINCARNATE BOGUS DEGREE MILLS? A Challenge to State and National Agencies

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PREFACE

The popular adage that a thin line separates pain from pleasure or good from bad is reflected in the monograph which follows. There is popular support for reform in American education even though it is acknowledged that the system has played a significant part in the level of achievement our country represents. It is generally agreed that educational reform is necessary to meet present and future needs. At the same time, it is acknowledged that much remains to be studied before we know precisely which changes should be wrought and which elements should be retained.

External degree programs have been advocated by legislators and educational leaders as a way to recognize the achievements of worthy individuals who have attained the equivalent knowledge of those who attend and graduate from degree granting institutions, but who for one reason or another are not resident students and thus do not qualify for degrees. Debates on the dangers and virtues of this form of non-traditional study have occurred during the past year or so. Usually, however, as observed in this monograph, the issues have been concerned with format rather than identification of the differences between credentialism and educational process, which are very different issues.

The diverse nature of American education has been one of its greatest strengths as well as a source of weakness as evidenced by the degree mill problem. Diversity strengthens a democratic and heterogenous society but the lack of uniformity of laws or standards has enabled fraudulent degree mills to exist as will be described.

This monograph has been produced as part of the activities of the Florida State University/University of Florida Center for State and Regional Leadership supported in part by a grant from the W. K. Kellogg Foundation. The Center is committed to the preservice and inservice training of professionals who serve in state or regional agencies. It is also committed to the study of issues and problems which confront these agencies. The topic of this monograph directly affects several state agencies responsible for two-year postsecondary institutions including community junior colleges.

Acknowledgements include the assistance and support of Dr. C. Wayne Freeberg, Executive Director of the Florida State Board of Independent Colleges and Universities, and the suggestions of Dr. W. Hugh Stickler, Professor of Higher Education at Florida State University, who has had a long interest in degree mills and their history.

SECTION I

INTRODUCTION

'NO-WALLS' COLLEGE PROMOTES SEXUAL TOUR OF EUROPE

The banner headline above appeared in the May 28, 1972, edition of the Palm Beach Post-Times newspaper. In the article, Post staff writer Ben Taylor described a three week European tour advertised in a brochure of Thomas A. Edison College of Palm Beach. The college promised the tour to be "mentally and sexually stimulating" and to be recognized by three semester hours of credit. The article reported the president of the college "described his institution as 'a new type of college which has no walls', where qualified people can receive advanced degrees after a short period of independent study."[1]

This rather interesting use of the words "no walls" could easily be interpreted by the unwary reader as a facsimile of the "university - without - walls" concept much publicized during recent years. It and the external degree program concept have been identified as modes of non-traditional study which are hoped to contribute to contemporary educational reform. To the more cautious reader of the article, a danger flag might appear as the potential for abuses of the much needed reform efforts can be readily seen.

As observed by Samuel B. Gould, Chairman of the Commission on Non-traditional Study, "There is the sudden turning of attention to the so-called external degree, with its popular appeal and its latent dangers."[2]

American higher education has served our country well, in spite of its admitted shortcomings. Some of its problems have been caused from within while others have come from without. Society has contributed to the complex problem of credentialism by perpetuating a system of status symbols and rewards for advanced degrees in lieu of demonstrated mastery or competency outcomes of the educational process. Degrees, rather than proficiency evaluations, have become the basis for career entry in many fields along with the related prestige and status from society in general. A person is given recognition for the degree he or she holds, in many cases, rather than for what that person actually knows or can do. One person who completes the four-year baccalaureate degree program with the bare minimum of course work and low grades is given employment and status preference over the person who has mastered more content with higher grades but who did not complete the four-year program, perhaps for reasons beyond that individual's control. Many women have been denied a degree because they did not finish coursework at a given institution due to relocation of the family, the birth of a child, or other reasons. Some, including many military personnel,

have accumulated sufficient numbers of credits to meet the total number required for a degree but at different institutions, hence no one institution will certify their achievement by awarding a degree.

Credentialism represents one of the shortcomings of the American system of higher education. While diversity and pluralism are seen as important benefits of the absence of a national education ministry or even of uniform state provisions of educational coordination, the very nature of institutional rather than governmental certification and credentialism creates a dilemma in evaluation and standard uniformity.

The range in type and quality of education represented by independent, public and proprietary institutions represents a continuum seldom understood. (See Figure I) At one end are those institutions whose programs represent unquestionably high levels of excellence and respectability. At the other extreme end are those blatantly fraudulent institutions which sell a degree to unwary or unscrupulous individuals with minimum, if any, educational experience. Between these poles are different institutions at various levels of quality and integrity from very good, to mediocre, to poor levels.

FIGURE I

CONTINUUM OF INSTITUTIONAL QUALITY

Institutions (Independent, Public, Proprietary)

X X

Excellent Program Faculty Resources	Very Good Program Overall	Average Program Generally	Poor Program Limited Resources	Questionable Program: Low Quality - Little Integrity	Blatant Sale of Degree Without Program

As one respondent noted in replying to a study of degree mills by the American Council on Education in 1958, "... I do not know where one should draw the line between an absolute sale of a diploma (degree) and the awarding of a diploma as the result of the completion of a ridiculously inadequate course of study."[3]

Illich advocates the non-traditional forms of study arguing that genuine education is a process which is continual and self-directed whereas our institutionalization of education has made credits, grades and degrees an undesirable substitute. He would either free the institution of certification and classification or free the student of the educational institution.[4] Frank Newman would separate credentialing and examining from the institutions by creating new "Regional Examining Universities" for that purpose which would free

existing institutions to focus upon the educational process.[5]

Gould, Bailey, Freedman and Newman, while defending the external degree program as an important innovation in American higher education, have warned of inherent dangers in wholesale adoption by institutions. Their warnings focus on possible deterioration of standards, proliferation and overproduction of degrees, miscalculation of imagined economies and loss of humanization of education.[6] None of these scholars, however, have addressed the issue of the possible resurgence of fraudulent degree mills operating under the guise of newer innovative non-traditional institutions which credential rather than educate.

As the subsequent historical review will show, degree mills have demonstrated an ebb and flow pattern of existence as societal and economic conditions have changed and as public attention and response have pressed for reform of their abuses. Unfortunately, neither federal or state statutes have closed the door to their existence nor have institutions or voluntary organizations moved effectively to check their cancerous growth. They have an uncanny ability to vanish when under attack in one state, only to reappear suddenly in another state ready to resume business. The lack of effective and uniform laws among the fifty states and the non-jurisdictional posture of our federal government have made this phenomenon possible. Yet the cure of the immediate problem

as well as the prevention of future abuses is available if state and national agencies are given the authority and charge to eradicate this extreme on the educational continuum. This research has led the writers to conclude that degree mills represent a significant danger which requires prompt action. This paper has been deliberately focused upon the extreme end of the continuum and will not address itself to the frustrating problem of marginal but legitimate institutions since many scholars and critics have given ample testimony and recommendations for remedy.

HISTORICAL REVIEW OF DEGREE MILL ACTIVITIES

As early as 1880, John Norris, editor of the Philadelphia Record newspaper, exposed a ring of fraudulent activity related to the sale of bogus degrees in medicine. For $455, he purchased a degree without showing evidence of any knowledge of medicine or of having been inside a medical school. The resulting exposé aided in the conviction of the proprietors.[7]

The first opposition of voluntary organizations to diploma mill activity appeared in 1896, from the North Central Association of Colleges and Secondary Schools. A special committee examined state laws concerning degree-granting powers and strongly condemned their laxity of control.[8] The following year the National Education Association adopted a resolution which recommended supervision over degree-granting institutions and the development of a "properly constituted tribunal" to set minimum standards of requirements for admission and graduation.[9]

Following World War I, the young American Council on Education exercised leadership in combating fraud in education. The voluntary body played a significant role in exposing the operation of Oriental University which led to a government investigation and prosecution.[10] The American Medical Association also became actively involved in supervising degree programs

during the 1920's. This professional body cooperated in exposing Oriental University and assisted in the Copeland Congressional Investigation in 1924. The general public and medical doctors had become alarmed by the sudden publicity which revealed the shocking contents of Abraham Flexnor's 1911 study of medical schools. The AMA developed its own Bureau of Investigation and effectively used the "tool of publicity" to expose the activities of fraudulent medical practitioners.[11]

In 1924, the Federal Trade Commission, Post Office and individual educators joined forces to expose the lucrative operation of Oriental University in Washington, D. C. The organization had established a network of agents who shared the profits of a world-wide trade. The University had a legal charter in Virginia dated 1904 and had established legal rights in the District of Columbia through a name change of the defunct Eastern University which already held a charter. The latitude of operation allowed by the incorporation process permitted correspondence and personal attendance instruction in the "usual departments of arts and science, graduate school, engineering, medicine, law, pharmacy, dentistry, theology, osteopathy, osteotherapy, scientific and medical massage, chiropractic, electrotherapeutics, chiropody and psychology."[12] Through its literature,

Oriental University advertised resident courses but offered only correspondence ones; publicized a faculty list but used no faculty; held proposed contracts for professional courses but honored none; and fraudulently utilized the mails to deceive foreign and American students. During prosecution procedures, the operation continued to function for another year in a neighboring state under a different name, "Potomac University". The courts found "Bishop" Holler, the leader, guilty and sentenced him to jail for mail fraud. Only after he was in prison did his organization disintegrate and declare bankruptcy.

The actions of the voluntary organizations combined with the effects of the depression brought an ebbtide to degree mills activity until World War II. Then the waters were to rise in cadence with the provisions for and popularity of the G.I. Bill which subsidized all forms of education and training of veterans. In 1949, the NEA's Association for Higher Education appointed a Committee on Fraudulent Schools and Colleges. It called nation-wide attention to the unethical educational activities allowed in several states which had no laws governing degree-granting powers of institutions. In a constructive fashion, the NEA committee developed a "model state law", which immediately was dubbed "very strict" and thus was poorly received. The committee's recommendations were strong but showed considerable insight into the nature

and extent of the problem. They encouraged states to adopt stronger laws governing licenses and charters to non-public institutions; to prosecute fraudulent operations; to use "complaints" to secure "desist" injunctions by the Federal Trade Commission; to encourage honesty in advertising; to encourage checks to insure persons who claimed advanced degrees held them from reputable institutions; and to encourage more conviction on the part of the citizenry that it is dishonest and often illegal to use false certification and degrees. (The final "model law" is reproduced in Appendix B.)

The problems associated with degree mills had increased to such intensity by 1958 that one leader in the Western College Association commented: "I have accummulated quite a list of institutions which I believe are considerably less than standard, but I have no way of knowing for certain to what extent they are guilty of actually selling degrees."[13] The New York Times editor claimed that more than a thousand unethical institutions existed, of which at least one hundred were "out-and-out diploma mills".[14] The American Council on Education (ACE) indicated that such estimates were modest in consideration of reports it had received from California, Maryland, Florida, Illinois and Indiana. An association reviewed by the ACE claimed to have in its membership unrecognized, but legal, institutions with 750,000 students and an

annual business of $75,000,000.[15]

In the 1950's, the price of counterfeit degrees varied as much as did the requirements for their completion. A citizen of Hawaii hestitantly paid $1000 for a Ph.D., but was pleasantly surprised when the school included a bachelors degree "he didn't expect". Also, a Texan reported that he received free a bachelors degree in order to encourage his registration for the doctorate.[16]

The fraud assumes a rather humorous-unethical nature in some cases where ignorant "quick fame" is the goal, but in other cases the danger of the "privilege to practice" that accompanies some degrees causes great concern. One of the packaged lessons from the College of Divine Methaphysics in Indianapolis stated: "There is no reality in tumor or cancer. People with these diseases are in a state of hypnosis. The practitioner must use skill and strategy in aiding the patient to be dehypnotized." Mid-Western University in St. Louis encouraged its students to violate state regulations on spiritual healing since "you are ordained to practice under the license issued by St. Luke the Physician".[17]

The victims of such fraud are often low-income Americans who lose money, their time and hopes for quick riches and fame. Good Housekeeping magazine reported that women were

especially susceptible to the multi-million-dollar fraud business. They expect easy access to teaching, social work, or nursing careers through the cheap-quick licenses.[18] The National League for Nursing reported in 1961, that correspondence courses did not qualify women for the nursing license and encouraged all necessary action to combat false claims by diploma mills.

The public is often victimized by individuals who would use the fraudulent degrees as credentials of qualification or certification for professional services other than medicine. The Maryland Department of Education investigated a "doctor of psychology" who enjoyed a handsome business through his advertising as an expert on aptitude testing and vocational guidance. They discovered his degree came from a diploma mill in Missouri where one could buy a "doctor of philosophy" for a mere $250.[19]

During the fall of 1965, a nominee for a federal judgeship admitted to a Senate sub-committee that his legal education was represented by a diploma earned through a "quickie cram course" of three months. The fact alone should have created indignation on the part of responsible parties. However, numerous of his peers saw little or nothing wrong with this type of professional education. Only through threats of publication and political pressure was the individual's name

withdrawn from official consideration.[20]

In the same year an undergraduate student of mature years obtained forged documents to apply for a position as a physician at one of the celebrated medical schools on the West Coast. Failure to properly review and authenticate his credentials resulted in his being able to teach anatomy until his incompetency led to an investigation.[21]

Early in 1969, the media publicized that at least twelve Pennsylvania public school administrators, including five superintendents, held degrees from a diploma mill, Ohio Christian College. One transcript showed that a superintendent had received his Doctor of Philosophy degree in only twenty-two days. Supposedly, he completed twelve courses and a thesis in that period. As a result of the publicity, two of the men lost their positions, and the others were censured by their school boards.[22]

Another graduate of Ohio Christian College was Donald Estes (alias Brandon the Magician) who received his Ph.D. in psychology. He opened the Harris County Reconciliation Clinic in Houston and offered his services as a "psychoanalyst". Each client paid $15-40 an hour for services. His advice was found in a single volume, Sex Can Be An Art, an illuminated book which included chapters on "Men Who Jiggle and Women Who Don't"

and "Group Sex Orgies and Wife Swapping". He especially catered to divorcees whom he encouraged to dance nude before other patients in order to overcome all "hangups".[23]

Authorities in Texas prosecuted Estes for practicing medicine without a license and elicited this reaction from the degree mill graduate, "I've had 100 or 150 clients and there have been only three failures: the girl who brought charges, another patient who had to go to the insane asylum and one who died."[24]

Included in the list of degree mills released in 1958 by Secretary of HEW, Arthur S. Fleming, were numerous religious institutions. A Christian Century editor examined literature from one such college and reported that graduates of the school numbered 2,000 men and women from 28 religious denominations. The list included presidents, deans, faculty members, school superintendents, chaplains in the Army, Navy and Air Force, pastors, missionaries and business executives. The faculty (resident and extension) totaled 51 persons of which 45 had doctorates from the same school they served. However, the literature did note that all faculty claimed to have a masters degree from an accredited institution and to believe in "evangelical Christianity".[25]

The boldly stated institutional purpose was "to provide courses for busy pastors and Christian leaders through the Extra-Mural method... The only residence work required was a '12 day summer session' held in a hotel in the students hometown." Students select their own textbooks and count experiences in one's past intellectual growth as credits. This is possible since "education is not necessarily curriculum but personality development". The school listed 50 Ph.D. holders for the period 1927-1956, and also had granted Th.D., D.D., S.T.D., D.S.L., D.R.E., D.C.E., Ed.D., Ped.D., LL.D., D.C.L., Mus.D., D.J., and H.H.D.[26]

In 1970, the American Association of Theological Schools began to consider seriously granting the Doctor of Divinity for seminary work rather than the normal second bachelors degree for ministers. The Christian Century carried a critical note that recommended to those ministers desiring to be "Reverend Doctor" to write to Missionaries of the New Truth in Evanston, Indiana, 60204, and send their $20 for the paper diploma. The debate brought about new efforts to combat fraudulent religious institutions.[27]

The West Virginia Board of Education in 1965 declared that the Central Christian College in Huntington was "nothing more than a diploma mill". They asked the Attorney General to initiate legal charges to prevent Rev. A. O. Langdon "from

selling worthless degrees and diplomas". The college's mail order curriculum included subjects on auditory analgesia, psychosomatic music, electronic psychology and drugless healing. While serving as President, Langdon also doubled as the faculty and "handed out as many honorary doctorates in the last two years (1964-65) as did Harvard's Nathan Pusey". The self-proclaimed educator declared that if one believes himself qualified for a degree, all that is necessary to obtain it is to send $49.23 to cover all costs, including mailing.[28]

The terminology "America's Educational Underworld" has meaning when one examines the connection of Rev. Langdon's operation to the Florida empire of Rev. Dr. Herman Keck, International General Superintendent for the Calvary Grace Christian Church of Faith, Inc. Bill Bruns, a reporter for Life magazine, infiltrated the organization and in 1969, wrote a revealing story of the religious education diploma mills. He began the study with a Doctor of Divinity degree costing $10.00 from The Missionaries of the New Truth in Chicago. It included an offer to "join the faith" by finding new members for which 25 converts would elevate him to monsignor and 50 applicants which would make him bishop. Bruns sarcastically conjectured that 500 new followers would probably mean "an invitation to the Sermon on the Mount".[29]

His next action was to respond to literature from the Rev. Dr. Herman Keck in Fort Lauderdale, Florida. Calvary Grace Christian Church literature states that Keck "withdrew from his ecclesiastical connections in 1955, to become an independent evangelist". Actually, those years correspond to his five-year prison term in Sing Sing. This offers explanation of his kinship with the large number of inmates he ordained while they remained in prison.[30]

Keck claimed complete legality for his operation and believed it so legitimate that he merely "snapped his fingers", paid the $100 charter fee and created Faith Bible College. His first act was to grant himself a Bachelor of Arts and a Bachelor of Divinity degree. His more famous student was A. O. Langdon, who upon graduation, quickly founded Central Christian College in West Virginia. He placed it at the front of the list of fraudulent but "innovative" colleges by declaring that students should "eliminate all nonessentials" (English, math, history and science) and quickly specialize (choose degrees) in a few weeks. He proclaimed that he was one of the few people really familiar with modern trends in education. He was slow to recognize one trend -- increased state controls in West Virginia which forced him to move to Ohio where the laws were less restrictive. The operation remained the same, but the new name became Ohio Christian College.[31]

Bruns corresponded with Langdon at the Ohio address concerning a masters degree in clinical psychology. The procedure for earning the degree consisted of a one-page application, $50, and completion of twelve courses that required reading a paperback book, Philosophy of Religion, and outlining it on 8 x 11 paper. The diploma followed in a few weeks as soon as the final $200 payment was received. A brief check in Langdon's background for such a prestigious operation reveals imprisonment for desertion in the Army, auto theft and forgery.

After moving into Columbus, Ohio, Langdon's operations survived investigations by the Attorney General, Better Business Bureau, State Department of Education, Post Office, Federal Trade Commission and the Internal Revenue Service. A 1969 law in Ohio created a controlling board for private colleges but reporters expressed doubt that Langdon's activity could be checked on legal grounds of separation of church and state. However, recent court decisions concerning the authority of such governing boards have been in favor of the state.[32]

Keck, who was Langdon's mentor in the degree mill business, has also begun to feel the pressures of state control in Florida. He changed the names of some of his colleges to Ecumenical Churches of Faith, Florida State Christian University

and Florida State Christian College. The Louisville Courier-Journal added to Keck's problems by exposing an attempt to award Kentucky's Governor Louie B. Nunn an honorary doctorate in Psychology from Florida State Christian College. Two graduates of the college, D. A. Hancock and T. Edward Beckham, actually awarded the degree. Later when the Governor's office was informed by the newspaper that the school was a diploma mill, the Governor's press secretary admitted embarrassment. The news release and diploma gave an incorrect first name for the Governor, but nonetheless, it was received and publicized. The Florida Senate Committee on Commerce and Consumer Protection, the Fort Lauderdale News and the Broward County Medical Association confirmed the questionable operation which was legally incorporated in Florida until 1971. The Governor's office said they planned to return the degree, and the publicity, although embarrassing to Florida legislators, aided in the development of stricter controls.[33]

The international dimensions of the degree mill controversy received widespread attention in an ACE study in 1958. The international implications of the problem were confirmed when India published lists of unrecognized institutions and refused to accept their degrees. Using a different approach, the Malayan government composed a list of thirty-three U.S. colleges that were acceptable for degree credit in their country. Surprisingly, the list unintentionally excluded some

prestigious institutions such as the University of Illinois and University of Michigan which had previous association with that government.

The German government attached an officer to the Central Office for Foreign Education to serve as a "disaccreditor". He was able to trace down 74 "doctor factories" which sold "black market degrees". His office received as many as 6,000 complaints and inquiries a year about American institutions. The matter became so serious that the German Lustige Blaetter published in Berlin a cartoon which showed a penny being inserted in a slot machine with the inscription, "Put your dollar in the slot and pull out an American doctor diploma."[34]

The Christian Century reported a case of an Asian church leader who had publicly announced that he was going to America to obtain his graduate degree earned through correspondence and a $100 fee. His innocent attitude and the lax laws in the United States caused considerable embarrassment for all concerned when he learned of the institution's fraudulent nature.[35] A Saudi Arabian victim of a state-chartered diploma mill requested the American Consul to "have the U.S. government aid him in full restitution of damages". He was informed very diplomatically that the U.S. government had exhausted its legal channels in correcting the matter and that he should take up the matter of a refund directly with the school.[36]

The credibility and prestige of American education and degrees have suffered considerable harm abroad, especially in the under-developed countries. The unique educational climate, diversity, lack of a central ministry and expansion of learning opportunities in this country have nurtured an environment for degree mills. Yet, the country is not void of efforts to control the problem.

SECTION II

FEDERAL ROLE IN CONTROL

The U.S. Office of Education would appear to be the likely agency to exert major responsibility for the control of deceptive educational practices in this country. However, no federal statute exists specifically relating to control and supervision of public or private education in the United States. The Constitution delegated this authority to the states and thereby removed the possibility of a central ministry of education.

The USOE has assumed a consultative, advisory and research role in education. Each year the office publishes the Education Directory, Part 3: Higher Education, which includes all institutions recognized by nationally approved accrediting bodies and those colleges that can prove transferable credits are accepted at three other accredited institutions. In the Taft and Wilson administrations the office attempted to publish an approved list, based on acceptance of institutional credits by leading graduate schools. The project proved so controversial that it was dropped. The office does cooperate with the Department of State to "certify, authenticate and legalize" the academic credentials earned in the United States by all foreign students and those earned by

Americans in colleges abroad. The USOE estimated in 1959, that it could process papers on all 40,000 foreign students who earned some 10,000 degrees each year, but no statutory power existed to enforce compliance.[37]

The U.S. State Department also must provide "clearing-house" services and explain to foreign governments the peculiar arrangement of education control in this country. In 1958, Secretary of State John Foster Dulles initiated a project to collect information from 234 American posts concerning complaints and damaging publicity for the U.S. because of degree mill activity. However, under present conditions, the only list of institutions which can be used legally by the diplomatic posts is the Education Directory. Although the problem actually is outside the legal jurisdiction of the Department of State, it can coordinate communications between foreign ministries of education and American officials.

The U.S. Immigration and Naturalization Service of the Department of Justice has jurisdiction over those institutions in the United States that offer residential training to foreigners who enter the country under student visas. The statute states that the student must attend a recognized institution approved by the Attorney General after consultation with the USOE. The criteria for approval include normal accredita-

tion, state approval for GI Bill funds and the three-institution-transfer credit clause. In spite of these controls, one Mid-Western University used a charter obtained under a different name and accepted 13 Middle Eastern and African students. When the operation became public, the school's president filed bankruptcy and left the students stranded.[38] The major problem associated with this federal office is the freedom an approved school has to change policies or facilities without re-approval unless a complaint is registered against it.

Numerous public laws exist to protect the rights of veterans, and through their enforcement, valuable experience has been gained in combating unethical schools and inadequate courses of study. Public Law 346 (GI Bill of Rights) placed complete responsibility on the states for approval of qualified schools to participate in the program. However, the maze of conflicting guidelines developed in the states caused Public Law 550 to be passed, which amended the previous statute to create definite standards for state approval of courses -- not schools.[39] (See Appendix for these strict, detailed criteria.) In spite of the strict guidelines established to govern the use of veterans funds, Herbert Summers, chief of the Bureau of Approval for the Department of Education in California, reported that he must work diligently to maintain honesty in operations of the 1,400 private trade and techni-

cal schools that receive some $34 million a month in federal funds. He mentioned a helicopter school that owned no helicopters; a business school that offered female students opportunities to pay tuition through prostitution; and a one man show of an ex-psychotic marine who attempted to organize a National Security College for spies and secret agents.[40] This relationship between the federal government and states indicates that working relationship can be developed between the two political levels.

For over a hundred years the United States Post Office has exercised authority to prosecute mail fraud. A public complaint must be registered in order for the Department to examine charges of fraudulent activity. The postal service may refuse to deliver mail or if charges are severe enough, refer the case to the Justice Department. If a case is prosecuted in federal district courts, the guilty offender can be fined $1000 and sentenced to five years in jail. However, an easy way to thwart effective control is to simply change trade names and the service must initiate a whole new case study. The case of the Oriental University (described earlier) exemplifies the type of action possible through the Post Office. Its jurisdiction comes from Title 18, United States Code, Section 1341, and requires that "fraud, and intent to defraud through continuous and flagrant abuse"

be proven. The difficulty in making this law apply to diploma mills is easily recognized: students are usually co-conspirators, the school must actually exist and often the "mills" do grant degrees as advertised.

The Federal Trade Commission has more authority in this area than any other federal agency. The F.T.C. enforces "trade practice rules", but has no statutory authority to deal directly with the degree mills. Perhaps the greatest limitation placed on the agency's attempts to regulate interstate activity of the fraudulent schools is the lack of enforceable minimum standards in education. The Commission has operated since 1914, in attempting to prohibit "unfair methods of competition in commerce and advertising". In 1936, the F.T.C. created rules to govern private home study schools in such activities as blind advertising, false diplomas, misrepresentation of employment and false advertising.[41]

The procedure for using the F.T.C. in a case is to lodge a confidential complaint and if it involves violation of a law, the matter becomes a government proceeding. After investigation the Commission can utilize informal or formal legal channels to halt, but not destroy completely, the operations of a fraudulent institution. In a search of the records of the F.T.C. concerning investigations of educational institutions between 1915-1959, 450 cases were successfully completed at

even monitor member or non-member institutions. The problem is too complex and the nature of accreditation is such that limited effectiveness is the most to be expected.

The voluntary regional accrediting agencies have not shown great concern with the educational abuses of degree mills. The major reason for this posture has been their choice not to enter the field of accrediting proprietary institutions. Since most fraudulent institutions are in business for profit, regional accrediting agencies have avoided a complex problem by concentrating on non-profit educational endeavors. Several writers argue that accreditation could do little to affect the demise of degree mill operation anyway since they do not police their constituency.

In the non-profit sector where individuals have organized colleges for tax exemption while paying themselves high salaries, or other personal favors, the scrutiny by accrediting bodies could serve as a check by disclosure of irregularities. However, the powers of the regional bodies are limited to review, publicity and failure to accredit. Since a large number of the clientele of degree mills are likely to exhibit less than ethical behavior, they are willing to purchase degrees whether or not the institution has accreditation.

The most recent trick of the educational underground has been to organize accrediting bodies that sound like the legitimate "alphabet soup" of SACS, WCA, NCACS and NATTS in order to give an aura of credibility. The U.S. Office of Education has attempted to check this activity by publishing a list of recognized accrediting bodies. However, the national office has gone one step beyond the regional voluntary associations by recognizing accrediting bodies for proprietary institutions. Perhaps strong voluntary agencies in this sector could reduce significantly the abuses related to degree selling. The National Home Study Council, National League for Nursing, American Medical Association, American Dental Association and the National Association of Trade and Technical Schools exemplify the type of agencies already active in the field.

Legitimate profit-making proprietary institutions have the most to lose by continuation of fraudulent practices of the degree mills. These institutions are stigmatized by the abuses and have suffered criticism as nonentities in the eyes of many other educators. Yet, these legitimate institutions have probably done more to eradicate degree mills and been more vigilant than the non-profit public and private sectors. They have formed voluntary accrediting organizations of their own which are frequently quite aggressive in pro-

tecting the public welfare.

The National Council on Accreditation and the Federation of Regional Accrediting Commissions of Higher Education have moved to form an umbrella organization which will hopefully give national direction to voluntary accrediting associations. Such action should be a significant improvement as the union of the accrediting bodies concerned with the separate areas of institutional and program approval aid in the effort to eliminate degree mills.

In many states, the profit-making proprietary sector has championed legislation to control degree mills including the creation of state monitoring and/or approving agencies. Their lobbying power is well illustrated in the actions taken in Pennsylvania to win degree-granting authority and program-approval regulations which would flaunt degree mill efforts.[43]

SECTION III

AUTHORITY FOR STATE JURISDICTION

Since 1900, the courts have clarified several issues relating to state control of private education corporations. Yet, many legal problems still demand adjudication in order to protect the constitutional private rights in education while defending the public's interest. In the past, the "police powers" of the states have been exercised extensively in protecting citizens through building codes, health regulations and motor vehicle laws. Generally, state governments have used their police powers modestly in relation to education. Nonetheless, the reason for the restrained use of such powers has not been because of doubt as to legal sanction.

The first significant statement of support for the state's exercise of police power over education came in 1819 with the Trustees of Dartmouth vs Woodward opinion prepared by Chief Justice John Marshall. He commented, "That education is an object of national concern, and a proper object of legislation, all admit."[44] However, in the same ruling, the Chief Justice upheld the "inviolability" of private educational charters granted by states to institutions

such as Dartmouth.

The concept of police powers held by a state in relation to education was elaborated upon by the court in In Re Russo (1958).[45] The court held that an exercise of police power involves public health, safety, welfare, or morals and legislation under such powers, by its very nature, constitutes a limitation on the freedom of the individual for the benefit of society. The authority of the state to enact legislation under its police powers is limited by the constitutional requirement of due process of law.

In considering legislation enacted under a state's police powers, the courts cannot rule on the "wisdom of the particular statute" or its suitability or whether another method would have been more satisfactory to accomplish a desired purpose. The judicial role is one of determining whether a particular regulation is "reasonable, impartial and within the limits of the constitution".[46] Subject to the above mentioned restrictions, the legislature, rather than the courts, should handle all political questions related to "mischief and remedy" im matters of state policy.

In attempting to maintain a delicate balance between individual rights and public need, the courts have acted to determine whether the purpose of legislation pursuant to police power of the state bears a "reasonable and sub-

stantial" relation to public welfare. The following rules have evolved from the courts as guides in judicial determination of such conflicts: 1. The purpose of the statute must be within the scope of police powers; 2. The act must be reasonably designed to accomplish the purpose; 3. The act must not be arbitrary, discriminatory, oppressive or otherwise unreasonable.[47]

Courts are usually careful in any action that would appear to be a clear usurpation of legislative power. Every "reasonable presumption is indulged in favor of a law's constitutionality" under the police power concept.[48] The presumption of constitutionality in legislation involving a state's police power has led to a well established principle that in the interest of public welfare, business, trades and occupations may be regulated so as to prevent extortion, fraud, restraint and monopolistic control of their products or prices.[49]

Based on the above arguments the courts have upheld the constitutionality of state regulatory boards for professional and other educational endeavors. In Shelton College vs State Board of Education (N.J.), the Superior Court denied relief to Carl MacIntyre's fundamentalist school and upheld the State Board of Education's control over the power to grant baccalaureate degrees in the state.[50] In In Re Russo,

the State Board of Real Estate Examiners was allowed to require completion of prescribed courses of study at approved or accredited institutions of higher education.[51] In Paterson vs University of the State of New York, landscape architecture was upheld as a profession that required regulation in terms of educational preparation because of its relation to public health and welfare.[52] In Elliot vs University of Illinois, the courts ruled that public accountants were subject to controls and qualifications determined by the state university which was acting as an agent of the state with powers properly delegated to it by the legislature.[53]

The authority of the state to regulate all education endeavors has been well established by the courts. The police powers concept has been applied successfully to professional license procedures, degree-granting authority, educational standards and efforts to eliminate fraud.

SECTION IV

STATE STATUTORY PROVISIONS

Historically, the responsibility for legal control of education lies within the authority of each state. The range of controls exercised over private educational endeavors varies from a minimum acquisition of a charter to maximum individual program approval by the state for every institution. Through legislative mandates considerable progress has been made to control educational fraud and flagrant abuses to degree-granting powers in thirty-four states. Several states have been drawn into the regulatory arena by necessity, but others have shown foresight in setting up machinery to deal with the problem before it reached a serious condition.

The tradition of granting charters or incorporation rights to educational institutions came directly from colonial legislatures. The powers granted to universities and colleges, similar to other private corporations, have been considered contractual and thereby entitled to protection by the federal Constitution. States are prohibited from enacting laws that impair the obligation of contract.[54]

After Daniel Webster successfully argued the case of Dartmouth College vs Woodward before the Supreme Court of Chief Justice John Marshall, many of the early charters were considered "inviolable". Maryland, Massachusetts and Pennsylvania granted charters in this fashion and have exempted those chartered institutions from control even though the states carefully regulate the degree-granting powers of all other educational institutions. Fortunately, the colleges and universities in this earlier category are the more prestigious independent institutions and are not of particular concern to regulatory boards assigned the task of eliminating degree mill activity in those states.

During the last century, charters granted to educational institutions have contained clauses which make them amendable and often subject to annual review. As a general rule, the terms of the contract included in the original act of incorporation of a college or university may be altered, amended or modified by the assent of the same corporation even though such a reservation or clause does not appear in the document. These amending procedures held by the state and the corporation make charters more flexible and responsive to the public interest.[55]

In 1951, a National Education Association study revealed that fifteen states required no charter or license in

order to establish a non-profit college. It also reported that eighteen states required no charter or license to establish new proprietary colleges. However, since that time, California, Nevada,and several other states have enacted comprehensive statutes governing the operation and degree-granting powers of education institutions. A thorough review of annotated statutes in each of the fifty states revealed at least incorporation by charter (with provisions for annual review in about one-half of the states) is required in all fifty states. (See Appendix A) The process, in some cases such as Alabama, Mississippi, Indiana, Missouri, Kentucky, New Hampshire, Tennessee and Colorado, requires only registration with the proper department (Education, Commerce or State) and payment of a $25-$100 fee.[56]

An example of the liberal incorporation policy is observed in Colorado's statute which reads:

> Any corporation existing for educational purposes under the laws of the State with grade of college or university shall have the authority by its directors and board of trustees or such person or persons as may be designated by its constitution and bylaws, to confer such degrees and grant diplomas and other marks of distinction and are usually conferred and granted by other universities and colleges of like grade.[57]

Such lax incorporation laws have resulted in abuses to tax exempt status of educational institutions, debasement of academic standards and "out-right" fraud through the operation of degree mills. In states where charters of colleges and universities are not reviewed separately by examining boards, from all other corporations, degree mills flagrantly violate ethical and general educational practice by selling academic and professional credentials. Most of the state regulatory boards in existence were created in a reactive fashion rather than with foresight. The major problems that have resulted from the diverse grants of power to the boards are an absence of enforceable minimum educational standards and the lack of any significant uniformity between state statutes which could help prevent interstate traffic in degree mill activity.

Legislatures that have shown foresight in the formulation of laws and agencies to attack the degree mill problem are in California, Nevada, Nebraska, Pennsylvania, New York, Maryland and belatedly, Florida. In the latter case, the legislature was able to borrow considerably from other states' experiences in order to formulate a statute which would allow an attack on the glaring degree mill problems existing in Florida.

Several features of these regulatory statutes have given agencies considerable power. Examples are the use of annual review of license or charter; establishment of minimum standards on faculty, facilities, finance and library; required written policy on general operating procedures and curriculum; on-campus visits by evaluation teams; use of the legal arm of the state to prosecute violators; and power to gain injunctions and revoke licenses through due process proceedings. When these features are compared to the 1953 Model Bill suggested by the NEA Committee on Fraudulent Schools and Colleges, which was then criticized as "too restraining" on private education, the statutes delegate even broader powers to their respective regulatory boards.

In the California statute, the legislature attempted to reflect a positive image of protecting legitimate private education rather than a negative one of restraining their operation. In the opening clause of the statute, the legislative intent clearly states that privately supported education is encouraged. In fact, it is recognized as a "significant contribution to the preservation of individual liberties".[58] The state desired to create an academic atmosphere where degrees awarded by private and public institutions would have integrity and thereby offer students equal opportunity. The

State Board of Education, State Superintendent of Public Instruction and the Attorney General were empowered to license, review and prosecute violators of the new statute. The statute reads:

> No person, firm, association, partnership, or corporation may issue, confer, or award any diploma bearing the words diploma, certificate, transcript, document or other writing, other than the awarding of a 'degree title', representing that any person has completed any course of study beyond high school unless such person, firm, association, partnership, or corporation meets the requirements of the following subdivisions:
>
> 1. Has college or course accreditation by a body recognized by the U.S. Office of Education.
>
> 2. Has approval of the Superintendent of Public Instruction based on having met prescribed standards.
>
> 3. Has property valued by the tax appraiser at $50,000 and has been evaluated by the State Board of Education.
>
> 4. Shall be exempted if such institution is licensed as hospital, vocational training program, or teacher education center.[59]

Within a few years, California had rid the state of the more than a hundred degree mills. Yet, a Sacramento newspaper recently described numerous problems with correspondence schools and degree mills that still exist in the state.[60]

Nevada has one of the most comprehensive and detailed statutes on private education. It includes a section on private schools, colleges and universities, and one on private correspondence, business and trade schools. Separate laws also govern cosmetology, barbering and driver training programs. In Nevada all schools are required to secure a license from the State Board of Education and meet standards developed by the same agency in course offerings, facilities, financial stability, competent personnel and legitimate operating practices. Truth in advertising and solicitation is mandated by requirements that each institution makes available to the Board and the public, published literature and policy statements such as a college calendar, fee schedule, qualifications of faculty, academic requirements and identification of the governing body. The section of the statute on correspondence schools is detailed and carefully stated in order to regulate effectively all such operations in the state. Other provisions of the statutes include limitations on curriculum and operation, such as required courses on the Constitutions of Nevada and the United States; all subjects must be taught in English except for foreign languages; and a requirement for student behavior codes and fee refund schedules.[61]

Pennsylvania utilizes State Boards on Private Correspondence Schools, Private Business Schools, Trade and Technical Schools and Private Academic Schools in order to regulate degree-granting powers. Each of these agencies acts as licensing authorities and carefully controls agents, solicitation, foreign courses and standards for awarding any degree or diploma in the state. Each of these agencies can utilize the resources of the State Board of Education and the Attorney General.[62] Legislative delegation of authority to separate boards for controlling correspondence schools, trade and technical programs, and colleges and universities has proven to be a strong feature of the Commonwealth's attack on degree mill abuses.

Nebraska has a similar comprehensive statute which carefully describes the authority delegated to the State Board of Education to control private correspondence schools, business, trade, and technical programs and college level work. An additional feature of the statute is a section on denominational and parochial schools which delegates to the county superintendents authority to inspect and approve such programs. Also, the statute allows the State Board of Education to accredit for three year periods -- subject to limitations -- any school not recognized by the regional agency.[63]

Massachusetts attempts to control fraud in education by a statute prohibiting a person or institution from falsely pretending to hold or confer degrees that would reflect work completed at educational institutions. The punishment for such offenses includes one year in jail and a $1000 fine. (Nebraska has a similar statute to prosecute individuals who attempt to use false academic or professional credentials.) Massachusetts also vests the power of annual review of each institution's degree-granting authority in the Board of Higher Education. Since the legislature recognized the strength of private education in the state, exemptions from the regulation were granted to all institutions that had designated themselves as college and universities and were in operation prior to July 19, 1919.[64] Such an exemption statement can be found in numerous state statutes and is often called a "grandfather clause".

In 1959, authorities on the subject of fraud in correspondence schools concluded that controls were effective in only two states (New York and Arkansas). The major reason for the statement was that those two states were the first ones to enact laws to require a year's residence work for all correspondence schools in order to qualify for state approval. The Arkansas statute read: "No educational institution shall confer degrees upon students for mere correspondence

courses, or upon any student who has not studied in residence at said institution for one (1) scholastic year."[65]

Illinois and Massachusetts attempted to control degree-granting correspondence schools through a requirement of accreditation from the nationally recognized National Home Study Council. Pennsylvania tried to control interstate and foreign correspondence schools operating in the state but became involved in several legal entanglements within the courts. In 1972, the problems associated with correspondence schools have not been resolved, mainly because the number of states specifically empowering state agencies to deal with the situation has increased from only 14 to 23 (including the District of Columbia).[66]

State legislation specifically controlling degree-granting powers of institutions appears to be the most common element in statutes enacted to eliminate degree mill activity. In 1959, eighteen states and the District of Columbia exercised such powers. In 1972, thirty-six states have extended controls over all degree-granting institutions within their jurisdiction though numerous exemptions exist. The method of delegating such powers varies from a specific grant of authority by the legislature or constitution as in Louisiana where twelve private colleges were so approved between 1916-1961, to a simple paragraph in the Virginia code

which prohibits granting degrees without the approval of the State Council of Higher Education under threat of fines for each offense ranging from $100-$1000.[67]

The Council of State Governments has attempted to encourage some uniformity in state statutes dealing with degree mill activity. However, the suggested language for bills, the publication of the dangers associated with uncontrolled degree mills, and the sharing of experiences from states that have attacked the problem have failed to move approximately one-third of the legislatures. Even Florida refused until 1971 to face up to the problem in its jurisdiction. An examination of the actions associated with the implementation of a statute and the administrative interpretations of the law provides further insights into the attempts to control the degree mill problem.

ROLE OF THE COURTS

California has exercised considerable leadership in legal action attempting to eliminate degree mill activity. Prior to the passage of the California Education Code in 1958, which directly attacked the problem, a chiropractor cooperated with the police in the arrest of individuals who were selling fraudulent medical diplomas, resulting in the conviction of the dispenser with affirmation in the court of appeals.[68] Likewise, the California courts upheld a similar conviction of an operator who sold documents showing the holder to be an ordained minister, Doctor of Engineering, Ph.D. in psychology and/or Dr. of Osteopathy.[69] Most of the cases have involved violations of the Business and Professional Code of the state, but have become more easily enforceable since the passage of the 1958 statute which brought under state authority all degree-granting powers in California.

The professions of law and medicine have been the objects of many court proceedings because of the desire to maintain high standards of performance in protecting human lives and rights. In New Jersey Chiropractic Ass'n vs State Board of Medical Examiners, the courts upheld the regulatory board in the exercise of its police powers to prescribe the educational qualifications for those whom it chose to permit

to practice medicine.[70] In the State of Ohio vs Broadwell, the defendent was found guilty of selling medical degrees in violation of the state's statute which prohibits "offering to sell a diploma falsely representing the holder or receiver to be a graduate of a medical school". Although no evidence was produced that a diploma existed, the superior court upheld the ruling since adequate proof was presented of the offer to sell the diploma in Homeopathic medicine for $1,500 without examination, attendance, or study.[71]

In Feldman vs Arkansas State Board of Law Examiners, the public agency received support for withdrawing the right of night school graduates of the Arkansas Law School to take the bar exam after a specified period of time because of low academic standards and poor performance of the school's students.[72]

In 1936 the Institute of the Metropolis, on behalf of its law school, challenged the proper delegation of the state's authority to the University of the State of New York to control the power to confer degrees in law, medicine, dentistry, pharmacy, veterinary medicine, nursing, optometry, chiropody, architecture and engineering. The courts upheld the statutory delegation of power with these comments:

> It is proper for a legislature to commit to an administrative board the determination of a standard of fitness when the subject necessarily involves technical training and varying standards. The regulation of educational institutions is peculiarly a matter affected with the public interest and involves the welfare and morals of citizens and even the safety of the state. In general, it has been held that the state may require a license of a physician, surgeon, dentist, lawyer and school teacher.[73]

A later New York court in National Psychological Association vs University of the State of New York held that it was not an unlawful delegation of legislative power to permit the Board of Regents to determine the "substantial equivalent" of a doctoral degree and to specify what constituted "satisfactory supervised experience" for psychologists.[74] In determining whether sufficient standards had been prescribed in order to carry out any legislative purpose, the court in Chiropractic Association of New York vs Hilleboe, stated, "Although standards or guides must be prescribed where legislative power is delegated, it need be done in only so detailed a fashion as is reasonably practicable in the light of the complexities of the particular area to be regulated."[75] The Shelton College Case also affirmed the concept of proper delegation of authority to an agency of the state by stating:

> It is elementary in our state (N.J.) that delegated power must be exercised reasonably in its substantive aspects and that the procedural demands of due process must be honored whenever they apply...There is nothing before us to suggest the legislature exceeded its constitutional authority in delegating the subject (degree-granting powers) in such fulness to the State Board.[76]

The generality of broad standards or goals delegated to state agencies has been upheld more often than they have been struck down for overbreadth. The courts recognize that the state can profit from the expertise of the board members in the formulation of specific standards. Also, such a policy promotes flexibility and adaptability of specifications to meet the changing demands of education. One court ruled that if delegated authority is not sufficiently general to meet the requirements of unusual conditions that defy precise formulas and rigid standards, then the public interest in education is not well-served.[77]

The broad grant of powers delegated through state legislatures to regulatory agencies for education has been challenged on several points of law. One of the strongest arguments against many statutory regulations on private education appears in State of Connecticut vs Dewitt School, Inc. The court invalidated the "grandfather clause" in the

Connecticut statute on degree-granting authority. The section of the statute that exempted such institutions as had used "now forbidden terms", such as university or college in their names at least five years prior to October 1, 1947, was declared without rational basis and therefore constitutionally discriminatory under the 14th Amendment.[78] The court invoked the equal protection clause of the Amendment in reference to a non-racial situation, where discrimination within class is permitted only if the theory behind such actions has a reasonable relation to a goal in public policy which a state has the right to promote. In other words, "if closed class is created by legislation, reason must bear a rational relationship to ends which the state hopes to achieve".[79]

A New Jersey statute with a similar exemption clause in degree-granting authority allows all institutions that held the privilege of conferring degrees twenty-five years prior to the enactment of the 1916 statute to be excepted from the powers of the regulatory agency. In the Shelton College Case, the court upheld the exemption classification as non-discriminatory and a matter best determined in a reasonable manner by the legislature in the public interest.[80]

The due process clause of the federal Constitution and Bill of Rights has been used as another point of law to

contest state regulations on private education. In In Re Russo, the court ruled that the requirement of specialized courses in higher education in lieu of work experience for real estate agents who sought licenses from State Examiners did not constitute deprivation of property without due process of law.[81] However, in Feldman vs Arkansas State Board of Law Examiners the court ruled in favor of the board, but noted that the termination of the right of law students from the Arkansas Law School to take the bar exam must be done in a manner to protect the students' rights under due process (adequate notice, hearing and non-discrimination).[82]

The basic power and procedures used by regulatory boards to revoke licenses once granted to individuals or institutions have also been questioned in the courts. In Kraft vs Board of Education for the District of Columbia, the court held that in cases of refusal or revocation of a license to confer degrees in the District of Columbia, the U.S. District Court could review the action of the board in a fashion related only to "limited review of administrative action" rather than a trial de nova that includes judgment of questions of law and the weight of evidence. In other words, all evidence would be considered from a standpoint most favorable to the board because the court would not weigh the arguments of both sides, but merely determine whether

a sufficient case existed to support the revocation of a license. In the Kraft case, the court ruled that evidence indicated that the National Art Academy did teach commercial art and design, but failed to meet other standards sufficient to justify the granting of a Bachelor of Fine Arts degree.[83]

In spite of the obvious judicial bias in favor of regulatory boards operating under the police powers of the state, the courts reversed the decision of one Board of Medical Examiners. In Reagles vs Simpson, the court ruled as unreasonable actions of the Board in attemting to accredit a medical school on the basis of students' credentials rather than on an adequate instructional program. The State Board was prohibited from ignoring public policy and substituting its own judgment for that of the legislature in retroactively accrediting a defunct medical school in order to provide credentials for several doctors. The court noted that the action of the Board had the affect of merging the allopathic and osteopathic professions against the intent of the legislature.[84]

In a strong dissenting opinion in Elliot vs University of Illinois, Justice Jones argued that the government has no right to forbid a man from engaging in a lawful trade or occupation or to place substantial obstacles in his way unless

it does so in the exercise of its police powers. The vocation sought to be prohibited or regulated must bear a close relationship to "public health, comfort, safely, or general welfare of people". He criticized as "beyond my comprehension" the soundness of any argument that related the vocation of accountancy (C.P.A.) to the public health or morals. He charged that the statute created a profession for C.P.A.'s and gave advantage to a favored class over those who were not certified even though possibly judged competent. Judge Jones argued that the courts had already gone too far in sanctioning legislation which had as its sole object the creation of a monopoly in vocations having no relation to the public health, good order, or general welfare of the citizenry. He chided the court that printers, artists, janitors, secretaries and brick layers will soon demand the same monopoly under law.[85]

The power of regulatory boards to maintain educational standards in the professions and to control the degree-granting powers of institutions of higher learning in the states has been consistently upheld by the courts. With the few exceptions of procedural problems in due process and equal protection of the law, the courts fully support the states in their attempts to regulate and maintain standards for private educational enterprises. The concepts of

state police powers, proper delegation of authority and the public interest have set a trend in favor of subordination of private endeavors in education and the professions to the public interest. As indicated in Justice Jones' dissenting opinion, the benefits inherent in the trend toward state control of all education do not always outweigh the danger of extreme state actions which can be a threat to free access to vocations, equal opportunity and the dual system of higher education.

STATE AGENCY-ADMINISTRATIVE ACTIONS

The majority of the states exercising control over degree-granting powers have vested the authority to review and license institutions in State Boards of Education, State Boards of Regents, Departments of State, and/or Special Commissions. In states that have a substantial number of unaccredited private educational operations at all levels (kindergarten to college), the burden on such agencies is great. Funding and staff generally have not been adequate to enforce the statutes. Florida and Pennsylvania provide interesting illustrations.

In 1971, Florida finally joined the other states attempting to eliminate fraud in education. The legislature created a State Board of Independent Colleges and Universities in order to "provide for the protection of the health, welfare and morals of the citizens of Florida and to facilitate...the acquisition of minimum satisfactory education by all citizens of the state." The statute provided extensive coverage of the practice of using degrees and diplomas as certifying tools. It also established minimum legal standards for non-public institutions in order to grant such awards. At least seven categories of institutions were exempted under the law. They included:

1. state, county or federally operated or supported colleges

2. colleges licensed under other Florida statutes 464(nursing), 466(denistry), 475(real estate), 476(barbering), and 477(cosmetology)

3. colleges accredited by an agency recognized by USOE or State Board of Education

4. classes operated and supported by an employer solely for his employees

5. classes operated and supported by labor unions, professional or fraternal organizations solely for the membership

6. colleges that offer a vocational and recreational instruction (no occupational objective)

7. colleges that have credits accepted by three accredited institutions. (The 1972 Legislature deleted this clause in its revision of the original statute.)[86]

On the issues of trade and technical schools, correspondence courses, agents, solicitation, and private secondary schools, the Board and the legislature in Florida are still at the crossroads. The first few months of operation pinpointed several problems in enforcement and led to revisions in the statute one year later. The wording of the original statute appeared to exempt institutions that did not profess to offer educational instruction but nontheless sell degrees as novelty items. Another weakness was its failure to specify fines and punishment for violators. The

Board needed more accessible channels of authority to obtain an injunction and to involve directly the Attorney General and the state's attorneys. The clause concerning colleges whose approval depended on the acceptance of transferred credits by three other accredited institutions restricted the Board's ability to investigate and evaluate because it has a limited budget and a staff of only one professional. However, the 1972 Florida Legislature revised the statute to eliminate these problems and increase the Board's powers.

Two administrative interpretations of the Florida Statute by the newly created Board provide insights into its internal operations. Under the "exemption clause", the members of the Board did not accept the California and Nebraska procedure of allowing automatic approval of courses accredited by specialized agencies which are recognized by the U.S. Office of Education. Instead, only the cases where "whole institutions" were covered under the accreditation clause were schools approved. The action was taken to prevent a multitude of unaccredited programs from operating at an institution under the guise of approval when in reality only one course had been certified. The other interpretation involved a "truth in advertising" requirement. It stated that college literature must reflect the inability of

unaccredited programs to qualify students for state regulated vocations such as barbering, cosmetology and architecture.

Under the law, rules and regulations of the Board have been developed with provisions for an institutional descriptive inventory, minimum standards for license and procedures for implementation. The standards section is general enough to allow for flexibility and diversity while maintaining some controls over administrative organizations, educational programs, curricula, finances, faculty, library, student personnel services, physical plant, publications and agents. In actuality, the standards are not greatly different from those established by the Southern Association of Colleges and Schools.[87]

Pennsylvania provides an interesting contrast where licensed educational institutions are legally subject to at least three different state agencies in addition to the State Board of Education. As licensed institutions, they are required to meet the criteria of the Department of State for registry to operate in the Commonwealth. As profit-motive enterprises, they come under the jurisdiction of the Department of Commerce and are regulated in marketing and advertising practices as any other business organization. The Attorney General's office is the third agency involved which actually is responsible for the operation

of the separate State Boards on Private Correspondence Schools, Private Business Schools, Private Trade and Technical Schools and Private Academic Schools described earlier.

While these separate State Boards are housed in the Pennsylvania Department of Education building, they are not an intregal part of that agency. Their function is to administer the regulations of the other three agencies, monitor the business practices of the institutions, rescind licenses to operate, and prosecute violators through court action. Some of the most vigorous pressures upon these state boards to expose fraudulent practices and rescind licenses has come from operators of legitimate licensed schools who fear the entire proprietary sector is stigmatized by the malpractices of the few. The membership of the separate state boards is made up of operators as well as laymen. They meet regularly and have the power to subpoena licensees who are charged with infractions or violations.

The educational program of a licensed school comes under the jurisdiction of the Secretary of Education. In 1969 the Pennsylvania State Board of Education created a new specialized degree which would enable qualifying licensed post-secondary institutions to confer if the specific program meets the standards and criteria set by that board. Program approval is very thorough and requires procedures

and documentation very much like regional accreditation organizations. The institution makes formal application for recognition and approval, then submits a statement of philosophy and objectives of the program together with documentation of faculty, facility, financial and library resources. The Secretary of Education then sends an evaluation team to the applicant institution to make a thorough study of the program. This team includes agency officials as well as representatives of the educational field and of the specialized program area concerned. Qualifications of the faculty, adequacy of learning materials and financial resources, and evidence of actual success of graduates are examined by the evaluation team. If the report of the team is satisfactory and upon its recommendation, the Secretary of Education authorizes the institution to confer the new specialized degree only for that program.[88]

On March 11 and 12, 1972, twenty representatives of state agencies which administer state statutes regulating private schools convened in Washington, D.C., in order to form a new voluntary organization to be known as the National Association of State Administrators and Supervisors of Private Schools. Among the goals of this organization are the attempts to strengthen surveillance against degree mill operations and to promote the development of quality

educational programs in the proprietary sector. Communications among the state agencies should help in identifying relocation efforts of bogus degree mills which cross state lines in order to avoid prosecution. This organization may bring national visibility to the danger of bogus operations under the guise of external degree programs receiving so much attention as one of the non-traditional study approaches.

SECTION V

SUMMARY

Educational reform in American post-secondary education is moving rapidly. Non-traditional study has become a popular concept with substantial support from legislatures and the general public. Much of this effort will benefit the citizenry by focusing upon the educational process. That which focuses primarily upon credentialism, however, may well reincarnate the bogus degree mill activity which has risen and fallen as society has commercialized the "sheepskin" rather than demonstrated achievement.

Review of the evolution of degree mill activity together with an analysis of the patchwork of regulatory laws among the fifty states leads to the conclusion that serious attention should be given to this problem. Remedy or solution is possible, but only if state legislatures recognize the fact that a problem exists. Laws must be strengthened and budgetary support for administering agencies must be provided. State and national agencies need to be vigilant and forthright in taking action when malpractice is evident. Communications among the states can alert one another of possible problems or of the danger of a new degree mill setting up for operation.

RECOMMENDATIONS

1. In controlling the international dimensions of the degree mill problem, the U.S. Congress should provide a federal agency with the authority to control fraudulent activities which have harmful effects on relations with other countries. The U.S. Office of Education, the State Department and the Justice Department should be involved in writing regulations and guidelines.

2. Mail fraud, illegal advertising and interstate trade involving degree mills should be prosecuted by the appropriate federal agencies (the Post Office, Federal Trade Commission and Consumer Affairs). Individual educators and institutional representatives should cooperate with these officials in combating fraudulent activity.

3. The Council of State Governments should revive efforts to promote uniform legislation among the states to eliminate degree mill activities. Such statutes should have enough uniformity to prevent the operators of degree mills from fleeing from one state to another in order to avoid prosecution. A comprehensive and well-funded program of control which establishes minimum educational standards should be their goal.

4. States should move toward the New York State Education Department plan of credentialing as encompassed in the Regents Baccalaureate Degree. Written and oral examinations to measure educational achievement together with award of state degrees would serve those who have suffered from institutional traditions. At the same time, a law could be enacted to recognize only accredited institution degrees or the state degree.

5. Voluntary accrediting bodies, regional, state or national should have a degree of unity in their goals and a measure of uniformity in minimum standards of educational practice. Proprietary education should be accepted as a partner in the educational scheme of voluntary accreditation.

6. Members of all news media should be encouraged in their efforts to publicize the activities of degree mills. As the degree-recipient lists are published those persons who hold or seek them should decrease, because fewer chances will exist to use as credentials the falsely and easily obtained documents.

7. Employers should assume a more consistent effort to validate the authenticity of credentials claimed by potential employees. Follow-up procedures which include a check of the legitimacy of degrees and the institutions which are listed would play a significant part in ending the bogus degree traffic.

Section VI

APPENDIX A

STATE LEGISLATION ON PRIVATE SCHOOLS AND COLLEGES

	Incorporation (profit &/or non)	Specific Degree Granting Power	Specific Correspondence School Control	Power in Agency or Board
1. Alabama	X			
2. Alaska	X	X		X
3. Arizona	X			
4. Arkansas	X	X	X	X
5. California	X	X	X	X
6. Colorado	X			
7. Connecticut	X	X		X
8. Delaware	X	X		X
9. Florida	X	X	X	X
10. Georgia	X	X		X
11. Hawaii	X	X		X
12. Idaho	X	X	X	X
13. Illinois	X	X	X	X
14. Indiana	X			
15. Iowa	X	X	X	X
16. Kansas	X		X	X
17. Kentucky	X			
18. Louisiana	X	X		X
19. Maine	X	X		X
20. Maryland	X	X		X
21. Massachusetts	X	X	X	X
22. Michigan	X	X	X	X
23. Minnesota	X	X	X	X
24. Mississippi	X			

State	Incorporation (profit &/or non)	Specific Degree Granting	Specific Correspondence School Control	Power in Agency or Board
25. Missouri	X			
26. Montana	X		X	X
27. Nebraska	X	X	X	X
28. Nevada	X	X	X	X
29. New Hampshire	X			
30. New Jersey	X	X	X	X
31. New Mexico	X	X	X	X
32. New York	X	X	X	X
33. North Carolina	X	X	X	X
34. North Dakota	X		X	X
35. Ohio	X	X		X
36. Oklahoma	X	X	X	X
37. Oregon	X	X	X	X
38. Pennsylvania	X	X	X	X
39. Rhode Island	X	X		X
40. South Carolina	X	X		X
41. South Dakota	X		X	X
42. Tennessee	X			
43. Texas	X		X	X
44. Utah	X	X		X
45. Vermont	X	X		X
46. Virginia	X	X		X
47. Washington	X	X		X
48. West Virginia	X	X		X
49. Wisconsin	X			X
50. Wyoming	X			
51. *District of Columbia	X	X	X	X

APPENDIX B

Suggested Model Bill of the Committee on Fraudulent Schools and Colleges, NEA, 1953*

PRELIMINARY DRAFT OF A BILL TO PROVIDE FOR REGULATORY LICENSURE OF SCHOOLS CONDUCTED FOR PROFIT IN THE STATE OF_____

(Purpose: To eliminate fraudulent institutions)

SEC. 1. *Definitions.*—For the purposes of this Act a "school" shall mean any educational institution maintained or class conducted for the purpose of offering instruction for profit to [insert number] or more students at one and the same time or to [insert number] or more students during any calendar year, the purpose of which is to educate an individual generally or specially or to prepare an individual for more advanced study or for an occupation, and shall include all schools, colleges, and universities engaged in such education except: (1) schools maintained by the state or any of its political subdivisions and supported by public funds; (2) schools, colleges, and universities already chartered or licensed by the state; (3) schools or school systems for elementary, secondary, and higher education operated by religious organizations; and (4) schools, colleges, and universities specifically exempt in section 2 of this Act.

The "state educational agency" or "state agency" shall mean the state board of education of broadest jurisdiction over elementary and secondary education in the state; or, if there be no such board, the chief state school officer.[1]

SEC. 2. *Exemptions.*—In addition to those schools, colleges, and universities exempt under section 1 by reason of having been already chartered or licensed by the state, the following types of schools shall be specifically exempt: (1) schools maintained or classes conducted by employers for their own employees where no fee or tuition is charged; (2) courses of instruction on religious subjects given under the auspices of a religious organization; (3) courses of instruction given by a fraternal society or benevolent order to its members or their immediate relatives which courses are not operated for profit.

Any exempt school may choose to apply for a license and upon approval and issuance thereof shall be subject to the provisions of this Act.

SEC. 3. *Restriction on Use of Names.*—No person, persons, firm, corporation, or organization, operating a school subject to the provisions of this Act, shall adopt as a name for the school any title containing the name of the state or of a political subdivision thereof, or any other expression indicating or implying that a relationship exists between it and the state or political subdivision.

SEC. 4. *License Required.*—No school subject to the provisions of this Act shall be operated in this state unless there is first secured through the state educational agency a license issued in accordance with the provisions of this Act and the regulations thereunder promulgated by the said agency under authority of sections 6 and 8 herein. Application for a license shall be filled in the manner prescribed by the state educational agency.

SEC. 5. *Fees.*—Application for a license shall initially be accompanied by the payment of a fee of [insert amount] dollars, which sum shall be payable to the state and deposited in its general revenue fund. There is appropriated from the general revenue fund, payable upon requisition of the state educational agency for the purpose of meeting expenses incurred in connection with its duties under this Act, a sum not to exceed the gross receipts collected under this section.

In the event that a license is suspended or revoked in accordance with provisions of this Act, no license fee or part thereof shall be refunded.

SEC. 6. *Qualifications for Licenses.*—No license shall be issued unless the state educational agency finds, upon investigation, that the school applying therefor has met the standards set forth by the state agency. Such standards shall include but need not be restricted to: (1) course offerings, (2) adequate facilities, (3) financial stability, (4) competent personnel, (5) legitimate operating practices, and (6) admission practices.

SEC. 7. *Duration and Renewal of Licenses.*—Such license shall be valid for three years unless suspended or revoked as provided in section 10 of this Act, and may be renewed upon application for renewal.

SEC. 8. *Duties of State Educational Agency.*—The state educational agency shall: (1) formulate standards for licensure in accordance with section 6 of this Act; (2) provide for adequate investigations of all schools applying for licenses and issue licenses to those applicants meeting standards fixed by the state agency; (3) maintain a list of schools licensed under the provisions of this Act, which list shall be available for the information of the public; (4) provide for periodic inspection of all schools licensed under the provisions of this Act; (5) employ such personnel as is necessary to carry out the provisions of this Act.

SEC. 9. *Powers of State Educational Agency.*—The state educational agency shall have power to revoke the license of any school subject to the provisions of this Act in accordance with the provisions of section 10, in case it finds: (1) that the licensee has violated any of the provisions of this Act or any of the rules and regulations promulgated thereunder; (2) that the licensee has knowingly presented to the state educational agency false or misleading information relating to licensure; (3) that the licensee has failed or refused to permit authorized representatives of the state educational agency to inspect the school, or has refused to make available to them at any time upon request full information pertaining to matters within the purview of the state agency under the provisions of this Act; (4) that the licensee has perpetrated or committed fraud or deceit in advertising the school or in presenting to prospective students written or oral information relating to the school, to employment opportunities, or to opportunities for enrollment in other institutions upon completion of the instruction offered in said school.

SEC. 10. *Procedure for Suspension or Revocation of Licenses.*—When the state educational agency deems that it has sufficient evidence to warrant the suspension or revocation of any license, written notice shall be served personally or be sent by registered mail to the licensee at its last known address. Such notice shall contain the substance of the reason or reasons why it is proposed to suspend or revoke the license. A licensee receiving such notice may file with the state agency a statement that the situation complained of in the notice has been corrected or a declaration of intention to remedy such situation within a designated space of time, or may request a hearing to challenge the truth of the reason or reasons for which it is proposed to suspend or revoke its license. If a hearing is requested by the licensee it shall be held by the state agency within [insert number] days after request therefor.

In the hearing the state agency shall summon and compel the attendance of witnesses and take testimony. The licensee shall be entitled to present witnesses and other evidence in defense of the charges.

SEC. 12. *Duties of Attorney General.*—In the event that the state educational agency notifies the attorney general that a school subject to the provisions of this Act is operating without a valid license, the attorney general shall institute appropriate action against the owners and operators of such school to restrain its operation until such license is obtained.

In the event that a licensee who has been notified that it is proposed to suspend or revoke its license fails to fulfill a declared intention to remedy the situation complained of within the time designated in such declaration, or is found guilty of the charges in the hearing provided in section 10 of this Act, the attorney general shall, upon the request of the state educational agency, institute restraining proceedings by injunction or other appropriate means against such licensee.

SEC. 13. *Effect of Act upon Contracts.*—Any contract entered into, after the effective date of this Act, by or on behalf of any person, persons, firm, corporation, or organization operating any school subject to the provisions of this Act to which a valid license has not been issued shall be unenforceable in any suit or action brought thereon, except that any student of a school subject to the provisions of this Act, or other person who is defrauded by a misrepresentation made by an officer, employee, or agent of such school or by any advertising or circular issued by it may recover from such school or person [insert amount, or formula].

APPENDIX C

Excerpts from Public Law 550, 82d Congress, 2d Session, Known as the Veterans' Readjustment Assistance Act of 1952*

CRITERIA FOR APPROVAL OF NONACCREDITED COURSES

(c) The appropriate State approving agency may approve the application of such institution when the institution and its nonaccredited courses are found upon investigation to have met the following criteria:

(1) The courses, curriculum, and instruction are consistent in quality, content, and length with similar courses in public schools and other private schools in the State, with recognized accepted standards.

(2) There is in the institution adequate space, equipment, instructional material, and instructor personnel to provide training of good quality.

(3) Educational and experience qualifications of directors, administrators, and instructors are adequate.

(4) The institution maintains a written record of the previous education and training of the veteran and clearly indicates that appropriate credit has been given by the institution for previous education and training, with the training period shortened proportionately and the veteran and the Administrator so notified.

(5) A copy of the course outline, schedule of tuition, fees, and other charges, regulations pertaining to absences, grading policy, and rules of operation and conduct will be furnished the veteran upon enrollment.

(6) Upon completion of training, the veteran is given a certificate by the institution indicating the approved course and indicating that training was satisfactorily completed.

(7) Adequate records as prescribed by the State approving agency are kept to show attendance and progress or grades, and satisfactory standards relating to attendance, progress, and conduct are enforced.

(8) The institution complies with all local, city, county, municipal, State, and Federal regulations, such as fire codes, building and sanitation codes. The State approving agency may require such evidence of compliance as is deemed necessary.

(9) The institution is financially sound and capable of fulfilling its commitments for training.

(10) The institution does not utilize advertising of any type which is erroneous or misleading, either by actual statement, omission, or intimation. The institution shall not be deemed to have met this requirement until the State approving agency (1) has ascertained from the Federal Trade Commission whether the Commission has issued an order to the institution to cease and desist from any act or practice, and (2) has, if such an order has been issued, given due weight to that fact.

(11) The institution does not exceed its enrollment limitations as established by the State approving agency.

(12) The institution's administrators, directors, owners, and instructors are of good reputation and character.

(13) The institution has and maintains a policy for the refund of the unused portion of tuition, fees, and other charges in the event the veteran fails to enter the course or withdraws or is discontinued therefrom at any time prior to completion and such policy must provide that the amount charged to the veteran for tuition, fees, and other charges for a portion of the course shall not exceed the approximate pro rata portion of the total charges for tuition, fees, and other charges that the length of the completed portion of the course bears to its total length.

(14) Such additional criteria as may be deemed necessary by the State approving agency.

SECTION VII

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